

BEFORE THE ZONING HEARING BOARD

TOWNSHIP OF EAST LAMPETER

IN RE: :
: No. 2016-20
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 I-1 Light 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 East Lampeter Zoning Ordinance of 2016 (the "Zoning Ordinance").

6. A public hearing was held before the Zoning Hearing Board of East Lampeter Township ("Board") on this application on July 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 following person completed an entry of appearance form and was recognized as a party to the hearing:

Jeffrey L. Glick
2455 Old Philadelphia Pike
Lancaster, PA 17602

10. The Property was the subject of previous zoning hearings and the Board takes administrative notice of its Decisions in Case No. 2003-32, Case No. 2004-13, and Case No. 2016-02.

11. Applicant has now requested: (i) a special exception pursuant to Section 11020.C.1 of the Zoning Ordinance to expand Applicant's existing airport; and (ii) a variance from the terms of Section 23040.D.1 of the Zoning Ordinance.

12. Section 11020.C.1 of the Zoning Ordinance states that airports are permitted by special exception within the I-1 Light Industrial District.

13. Section 23040.D.1 of the Zoning Ordinance sets forth the specific requirements for airports.

14. Section 23040.D.1 of the Zoning Ordinance states that all buildings, runways, landing strips, landing pads and/or other accessory structures related to the airport shall be located at least 100 feet from all street right of way lines and property lines.

15. Applicant desires to expand the Smoketown Airport facilities by constructing additions to hangars, as more fully shown on the plan submitted by Applicant (the "Plan").

16. Hangar "Z", as shown on the Plan, will be expanded by 4,320 square feet of floor area.

17. Hangar "E", as shown on the Plan, will be expanded by 3,414 square feet of floor area.

18. Hangars "F" and "G", as shown on the Plan, will be expanded by 3,510 square feet of floor area.

19. Upon completion of the expansions to Hangars "E", "F" and "G", such hangars shall be consolidated into one structure.

20. Hangar "D" will encroach within the 100 foot setback requirement of Section 23040.D.1 of the Zoning Ordinance, as shown on the Plan. The setback will be 74 feet from the property line.

21. Hangars "E", "F" and "G" will encroach within the 100 foot setback requirement of Section 23040.D.1 of the Zoning Ordinance, as shown on the Plan. The setback will be 77 feet from the property line,

22. 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.

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 11020.C.1 of the Zoning Ordinance states that airports are permitted by special exception within the I-1 Light Industrial District.

3. Section 23040 of the Zoning Ordinance sets forth the specific requirements for airports.

4. With the exception of Section 23040.D.1 of the Zoning Ordinance, Applicant has satisfied the requirements for a special exception pursuant to Section 11020.C.1 and Section 23040 of the Zoning Ordinance.

5. Applicant requires a variance from the terms of Section 23040.D.1 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 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 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 11020.C.1 of the Zoning Ordinance to expand Applicant's existing airport; and (ii) a variance from the terms of Section 23040.D.1 of the Zoning Ordinance. The special exception and 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:

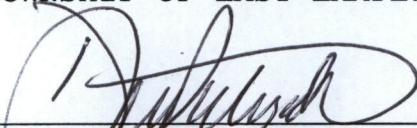
1. Applicant shall obtain all approvals and permits required by applicable federal, state and Township laws and regulations.

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

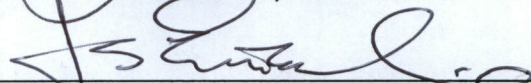
3. Any violation of the conditions contained in this Decision shall be considered a violation of the Zoning Ordinance and shall be subject to the penalties and remedies contained in the Pennsylvania Municipalities Planning Code.

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

ZONING HEARING BOARD OF THE
TOWNSHIP OF EAST LAMPETER



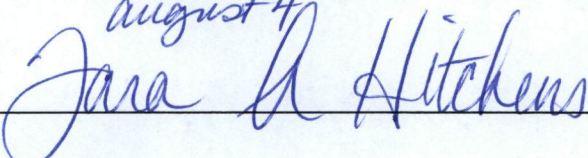
David Petrisek, Chairman



J. Scott Enterline, Alternate

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

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

^{August 4}


Jara A. Hitchens