

BEFORE THE ZONING HEARING BOARD

TOWNSHIP OF EAST LAMPETER

IN RE: :
 : No. 2013-17
APPLICATION OF GEOFF LAPP / FLORENCE :
R. LAPP :

DECISION

I. FINDINGS OF FACT

1. Applicant is Geoff Lapp / Florence R. Lapp, 2422 Gehman Lane, Lancaster, Pennsylvania 17602 (collectively "Applicant").

2. The property which is the subject of the instant application is 200 Witmer Road / 2370 Hobson Road, East Lampeter Township, Lancaster County, Pennsylvania (the "Property").

3. Applicant is the owner of the Property.

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

5. Notice of the hearings on the within application were 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. Public hearings were held before the Zoning Hearing Board of East Lampeter Township ("Board") on this application on July 25, 2103, and September 12, 2013.

7. Testimony at the hearings was stenographically recorded.

8. Applicant Geoff Lapp appeared personally at the hearings.

9. Applicant initially requested a special exception pursuant to Section 502.3 of the Zoning Ordinance for the substitution of a nonconforming use. However, at the hearing held on July 25, 2013, it was determined that Applicant requires a variance from the terms of Section 701 of the Zoning Ordinance (permitted uses).

10. The Property is improved with commercial buildings, as more fully shown on the plans and materials presented by Applicant.

11. Applicant uses the buildings for the operation of the business known as Lapp Electric, a nonconforming use.

12. One of the buildings, containing approximately 1,200 square feet of floor area (including two bays), has been used in the past by Lapp Electric for the truck maintenance and repair facility for Lapp Electric vehicles (the "Automotive Repair Facility Building").

13. The remaining building or buildings are used by Lapp Electric for the storage of items such as bucket trucks, generators, and lifts (the "Lapp Electric Storage Buildings").

14. Applicant proposes to lease the Automotive Repair Facility Building.

15. The Automotive Repair Facility Building would provide automotive maintenance and repair to the general public.

16. Applicant would continue to use the Lapp Electric Storage Buildings for the nonconforming Lapp Electric use.

17. The operator of the automotive maintenance and repair business will not perform auto body work or auto painting.

18. The days and hours of operation will be Monday through Friday, 7:00 a.m. until 5:00 p.m., and weekends from 7:30 a.m. until 11:00 a.m.

19. There is a 40 foot by 40 foot parking area located to the rear of the building.

20. Vehicles will not be stored outside for more than two (2) weeks.

21. Applicant requires a use variance from Section 701 of the Zoning Ordinance in order to utilize the Automotive Repair Facility Building for an automotive maintenance and repair facility open to the general public, a non-permitted use.

22. No persons appeared 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. Applicant has presented evidence sufficient to warrant the grant of a variance from Section 701 of the Zoning Ordinance in order to conduct the proposed automotive maintenance and repair business.

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 Geoff Lapp / Florence R. Lapp for a variance from Section 701 of the Zoning Ordinance to conduct a n automotive maintenance and repair business upon the Property. 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 evidence presented to the Board at the hearing held on September 12, 2013.

3. The operator of the automotive maintenance and repair business shall not perform auto body work or auto painting.

4. Vehicles shall not be stored outside for more than two (2) weeks.

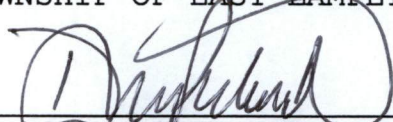
5. The days and hours of operation will be no greater than the following: Monday through Friday, 7:00 a.m. until 5:00 p.m., and weekends from 7:30 a.m. until 11:00 a.m.

6. 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.

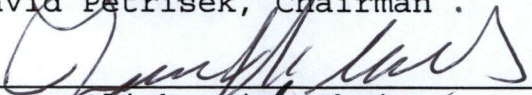
7. The approval granted by this Decision shall expire if Applicant does not obtain a zoning permit within three (3) months from the date of this Decision and does not complete construction of the improvements so authorized and commence the use so authorized within twelve (12) months from the date of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

8. The foregoing Decision shall be binding upon the Applicant and their personal representatives, heirs and assigns.

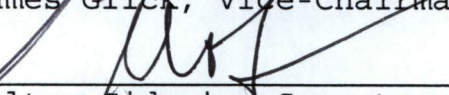
ZONING HEARING BOARD OF THE
TOWNSHIP OF EAST LAMPETER



David Petrisek, Chairman .



James Glick, Vice-Chairman



Walter Siderio, Secretary

Dated and filed October 10, 2013, after hearings held on July 25, 2013, and September 12, 2013.

The undersigned certifies that a copy of this Decision was served upon all parties on or prior to October 11, 2013.

