

BEFORE THE ZONING HEARING BOARD

TOWNSHIP OF EAST LAMPETER

IN RE: :
: No: 2016-22
APPLICATION OF STEPHEN FISHER :
AND SADIE FISHER :

DECISION

I. FINDINGS OF FACT

1. Applicants are Stephen Fisher and Sadie Fisher, 100 Hartman Bridge Road, Ronks, Pennsylvania 17572 ("Applicants").

2. The property which is the subject of the instant application is 100 Hartman Bridge Road, East Lampeter Township, Lancaster County, Pennsylvania (the "Property").

3. Applicants are the owners of the Property.

4. The Property is located in 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. Applicants appeared personally at the hearing.

9. Jason Shaner, of Impact Engineering Group, also appeared at the hearing and testified on behalf of Applicants.

10. The Property contains approximately 10 acres and is actively farmed.

11. The Property is improved with, among other buildings, a single family detached dwelling.

12. Applicants desire to construct an additional dwelling unit which will be attached to the existing dwelling unit.

13. The additional dwelling unit will contain approximately 1,500 square feet of floor area (30 x 50).

14. The additional dwelling unit will be served by an on-lot septic system (a new septic system separate from the existing dwelling's septic system).

15. The additional dwelling unit will be served by an on-lot well, which will be shared with the existing dwelling.

16. Applicants have requested: (i) a special exception in accordance with Section 3020.C.12 and Section 23780 of the Zoning Ordinance; and (ii) a variance from the terms of Section 23780.D.1 of the Zoning Ordinance.

17. Section 3020.C.12 permits the addition of one dwelling unit to a principal dwelling situated on a farm provided the unit is physically attached to the principal dwelling, subject to the requirements of Section 23780 of the Zoning Ordinance.

18. Section 23780 of the Zoning Ordinance sets forth the specific requirements for one-dwelling additions.

19. Section 23780.D.1 of the Zoning Ordinance states that the single family attached dwelling shall be located on a farm exceeding 25 acres.

20. No persons appeared in opposition to the application.

II. CONCLUSIONS OF LAW

1. An applicant for a special exception has the burden of persuasion as to the specific criteria and standards of the zoning ordinance. Abbey v. Zoning Hearing Board of the Borough of East Stroudsburg, 126 Pa. Commonwealth Ct. 235, 559 A.2d 107 (1989); Bray v. Zoning Board of Adjustment of the City of Philadelphia, 48 Pa. Commonwealth Ct. 523, 410 A.2d 909 (1980).

2. Section 3020.C.12 of the Zoning Ordinance states, in pertinent part, that the addition of one dwelling unit to a principal dwelling situated on a farm is permitted by special exception provided the additional dwelling is physically attached to the principal dwelling.

3. Section 23780 of the Zoning Ordinance sets forth the specific requirements for the addition of one dwelling unit to a principal dwelling situated on a farm.

4. With the exception of Section 23780.D.1 of the Zoning Ordinance (which requires that the farm contain a minimum of 25 acres), Applicants have demonstrated compliance with the requirements of Section 3020.C.12 and Section 23780.D.1 of the Zoning Ordinance.

5. Applicants require a variance from the terms of Section 23780.D.1 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. 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).

8. Applicants have 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 special exception and 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: (i) a special exception in accordance with Section 3020.C.12 and Section 23780 of the Zoning Ordinance; and (ii) a variance from the terms of Section 23780.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. Applicants shall obtain all approvals and permits required by applicable federal, state and Township laws and regulations.

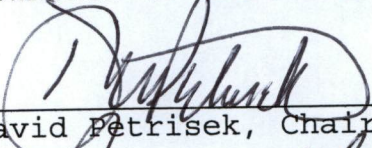
2. Applicants shall at all times comply with and adhere to the information and representations submitted with and contained in their application and the evidence presented to the Board at the hearing held on July 28, 2016.

3. Any violation of the conditions contained in this Decision shall be considered a violation of the Zoning Ordinance and

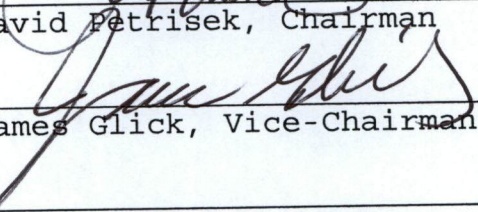
shall be subject to the penalties and remedies contained in the Pennsylvania Municipalities Planning Code.

4. The foregoing Decision shall be binding upon the Applicants and their 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 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.

