

BEFORE THE ZONING HEARING BOARD

TOWNSHIP OF EAST LAMPETER

IN RE: :
: No. 2014-33
APPLICATION OF PAUL LYNCH :
AND KELLY LYNCH :

DECISION

I. FINDINGS OF FACT

1. Applicants are Paul Lynch and Kelly Lynch, 2149 Colleens Way, Lancaster, Pennsylvania 17601 ("Applicants").

2. The property which is the subject of the instant application is 2149 Colleens Way, East Lampeter Township, Lancaster County, Pennsylvania (the "Property").

3. Applicants are the owners of the Property.

4. The Property is located in the R-1 Residential District as shown on the Official Zoning Map of East Lampeter Township.

5. Notice of the hearing on the within application was duly advertised and posted in accordance with the provisions of the Pennsylvania Municipalities Planning Code ("MPC") and The Revised Zoning Ordinance of East Lampeter Township - 1990 (the "Zoning Ordinance").

6. A public hearing was held before the Zoning Hearing Board of East Lampeter Township ("Board") on this application on November 13, 2014.

7. Testimony at the hearing was stenographically recorded.
8. Applicant Paul Lynch appeared personally at the hearing.
9. The Property contains 22,500 square feet.
10. The Property is improved with a single-family dwelling.
11. Applicants reside in the dwelling located on the Property.
12. The Property is served by public sewer and water.
13. Applicants desire to provide an ECHO housing unit to be occupied by the mother of Kelly Lynch.
14. Applicants will convert the existing two-car garage into a one-car garage, with the remainder being a part of the ECHO housing unit. Applicants will also construct an addition to the rear of the structure, as more fully shown on the plans and photographs submitted by Applicants, to be used as part of the ECHO housing unit.
15. Applicants will enter into an Echo Housing Agreement with the Township of East Lampeter.
16. Applicants' proposed ECHO housing use is not a use permitted as of right or by special exception within the R-1 Residential District.
17. Applicants require a use variance from the terms of Section 801 and Section 802 of the Zoning Ordinance in order to construct and use the ECHO housing unit on the Property.

18. Section 804.2(B) of the Zoning Ordinance provides that the minimum lot area per dwelling unit where served by public sanitary sewer facilities shall be 22,500 square feet.

19. Applicants require a variance from the terms of Section 804.2(B) of the Zoning Ordinance in order to construct the ECHO housing unit on the Property.

II. CONCLUSIONS OF LAW

1. An applicant for a variance bears the burden of proving that unnecessary hardship will result if the variance is not granted and that the grant of the proposed variance will not be contrary to the public interest. Valley View Civic Association v. Zoning Board of Adjustment, 501 Pa. 550, 462 A.2d 637 (1983); Zaruta v. Zoning Hearing Board of the City of Wilkes-Barre, 117 Pa. Commonwealth Ct. 526, 543 A.2d 1282 (1988); Pennsylvania Municipalities Planning Code ("MPC") §910.2.

2. A variance, if granted, "must be the minimum that will afford relief and will represent the least modification of the ordinance." Rogers v. Zoning Hearing Board of East Pikeland Township, 103 Pa. Commonwealth Ct. 478, 520 A.2d 922, 924 (1987); MPC §910.2(a)(5).

3. The ECHO housing unit requires a variance from the terms of Section 801, Section 802 and Section 804.2(B) of the Zoning Ordinance.

4. Applicants have presented evidence sufficient to establish that unnecessary hardship will result if the variances are not granted, that the grant of the proposed variances will not be contrary to the public interest, and that the variances requested are the minimum that will afford relief and will represent the least modification of the ordinance.

5. Conditions must be attached to a grant of the variances in this case to preserve and protect the surrounding neighborhood.

III. DECISION

Based upon the foregoing findings of fact and conclusions of law, the Zoning Hearing Board of the Township of East Lampeter hereby grants: (i) a variance from the terms of Section 801 and Section 802 of the Zoning Ordinance; and (ii) a variance from the terms of Section 804.2(B) of the Zoning Ordinance. Applicants shall be permitted to construct the ECHO housing unit in accordance with the plans and material submitted to the Board. The ECHO housing unit will be used solely by the mother of Kelly Lynch. These variances shall be subject to the following conditions and safeguards which the Board deems necessary to implement the purposes of the Zoning Ordinance and the MPC:

1. Applicants shall obtain all approvals and permits required by applicable federal, state and Township laws and regulations.

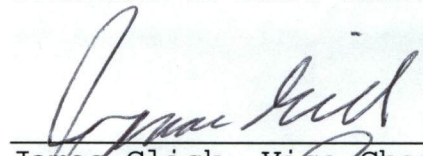
2. Applicants shall enter into an ECHO Housing Agreement with East Lampeter Township, in the form required by East Lampeter Township.

3. Any violation of the conditions contained in this Decision shall be considered a violation of the Zoning Ordinance and shall be subject to the penalties and remedies contained in the Pennsylvania Municipalities Planning Code.

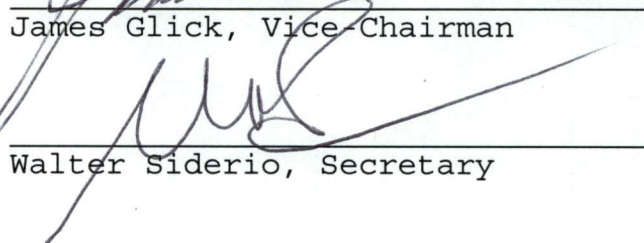
4. The approval granted by this Decision shall expire if Applicants do not obtain a zoning permit within six (6) months from the date of this Decision and do not complete construction of the improvements, if any, so authorized and commence the use so authorized within twelve (12) months from the date of the zoning permit.

5. The foregoing Decision shall be binding upon the Applicants and their heirs and assigns.

ZONING HEARING BOARD OF THE
TOWNSHIP OF EAST LAMPETER



James Glick, Vice-Chairman



Walter Siderio, Secretary

Dated and filed November 25, 2014, after hearing held on November 13, 2014.

The undersigned certifies that a copy of this Decision was served upon all parties on or prior to November 26, 2014.

Jana A Hitchens