

BEFORE THE ZONING HEARING BOARD

TOWNSHIP OF EAST LAMPETER

IN RE: :
: No. 2016-12
APPLICATION OF DAVID CRILLS :

DECISION

I. FINDINGS OF FACT

1. Applicant is David Crills, 2009 Meadow Ridge Drive, Lancaster, Pennsylvania 17601 ("Applicant").

2. The property which is the subject of the instant application is 2009 Meadow Ridge Drive, East Lampeter Township, Lancaster County, Pennsylvania (the "Property").

3. Applicant is the owner of the Property.

4. The Property is located within the Residential R-1 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 April 14, 2016.

7. Testimony at the hearing was stenographically recorded.

8. Applicant appeared personally at the hearing.

9. Gary Kunkle also appeared at the hearing and testified on behalf of Applicant.

10. Applicant has requested a variance from the terms of Section 804.3.B of the Zoning Ordinance.

11. Section 804.3.B of the Zoning Ordinance states that the minimum lot width for those lots served by both public sanitary sewer and public water facilities, or by public sanitary sewer facilities only, shall be 60 feet at the street right of way line and 100 feet at the building setback line.

12. The Property contains 1.7 acres.

13. The Property is currently improved with a single family detached dwelling with a detached garage.

14. Applicant desires to subdivide the Property into 2 lots.

15. One of the lots (Tract 1) will contain the existing single family detached dwelling and detached garage.

16. Tract 1 will contain 0.5 acres, as more fully shown on the plan ("Plan") submitted by Applicant.

17. The other lot (Tract 2) will be a building lot for new single family detached dwelling.

18. Tract 2 will contain 1.34 acres, as more fully shown on the Plan.

19. The width of Tract 2 will be approximately 17 feet at the street right of way line, as more fully shown on the Plan.

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. In determining whether unnecessary hardship has been established, zoning hearing boards should examine whether the variance sought is use or dimensional. To justify the grant of a dimensional variance, zoning hearing boards may consider multiple factors, including the economic detriment to the applicant if the variance was denied, the financial hardship created by any work necessary to bring the building into strict compliance with the zoning requirements and the characteristics of the surrounding neighborhood. Hertzberg v. Zoning Board of Adjustment of the City of Pittsburgh, 721 A.2d 43 (1998); Talkish v. Zoning Hearing Board of Harborcreek Township, 738 A.2d 50 (1999).

3. When seeking a dimensional variance within a permitted use, the owner is asking only for a reasonable adjustment of the zoning regulations in order to utilize the property in a manner

consistent with the applicable regulations, Thus, the grant of a dimensional variance is of lesser moment than the grant of a use variance, since the latter involves a proposal to use the property in a manner that is wholly outside the zoning regulation. Hertzberg v. Zoning Board of Adjustment of the City of Pittsburgh, 721 A.2d 43 (1998).

4. The quantum of proof required to establish unnecessary hardship is lesser when a dimensional variance, as opposed to a use variance, is sought. Hertzberg v. Zoning Board of Adjustment of the City of Pittsburgh, 721 A.2d 43 (1998).

5. Applicant requires a variance from the terms of Section 804.3.B of the Zoning Ordinance.

6. The location of the existing dwelling and garage, along with the size and irregular shape of the lot, warrant the granting of the variance requested.

7. The unnecessary hardship has not been created by the Applicant.

8. Applicant has 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.

9. 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 David Crills for a variance from the terms of Section 804.3.B of the Zoning Ordinance. This 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. Applicant shall obtain all approvals and permits required by applicable federal, state and Township laws and regulations.

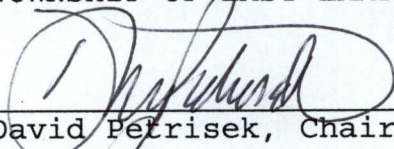
2. Applicant shall at all times comply with and adhere to the information and representations submitted with and contained in his application and the evidence presented to the Board at the hearing held on April 14, 2016.

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.

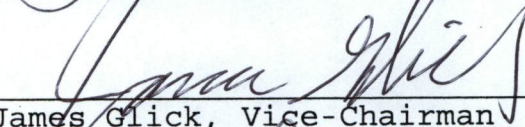
4. The approval granted by this Decision shall expire if Applicant does not obtain a permit within one (1) year from the date of this Decision and does not complete construction of the improvements, if any, so authorized and commence the use so authorized within two (2) years from the date of the permit.

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

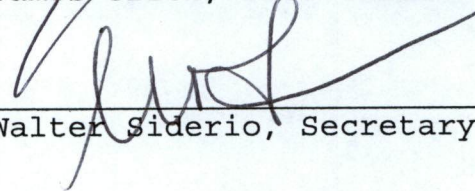
ZONING HEARING BOARD OF THE
TOWNSHIP OF EAST LAMPETER



David Petrisek, Chairman



James Glick, Vice-Chairman



Walter Siderio, Secretary

Dated and filed May 2, 2016, after hearing held on April 14, 2016.

The undersigned certifies that a copy of this Decision was served upon all parties on or prior to May 3, 2016.

