

BEFORE THE ZONING HEARING BOARD

TOWNSHIP OF EAST LAMPETER

IN RE: :
: No. 2015-31
APPLICATION OF SOL G. FISHER :

DECISION

I. FINDINGS OF FACT

1. Applicant is Sol G. Fisher, 2655 Bachmantown Road, Ronks, Pennsylvania 17575 ("Applicant").

2. The property which is the subject of the instant application is located at 2655 Bachmantown Road, East Lampeter Township, Lancaster County, Pennsylvania (the "Property").

3. The Property is located in the Rural 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 December 10, 2015.

6. Testimony at the hearing was stenographically recorded.
7. Applicant appeared personally at the hearing.
8. The Property was the subject of a previous zoning hearing and the Board takes administrative notice of its Decision in Case No. 2001-45.
9. In Case No. 2001-45, the Board granted Applicant's request for a variance from the terms of Section 1812.1 of the Zoning Ordinance to expand Applicant's farm support business.
10. Applicant has now requested a variance from Section 1812.1 of the Zoning Ordinance to further expand the farm support business.
11. The Property contains approximately 68 acres.
12. Applicant currently operates a farm support business in a 30 foot by 60 foot building.
13. Applicant utilizes the first floor of the building for retail sales and utilizes the basement for storage only.
14. Applicant desires to construct two additions to the existing building.
15. One of the additions will be 12 feet by 60 feet (with a first floor and basement).

16. At the hearing Applicant clarified that the second addition would be 24 feet by 60 feet without a basement (there would be a crawl space for utilities).

17. The total expansion of the floor area associated with the farm support business would be 2,880 square feet.

18. The expansion areas would be used for storage only.

19. The retail sales operation would be limited to the first floor of the existing building (being 1,800 square feet).

20. The farm support business continues to be the sale of dry goods, including fabrics, fleece, notions, gifts and clothing.

21. Applicant requires the expanded storage area in order to purchase fleece in large bulk quantities.

22. Applicant's days and hours of retail operation are: Monday through Thursday, 7:00 am to 6:00 pm; Fridays, 7:00 am to 7:30 pm; and Saturdays, 7:00 am to 4:00 pm.

23. No persons appeared in opposition to the application.

II. CONCLUSIONS OF LAW

1. Applicant has requested a variance from Section 1812.1 of the Zoning Ordinance.

2. Section 1812.1 of the Zoning Ordinance states that the maximum size of a farm support business shall be 2,500 square feet.

3. 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.

4. 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).

5. The Property is subject to unnecessary hardship.

6. The variance requested by Applicant is the minimum that will afford relief and will represent the least modification of the Zoning Ordinance.

7. Applicant has presented sufficient evidence to establish 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.

8. 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 Sol G. Fisher for a variance from Section 1812.1 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 December 10, 2015.

3. The expansion area on the western side of the existing building shall be limited to one floor and shall not have a basement.

4. All expansion areas shall be used for storage only and not for retail use, fabrication or manufacturing.

5. Applicant shall not use any other buildings on the Property for any use associated with the farm support business.

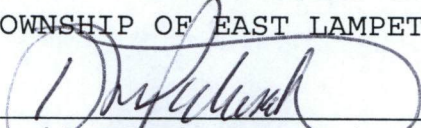
6. The maximum number of employees must at all times comply with Section 1812.2 of the Zoning Ordinance.

7. 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.

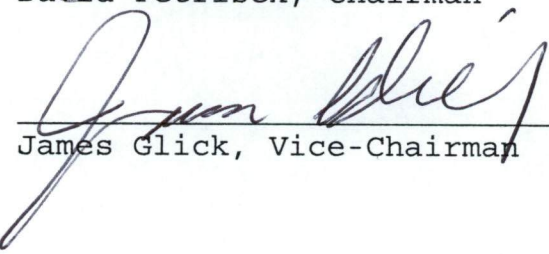
8. The approval granted by this Decision shall expire if Applicant does not obtain a zoning permit within twelve (12) months from the date this Decision and do not complete construction of the improvements, if any, so authorized and commence the use so authorized within twelve (12) months from the date of the permit.

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

ZONING HEARING BOARD OF THE
TOWNSHIP OF EAST LAMPETER



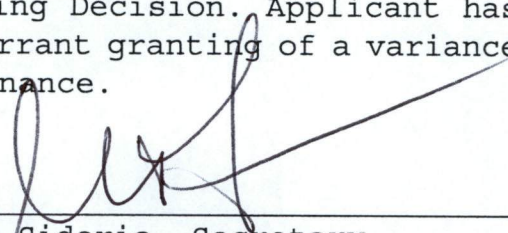
David Petrisek, Chairman



James Glick, Vice-Chairman

DISSENT:

I hereby dissent from the foregoing Decision. Applicant has not presented evidence sufficient to warrant granting of a variance from Section 1812.1 of the Zoning Ordinance.



Walter Siderio, Secretary

Dated and filed January 14, 2016, after hearing held on December 10, 2015.

The undersigned certifies that a copy of this Decision was served upon all parties on or prior to January 15, 2015.

