

BEFORE THE ZONING HEARING BOARD

TOWNSHIP OF EAST LAMPETER

IN RE: :  
: No. 2016-21  
APPLICATION OF DAVID STOLTZFUS, JR. :

DECISION

I. FINDINGS OF FACT

1. Applicant is David Stoltzfus, Jr., 36 South Soudersburg Road, Ronks, Pennsylvania 17572 ("Applicant").

2. The property which is the subject of the instant application is located at 36 South Soudersburg Road, East Lampeter Township, Lancaster County, Pennsylvania (the "Property").

3. Applicant is the owner of the Property.

4. The Property is located within the Agricultural 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 28, 2016.

7. Testimony at the hearing was stenographically recorded.

8. Applicant appeared personally at the hearing.

9. The Property is currently improved with a single family dwelling, carriage shed, and barn, all as more fully shown on the plan (the "Plan") submitted by Applicant.

10. The existing barn is located approximately 12 feet from the side property line and is dimensionally nonconforming.

11. Applicant desires to construct an addition to the barn, as more fully shown on the Plan.

12. The barn addition will be 16 feet by 12 feet 3 inches.

13. The barn addition will create a 9 foot setback from the side property line, as more fully shown on the Plan.

14. Applicant has requested a variance from the terms of Section 3030.C.3.b of the Zoning Ordinance.

15. Section 3030.C.3.b of the Zoning Ordinance states that the minimum side yard setback for accessory structures shall be 20 feet.

## 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. Common-

wealth 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. The location of the existing barn warrants the granting of the variance requested.

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

5. 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.

6. 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 for a variance from the terms of

Section 3030.C.3.b 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:

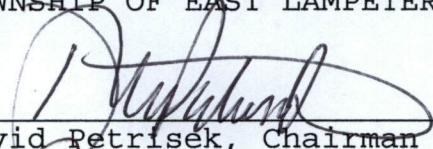
1. Applicant shall obtain all approvals and permits required by applicable laws and regulations.

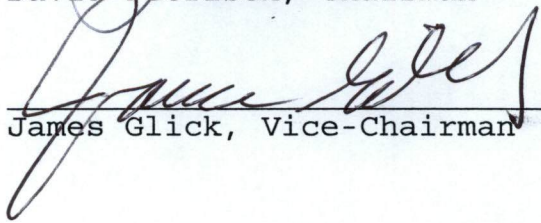
2. Applicant shall at all times comply with and adhere to the evidence presented to the Board at the hearing held on July 28, 2016.

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 his heirs, personal representatives and assigns.

ZONING HEARING BOARD OF THE  
TOWNSHIP OF EAST LAMPETER

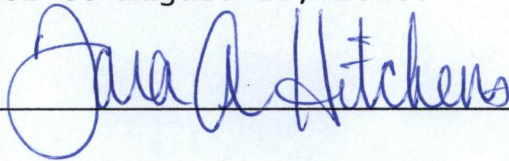
  
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David Petrisek, Chairman

  
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James Glick, Vice-Chairman

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Walter Siderio, Secretary

Dated and filed August 11, 2016, after hearing held on July 28, 2016.

The undersigned certifies that a copy of this Decision was served upon all parties on or prior to August 12, 2016.

  
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