

BEFORE THE ZONING HEARING BOARD

TOWNSHIP OF EAST LAMPETER

IN RE: :
: No. 2015-05
APPLICATION OF BRIAN REYNOLDS :

DECISION

I. FINDINGS OF FACT

1. Applicant is Brian Reynolds, 754 Fremont Street, Lancaster, Pennsylvania 17603 ("Applicant").
2. The property which is the subject of the instant application is located at 271 Little Creek Road, East Lampeter Township, Lancaster County, Pennsylvania (the "Property").
3. Applicant is the owner 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 February 26, 2015.

7. Testimony at the hearing was stenographically recorded.

8. Applicant appeared personally at the hearing.

9. The Property is a corner lot, as shown on the plans and materials (collectively the "Plan") submitted by Applicant.

10. The Property is improved with a single family detached dwelling, as more fully shown on the Plan.

11. Applicant desires to maintain a shed within the front yard setback area, as more fully shown on the Plan.

12. The shed is located 17 feet from the property line and approximately 28 feet from the cartway of Millcross Road, as more fully shown on the Plan.

13. Applicant testified that he cannot reasonably locate the shed at least 15 feet to the rear of the front face of the dwelling because of the slope and existing storm water issues.

14. Applicant has requested a variance from the terms of Section 802.5 of the Zoning Ordinance.

15. Section 802.5 of the Zoning Ordinance states that the front yard minimum depth for accessory structures shall be 15 feet to the rear of the front face of the principal building.

16. No one appeared at the hearing in opposition to the application.

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 proposed location of the shed requires a variance from the terms of Section 805.2 of the Zoning Ordinance.

4. The location of the existing dwelling and the slope and storm water issues warrant the granting of the variance requested.

5. The unnecessary hardship has not been created by the Applicant.

6. Applicant have 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.

7. 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 Brian Reynolds for a variance from the terms of Section 805.2 of the Zoning Ordinance. The variance granted herein shall be subject to the following conditions and safeguards which the Board deems necessary to implement the purposes of the Zoning Ordinance and the Pennsylvania Municipalities Planning Code:

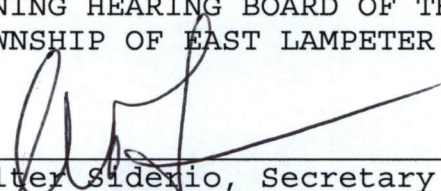
1. Applicant shall obtain all approvals and permits required by applicable laws and regulations.

2. Applicant shall at all times comply with and adhere to the evidence presented to the Board at the hearing held on February 26, 2015.

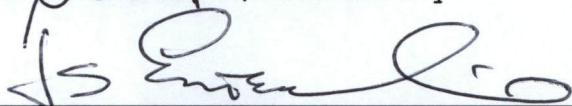
3. Any violation of the conditions contained in this Decision shall be considered a violation of the Zoning Ordinance and shall be subject to the penalties and remedies contained in the Pennsylvania Municipalities Planning Code.

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

ZONING HEARING BOARD OF THE
TOWNSHIP OF EAST LAMPETER



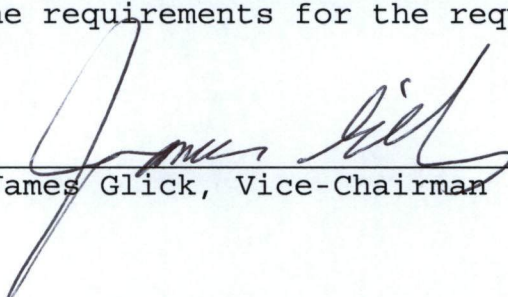
Walter Siderio, Secretary



J. Scott Enterline, Alternate

DISSENT:

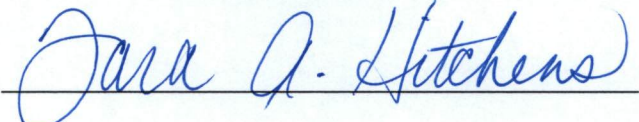
I hereby dissent from the foregoing Decision. I do not believe that Applicant has met the requirements for the requested variance.



James Glick, Vice-Chairman

Dated and filed March 19, 2015, after hearing held on February 26, 2015.

The undersigned certifies that a copy of this Decision was served upon all parties on or prior to March 20, 2015.



Tara A. Hitchens