

BEFORE THE ZONING HEARING BOARD

TOWNSHIP OF EAST LAMPETER

IN RE: :
: No. 2015-18
APPLICATION OF NESTER BEAN :

DECISION

I. FINDINGS OF FACT

1. Applicant is Nester Bean, 1973 Millport Road, Lancaster, Pennsylvania 17602 ("Applicant").

2. The property which is the subject of the instant application is located at 1973 Millport Road, East Lampeter Township, Lancaster County, Pennsylvania (the "Property").

3. The Property is located within the R-2 Residential 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 July 23, 2015.

6. Testimony at the hearing was stenographically recorded.

7. Applicant appeared personally at the hearing.

8. The Property is currently improved with a dwelling, as more fully shown on the plan submitted by Applicant.

9. Applicant has razed/removed certain unattached accessory structures.

10. Applicant now desires to construct a new unattached accessory structure, being a barn, upon the Property.

11. The barn will be 30 feet by 48 feet

12. The height of the barn will be 24 feet.

13. The barn will be used to house Applicant's horses and for storage of Applicant's trailer and other personal items. No business use will be conducted in the barn.

14. Applicant has requested a variance from the terms of Section 905.1 of the Zoning Ordinance.

15. Section 905.1 of the Zoning Ordinance states that the maximum height of accessory structures shall be 20 feet.

16. Applicant testified that he requires a barn 24 feet in height in order to provide a first floor ceiling height of 9 feet, an additional 1 foot between the first and second floor, a second

floor ceiling height of 10 feet, and an additional 4 feet of height for the necessary roof pitch.

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. With regard to his request for a variance from the height limitations set forth in Section 905.1 of the Zoning Ordinance, Applicant has satisfied the requirements for a variance in order to construct the barn at a height of 24 feet.

4. Conditions must be attached to the granting of the variance to protect and preserve 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 Nester Bean for a variance from the terms of Section 905.1 of the Zoning Ordinance in order to permit the construction of a barn with a height of 24 feet. 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 July 23, 2015.

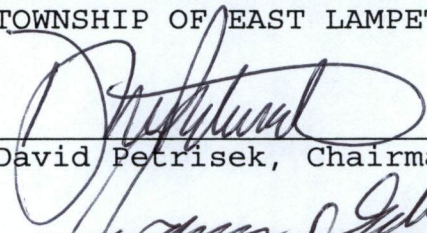
3. Any violation of the conditions contained in this Decision shall be considered a violation of the Zoning Ordinance and shall be subject to the penalties and remedies contained in the Pennsylvania Municipalities Planning Code.

4. The approval granted by this Decision shall expire if Applicant does not obtain a zoning permit within three (3) months from the date of this Decision and does not complete construction of the improvements, if any, so authorized and commence the use so

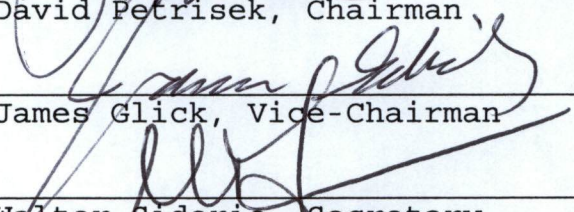
authorized within twelve (12) months from the date of the zoning permit.

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

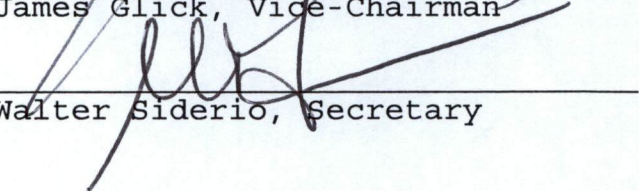
ZONING HEARING BOARD OF THE
TOWNSHIP OF EAST LAMPETER



David Petrisek, Chairman



James Glick, Vice-Chairman



Walter Siderio, Secretary

Dated and filed August 13, 2015, after hearing held on July 23, 2015.

The undersigned certifies that a copy of this Decision was served upon all parties on or prior to August 14, 2015.

