

BEFORE THE ZONING HEARING BOARD

TOWNSHIP OF EAST LAMPETER

IN RE: :
: No. 2015-12
APPLICATION OF BEN ORTIZ :

DECISION

I. FINDINGS OF FACT

1. Applicant is Ben Ortiz, 1650 Lincoln Highway East, Lancaster, Pennsylvania 17602 ("Applicant").

2. The property which is the subject of the instant application is 1650 Lincoln Highway East, East Lampeter Township, Lancaster County, Pennsylvania (the "Property").

3. Applicant is the owner of the Property.

4. The Property is located in the C-2 Commercial 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 April 9, 2015.

7. Testimony at the hearing was stenographically recorded.

8. Applicant appeared personally at the hearing.
9. Applicant has requested a variance from the terms of Article XVI, Section 1605, Table 1, of the Zoning Ordinance in order to maintain a building sign containing 144 square feet of sign area.
10. The Property is improved with a building used as and for auto detailing and sales.
11. Applicant has operated the auto detailing and sales business upon the Property for approximately 19 years.
12. The previous use of the Property was as and for a U-Haul business.
13. The building is 60 feet in length.
14. The building is not parallel with Lincoln Highway East. Rather, it is located such that it slants away from Lincoln Highway East towards the rear of the Property.
15. The building contained building signage, as more fully shown on the photographs submitted by Applicant and marked as Applicant's Exhibit No. 1 and Exhibit No. 2.
16. Part of the signage was constructed of a banner material.
17. The remainder of the signage were letters attached to the upper building facade.
18. The layout of the letters was somewhat slanted.

19. The portion of the signage constructed of a banner material was approved by the Township in 2006. The Township's records, however, are unclear with regard to the size. The Township Zoning Officer testified that, based upon his notes, 2 x 8 banner signage was approved. Applicant testified that 3 x 10 banner signage was approved and that 3 x 10 banner signage was placed upon the building as part of the overall signage.

20. Applicant testified that the portion of the building signage containing just letters was 87 square feet in area.

21. Because the building signage was in poor condition, Applicant replaced the building signage with new building signage, as more fully shown on the photograph submitted by Applicant as Exhibit No. 3.

22. Pursuant to the terms of the current Zoning Ordinance, based upon the length of Applicant's building, the maximum size of a building sign is 90 square feet.

23. With regard to the measurement of the building signage (in accordance with Section 1603 of the Zoning Ordinance), if a rectangle was drawn around the signage which was replaced, the size of such replaced signage would be very similar to the new signage.

24. Traffic along Lincoln Highway East in the vicinity of the Property is quite congested and the buildings on each side of the

Property are in close proximity. For persons traveling west on Lincoln Highway, the non-parallel layout of the building upon the Property and the proximity of neighboring structures causes difficulty in viewing building signage.

25. As a matter of safety to the traveling public, it is necessary to utilize a sign containing 144 square feet of sign area to identify 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); MPC §910.2.

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

3. An applicant is entitled to a variance if: there is unique hardship to the property; there will be no adverse effect on the

public health, safety or general welfare; and the variance represents the minimum variance that will afford relief. See East Torresdale Civic Association v. Zoning Hearing Board of Adjustment of Philadelphia County, 639 A.2d 446 (1994).

4. The Property is subject to hardship.

5. There will be no adverse effect on the public health, safety or general welfare if the variance is granted.

6. The variance requested by Applicant is the minimum variance necessary to grant relief.

7. Applicant has provided sufficient testimony to satisfy the requirements of Section 2111 of the Zoning Ordinance (general requirements for all variances).

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 Ben Ortiz for a variance from the terms of Article XVI, Section 1605, Table 1, of the Zoning Ordinance in order to maintain the building sign containing 144 square feet of sign area. 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 MPC:

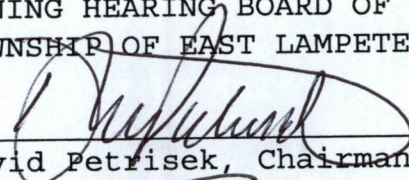
1. Applicant shall obtain all approvals and permits required by applicable federal, state and Township laws and regulations.

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 April 9, 2015.

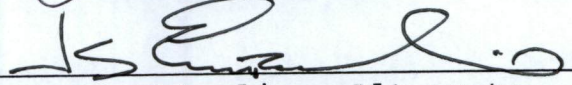
3. Any violation of the conditions contained in this Decision shall be considered a violation of the Zoning Ordinance and shall be subject to the penalties and remedies contained in the Pennsylvania Municipalities Planning Code.

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

ZONING HEARING BOARD OF THE
TOWNSHIP OF EAST LAMPETER



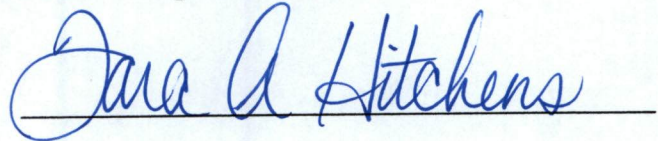
David Petrisek, Chairman



J. Scott Enterline, Alternate

Dated and filed April 23, 2015, after hearing held on April 9, 2015.

The undersigned certifies that a copy of this Decision was served upon all parties on or prior to April 24, 2015.

A handwritten signature in blue ink, reading "Sara A. Hitchens", is written over a horizontal line.