

BEFORE THE ZONING HEARING BOARD

TOWNSHIP OF EAST LAMPETER

IN RE: :
: No. 2015-03
APPLICATION OF STEVEN K. ESH :

DECISION

I. FINDINGS OF FACT

1. Applicant is David King, 2008-F Horseshoe Road, Lancaster, Pennsylvania 17602 ("Applicant").

2. The property which is the subject of the instant application is 328 Willow Road, East Lampeter Township, Lancaster County, Pennsylvania (the "Property").

3. The Property is located in the I - Industrial District as shown on the Official Zoning Map of East Lampeter Township.

4. 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").

5. A public hearing was held before the Zoning Hearing Board of East Lampeter Township ("Board") on this application on January 22, 2015.

6. Testimony at the hearing was stenographically recorded.
7. Applicant appeared personally at the hearing.
8. Elmer Beiler also appeared at the hearing and testified on behalf of Applicant.
9. Applicant has requested a variance from the terms of Section 1702.4 of the Zoning Ordinance.
10. Section 1702.4 of the Zoning Ordinance requires that parking facilities be paved with a hard all-weather surface.
11. Applicant has constructed a parochial educational institution (one-room Amish school) on the Property.
12. Applicant proposes to continue using the existing driveway and parking area which have a surface constructed of asphalt milling.
13. The Board finds that the asphalt milling surface is acceptable for Applicant's limited one-room school house use.
14. No persons appeared in opposition to the application.

II. CONCLUSIONS OF LAW

1. Applicant requires a variance from Section 1702.4 of the Zoning Ordinance.
2. 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. Common-

wealth Ct. 526, 543 A.2d 1282 (1988); Pennsylvania Municipalities Planning Code ("MPC") §910.2.

3. 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).

4. Applicant has presented evidence sufficient to establish that unnecessary hardship will result if the variance is not granted, that the grant of the proposed variance will not be contrary to the public interest, and that the variance requested is 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 variance 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 the application of Steven K. Esh for a variance from the terms of Section 1702.4 of the Zoning Ordinance to allow a driveway and parking area with a surface constructed of asphalt millings. This variance 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:

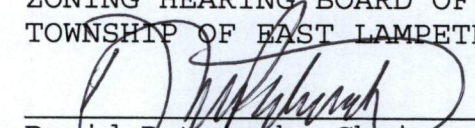
1. Applicant shall obtain all approvals and permits required by applicable federal, state and Township laws and regulations.

2. Applicant shall at all times comply with and adhere to the information and representations submitted with and contained in his application and the evidence presented to the Board at the hearing held on January 22, 2015.

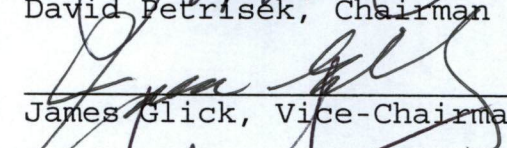
3. Any violation of the conditions contained in this Decision shall be considered a violation of the Zoning Ordinance and shall be subject to the penalties and remedies contained in the Pennsylvania Municipalities Planning Code.

4. The foregoing Decision shall be binding upon the Applicant and his heirs and assigns.

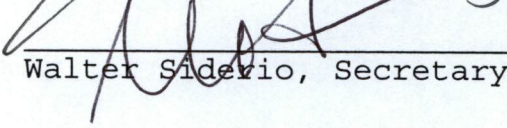
ZONING HEARING BOARD OF THE
TOWNSHIP OF EAST LAMPETER



David Petrisek, Chairman



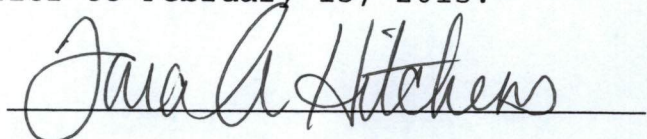
James Glick, Vice-Chairman



Walter Siderio, Secretary

Dated and filed February 12, 2015, after hearing held on January 22, 2015.

The undersigned certifies that a copy of this Decision was served upon all parties on or prior to February 13, 2015.



Jana A. Hitchens