

BEFORE THE ZONING HEARING BOARD

TOWNSHIP OF EAST LAMPETER

IN RE: :
: No. 2015-27
APPLICATION OF KEVIN WARNER AND :
DEBORAH WARNER :

DECISION

I. FINDINGS OF FACT

1. Applicants are Kevin Warner and Deborah Warner, 13 South Eastland Drive, Lancaster, Pennsylvania 17602 ("Applicants").

2. The property which is the subject of the instant application is located at 13 South Eastland Drive, 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 November 12, 2015.

6. Testimony at the hearing was stenographically recorded.

7. Applicants appeared personally at the hearing.

8. Applicants reside on the Property.

9. Applicants razed/removed an old, deteriorating detached garage and constructed a new garage.

10. The new garage is 28 feet by 28 feet.

11. Although the new garage was supposed to be 20 feet in height, upon construction it was discovered that the garage was 21 feet in height.

12. Applicants have requested a variance from the terms of Section 905.1 of the Zoning Ordinance.

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

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. Common-

wealth 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. A zoning hearing board may grant a dimensional variance where it is de minimis in nature even if traditional grounds for a variance have not been met. Marlowe v. Zoning Hearing Board of Haverford Township, 52 Pa. Commonwealth Ct. 224, 415 A.2d 946 (1980).

4. With regard to their request for a 1 foot variance from the height limitations set forth in Section 905.1 of the Zoning Ordinance, Applicants' variance request is de minimis in nature.

5. 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 Kevin Warner and Deborah Warner for a variance from the terms of Section 905.1 of the Zoning Ordinance in order to maintain the garage with a height of 21 feet. The variance granted herein shall be subject to the following condi-

tions and safeguards which the Board deems necessary to implement the purposes of the Zoning Ordinance and the Pennsylvania Municipalities Planning Code:

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

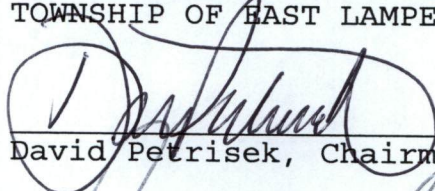
2. Applicants shall at all times comply with and adhere to the evidence presented to the Board at the hearing held on November 12, 2015.

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 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, 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 Applicants and their heirs, personal representatives and assigns.

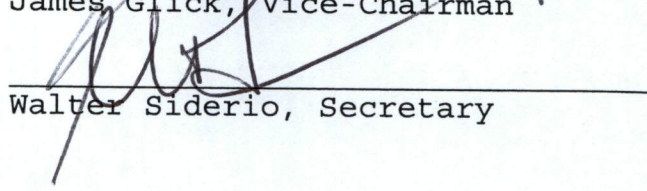
ZONING HEARING BOARD OF THE
TOWNSHIP OF EAST LAMPETER



David Petrisek, Chairman



James Glick, Vice-Chairman



Walter Siderio, Secretary

Dated and filed December 10, 2015, after hearing held on
November 12, 2015.

The undersigned certifies that a copy of this Decision was
served upon all parties on or prior to December 11, 2015.

