

BEFORE THE ZONING HEARING BOARD

TOWNSHIP OF EAST LAMPETER

IN RE: :  
: No. 2016-19  
APPLICATION OF DANIEL K. STOLTZFUS :

DECISION

I. FINDINGS OF FACT

1. Applicant is Daniel K. Stoltzfus, 58 Witmer Road, Lancaster, Pennsylvania 17602 ("Applicant").

2. The property which is the subject of the instant application is located at 58 Witmer Road, East Lampeter Township, Lancaster County, Pennsylvania (the "Property").

3. Applicant is a tenant on the Property.

4. The owner of the Property is John L. Stoltzfus.

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

6. 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").



7. A public hearing was held before the Zoning Hearing Board of East Lampeter Township ("Board") on this application on June 23, 2016.

8. Testimony at the hearing was stenographically recorded.

9. Applicant appeared personally at the hearing.

10. Jeremy Weaver, of Team Ag, also appeared at the hearing and testified on behalf of Applicant.

11. The Property is a farm containing various agricultural buildings and a dwelling, as more fully shown on the plan (the "Plan") submitted by Applicant.

12. Applicant proposes to remove an existing heifer barn and decommission an existing manure storage facility.

13. Applicant proposes to construct a new heifer barn and manure storage facility, as more fully shown on the Plan.

14. The heifer barn will be located approximately 16 feet in front of the front face of Applicant's dwelling, as shown on the Plan. The heifer barn will be located, at its closest point, approximately 64 feet from the centerline of Witmer Road, as shown on the Plan.

15. Applicant requires a variance from the terms of Section 706.2 of the Zoning Ordinance.

16. No one appeared at the hearing in opposition to the application.



## 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. 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. Section 706.2 of the Zoning Ordinance provides that the minimum front yard setback for accessory structures is 15 feet to the rear of the front face of the principal structure.

4. The proposed building requires a variance from the terms of Section 706.2 of the Zoning Ordinance.

5. The layout of the Property and the location of existing structures and uses creates an unnecessary hardship and necessitates the location of the building.



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

7. 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.

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 Daniel K. Stoltzfus for a variance from the terms of Section 706.2 of the Zoning Ordinance in order to permit the construction of the heifer barn approximately 16 feet in front of the front face of the dwelling and approximately 64 feet from the centerline of Witmer Road, in accordance with the Plan. 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.



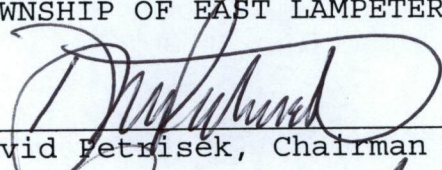
2. Applicant shall at all times comply with and adhere to the evidence presented to the Board at the hearing held on March 26, 2015.

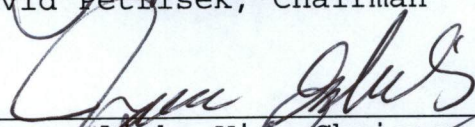
3. Any violation of the conditions contained in this Decision shall be considered a violation of the Zoning Ordinance and shall be subject to the penalties and remedies contained in the Pennsylvania Municipalities Planning Code.

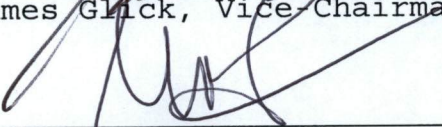
4. The approval granted by this Decision shall expire if Applicant does not obtain a zoning permit within three (3) months from the date this Decision and does not complete construction of the improvements, if any, so authorized and commence the use so authorized within twelve (12) months from the date of the zoning permit.

5. The foregoing Decision shall be binding upon the Applicant and his 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 July 14, 2016, after hearing held on June 23, 2016.

The undersigned certifies that a copy of this Decision was served upon all parties on or prior to July 15, 2016.

*Jana A. Hitchens*  
\_\_\_\_\_

*28*