

BEFORE THE ZONING HEARING BOARD

TOWNSHIP OF EAST LAMPETER

IN RE: :
: No. 2016-02
APPLICATION OF SMOKETOWN :
AIRPORT :

DECISION

I. FINDINGS OF FACT

1. Applicant is Smoketown Airport, c/o Marlin Horst, 311 Airport Drive, Smoketown, Pennsylvania 17576 ("Applicant").
2. The property which is the subject of the instant application is 311 Airport Road, East Lampeter Township, Lancaster County, Pennsylvania (the "Property").
3. Applicant is the owner of the Property.
4. The Property is located within the Industrial 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 January 14, 2016.

7. Testimony at the hearing was stenographically recorded.

8. Michael Huxta, of ELA Group, Inc., appeared at the hearing and testified on behalf of Applicant.

9. The Property was the subject of previous zoning hearings and the Board takes administrative notice of its Decisions in Case No. 2003-32 and Case No. 2004-13.

10. Applicant has now requested: (i) a special exception pursuant to Section 1302.3 and Section 1904 of the Zoning Ordinance to expand Applicant's existing airport; (ii) a variance from the terms of Section 1904.2 of the Zoning Ordinance; (iii) a variance from the terms of Section 1904.3 of the Zoning Ordinance; and (iv) a variance from the terms of Section 1702.4 of the Zoning Ordinance.

11. Section 1302.3 of the Zoning Ordinance states that airports are permitted by special exception within the Industrial District.

12. Section 1904 of the Zoning Ordinance sets forth the specific requirements for airports.

13. Section 1904.2 of the Zoning Ordinance states that no runway, taxiway, landing area or parking area utilized by any form of aircraft shall be located within 100 feet of any street right of way line or lot line.

14. Section 1904.3 of the Zoning Ordinance states that any areas to be used by aircraft under its own power shall be provided with a dustless surface.

15. Section 1702.4 of the Zoning Ordinance states that parking facilities shall be paved with a hard "all-weather" surface which may include concrete or bituminous material.

16. Applicant desires to expand the Smoketown Airport facilities by adding additional hangars, as more fully shown on the plan submitted by Applicant (the "Plan").

17. Hangar "Z", as shown on the Plan, will contain 15,275 square feet of floor area (Applicant's application incorrectly describes the area as 15,450 square feet).

18. With regard to Hangar "Z", Applicant testified that it may want to construct two separate hangars upon the same footprint

area, but that the total floor area of both hangars would not exceed 15,275 square feet.

19. Hangar "Z" will encroach within the 100 foot setback requirement of Section 1904.2 of the Zoning Ordinance, as shown on the Plan.

20. Hangar "I", as shown on the Plan, will contain 6,650 square feet of floor area and would be connected to Hangar "H" (Applicant's application incorrectly describes the area as 8,600 square feet).

21. Applicant testified that it may want to construct Hangar "I" as a separate hangar (not attached to Hangar "H"), but that the total floor area will not exceed 6,650 square feet.

22. Hangar "I" will encroach within the 100 foot setback requirement of Section 1904.2 of the Zoning Ordinance, as shown on the Plan.

23. Compliance with the 100 foot setback requirement is not necessary to protect the health, safety and welfare of the residents and properties in the vicinity of the airport because there is a railroad right of way to the rear of the Property and the new/additional hangars will be located over 100 feet from said railroad right of way.

24. Applicant proposes to provide additional parking areas for airplanes.

25. The additional parking areas will be grass and/or stone, rather than a paved "all weather" surface as required by Section 1702.4 of the Zoning Ordinance.

26. The additional parking areas to be used by the airplanes will not necessarily be a dustless surface as required by Section 1904.3 of the Zoning Ordinance.

II. CONCLUSIONS OF LAW

1. The applicant for a special exception bears the burden of proving that he will comply with all requirements of the zoning ordinance relative to the use intended. Ralph & Joanne's, Inc. v. Neshannock Township Zoning Hearing Board, 121 Pa. Commonwealth Ct. 83, 550 A.2d 586 (1988).

2. Section 1302.3 of the Zoning Ordinance states that airports are permitted by special exception within the Industrial District.

3. Section 1904 of the Zoning Ordinance sets forth the specific requirements for airports.

4. With the exception of Section 1904.2, Section 1904.3 and Section 1702.4 of the Zoning Ordinance, Applicant has satisfied the

requirements for a special exception pursuant to Section 1302.3 and Section 1904 of the Zoning Ordinance.

5. Applicant requires variances from the terms of Section 1904.2, Section 1904.3 and Section 1702.4 of the Zoning Ordinance.

6. 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.

7. Applicant has presented evidence sufficient to establish that unnecessary hardship will result if the variances are not granted, that the grant of the proposed variances will not be contrary to the public interest, and that the variances requested are the minimum that will afford relief and will represent the least modification of the ordinance.

8. Conditions must be imposed on the granting of the special exception and variances in order to preserve and protect the surrounding neighborhood and the purposes of the Zoning Ordinance.

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 Smoketown Airport for: (i) a special exception pursuant to Section 1302.3 and Section 1904 of the Zoning Ordinance to expand Applicant's existing airport; (ii) a variance from the terms of Section 1904.2 of the Zoning Ordinance; (iii) a variance from the terms of Section 1904.3 of the Zoning Ordinance; and (iv) a variance from the terms of Section 1702.4 of the Zoning Ordinance. The special exception and variances 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:

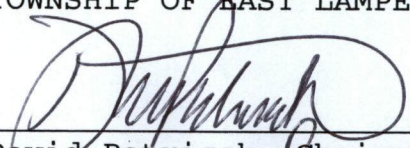
1. Applicant shall obtain all approvals and permits required by applicable federal, state and Township laws and regulations.
2. Applicant shall at all times comply with and adhere to the information and representations submitted with and contained in its application and the evidence presented to the Board at the hearing held on January 14, 2016.

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.

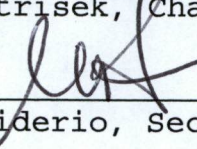
4. The approval granted by this Decision shall expire if Applicant does not obtain a zoning permit within twelve (12) months from the date this Decision and does not complete construction of the improvements, if any, so authorized and commence the use so authorized within twenty-four (24) months from the date of the permit.

5. The foregoing Decision shall be binding upon the Applicant and its successors and assigns.

ZONING HEARING BOARD OF THE
TOWNSHIP OF EAST LAMPETER



David Petrisek, Chairman



Walter Siderio, Secretary

Dated and filed January 28, 2016, after hearing held on January 14, 2016.

The undersigned certifies that a copy of this Decision was served upon all parties on or prior to January 29, 2016.

