

BEFORE THE ZONING HEARING BOARD

TOWNSHIP OF EAST LAMPETER

IN RE: :
: No. 2015-26
APPLICATION OF TODD MECK AND :
KAREN MECK :

DECISION

I. FINDINGS OF FACT

1. Applicants are Todd Meck and Karen Meck, 1027 Fruitville Pike, Lititz, Pennsylvania 17543 ("Applicants").

2. The property which is the subject of the instant application is located at the northwest corner of the intersection of Strasburg Pike and Country Meadows Drive, East Lampeter Township, Lancaster County, Pennsylvania (the "Property").

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

4. Applicants are the equitable owners of the Property.

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 October 22, 2015.

7. Testimony at the hearing was stenographically recorded.

8. Applicants were represented at the hearing by Jason T. Confair, Esquire.

9. Applicant Karen Meck and Dan Siegrist, Applicants' contractor, appeared at the hearing and testified.

10. The following person completed an Entry of Appearance form and was recognized as a party:

Donald E. Harnish
238 Strasburg Pike
Lancaster, PA 17602

11. Applicants have requested: (i) a special exception pursuant to Section 702.5 and Section 1916 of the Zoning Ordinance; and (ii) a variance from the terms of Section 705.7 of the Zoning Ordinance.

12. Section 702.5 of the Zoning Ordinance permits home occupations by special exception within the R-Rural District subject to the provisions of Section 1916.

13. Section 705.7 of the Zoning Ordinance states that the minimum rear yard setback shall be 50 feet.

14. The Property is currently unimproved.

15. Applicants propose to construct a single family dwelling upon the Property, as more fully shown on the plans ("Plans") submitted by Applicants.

16. The dwelling will contain 2,295 square feet of livable floor space.

17. Because of the irregular shape of the Property, a portion of the dwelling will be located within the required rear yard setback. Applicants' propose a rear yard setback of approximately 20 feet, as more fully shown on the Plans.

18. Applicants will reside within the dwelling.

19. Applicants propose to operate a certified financial and estate planning business office as a home occupation within a portion of the dwelling containing 500 square feet, as more fully shown on the Plans.

20. There would be a maximum of two nonresident employees of the home occupation.

21. The proposed home occupation will be incidental or secondary to the use of the Property as a dwelling and is an occupation which is customarily conducted within a dwelling.

22. No displays or alterations to the outside of the dwelling will indicate that the dwelling is being utilized for purposes other than a dwelling.

23. There will be no external storage of materials or products and there shall be no storage of materials or products in accessory structures.

24. No manufacturing, repairing or other mechanical work will be performed in any open exterior area.

25. No goods will be visible from outside the dwelling.

26. During the busy season (February through April), Applicants will have 3 to 4 client appointments at the Property per week. During the non-busy season (the remainder of the year), Applicants will have 1 to 2 client appointments at the Property every other week.

27. There will be adequate parking on the Property for the dwelling use and home occupation use.

II. CONCLUSIONS OF LAW

1. An applicant for a special exception has the burden of persuasion as to the specific criteria and standards of the zoning ordinance. Abbey v. Zoning Hearing Board of the Borough of East Stroudsburg, 126 Pa. Commonwealth Ct. 235, 559 A.2d 107 (1989); Bray v. Zoning Board of Adjustment of the City of Philadelphia, 48 Pa. Commonwealth Ct. 523, 410 A.2d 909 (1980).

2. Section 702.5 of the Zoning Ordinance permits home occupations by special exception within the R-Rural District subject to the provisions of Section 1916 of the Zoning Ordinance.

3. Applicants have satisfied the requirements for a special exception pursuant to Section 702.5 and Section 1916 of the Zoning Ordinance.

4. 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.

5. 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).

6. Section 705.7 of the Zoning Ordinance provides that the minimum rear yard setback shall be 50 feet.

7. The proposed dwelling location requires a variance from the terms of Section 705.7 of the Zoning Ordinance.

8. The layout of the Property creates an unnecessary hardship and necessitates the location of the dwelling.

9. The unnecessary hardship has not been created by the Applicants.

10. Applicants 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.

11. Conditions must be attached to a grant of the special exception and 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 Todd Meck and Karen Meck for: (i) a special exception pursuant to Section 702.5 and Section 1916 of the Zoning Ordinance in order to operate a certified financial and estate planning office as a home occupation within 500 square feet of floor area of the dwelling to be constructed upon the Property; and (ii) a variance from the terms of Section 705.7 of the Zoning Ordinance to construct the dwelling in accordance with the Plans with a rear yard setback of 20 feet. This special exception and 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. Applicants shall obtain all approvals and permits required by applicable federal, state and Township laws and regulations.

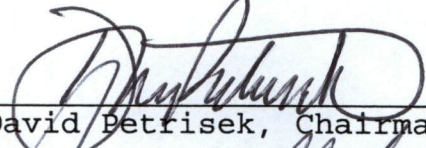
2. Applicants shall at all times comply with and adhere to the information and representations submitted with and contained in their application and the evidence presented to the Board at the hearing held on October 22, 2015.

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.

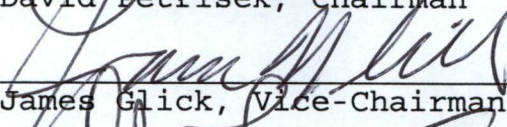
4. With regard to the variance, the approval granted by this Decision shall expire if Applicants do not obtain a zoning permit within three (3) months from the date of this Decision and do not complete construction of the improvements so authorized and commence the use so authorized within twelve (12) months from the date of the zoning permit. With regard to the special exception, the approval granted by this Decision shall expire if Applicants do not obtain a zoning permit within twelve (12) months from the date of this Decision and do not complete construction of the improvements 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.

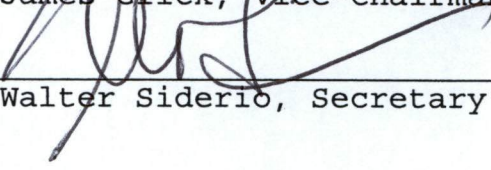
ZONING HEARING BOARD OF THE
TOWNSHIP OF EAST LAMPETER



David Petrisek, Chairman



James Glick, Vice-Chairman



Walter Siderio, Secretary

Dated and filed November 12, 2015, after hearing held on
October 22, 2015.

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

