

BEFORE THE ZONING HEARING BOARD

TOWNSHIP OF EAST LAMPETER

IN RE: :  
 : No. 2013-21  
APPLICATION OF SCOTT REHM AND :  
SHARON REHM :

DECISION

**I. FINDINGS OF FACT**

1. Applicants are Scott Rehm and Sharon Rehm, 2020 Forry Road, Lancaster, Pennsylvania 17601 ("Applicants").

2. The property which is the subject of the instant application is located at 2020 Forry Road, East Lampeter Township, Lancaster County, Pennsylvania (the "Property").

3. Applicants are the owners 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 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").

6. A public hearing was held before the Zoning Hearing Board of East Lampeter Township ("Board") on this application on October 24, 2013.

7. Testimony at the hearing was stenographically recorded.

8. Applicants appeared personally at the hearing.

9. The Property is currently improved with a single family dwelling and shed, as more fully shown on the plan submitted by Applicants.

10. Applicants desire to construct a barn and forebay on the Property. The existing shed will be removed.

11. The barn will be 30 feet by 52 feet, and the attached forebay will be 10 feet by 52 feet.

12. The barn will be 26 feet in height.

13. Although Applicants initially proposed that the barn be located 6 feet from the side property line, Applicants amended their application at the hearing such that the barn would be located at least 9 feet from the side property line.

14. Applicants have requested: (i) a variance from the terms of Section 706.1 of the Zoning Ordinance; and (ii) a variance from the terms of Section 706.3 of the Zoning Ordinance.

15. Section 706.1 of the Zoning Ordinance states that the maximum height of accessory structures shall be 20 feet.

16. Section 706.3 of the Zoning Ordinance states that the minimum side yard setback for accessory structures shall be 15 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. 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. With regard to Section 706.1 of the Zoning Ordinance (height of accessory structures), Applicants have satisfied the requirements for a variance in order to construct a barn 26 feet in height.

4. With regard to Section 706.3 of the Zoning Ordinance (side yard setback for accessory structures), Applicants have satisfied

the requirements for a variance in order to construct a barn 9 feet from the side property line.

5. Conditions must be attached to the granting of the variances to protect and preserve 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: (i) grants the application for a variance from the terms of Section 706.1 of the Zoning Ordinance; and (ii) grants the application for a variance from Section 706.3 of the Zoning Ordinance. The variances 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. Applicants shall obtain all approvals and permits required by applicable laws and regulations.

2. Applicants shall at all times comply with and adhere to the evidence presented to the Board at the hearing held on October 24, 2013.

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 Applicants do not obtain a zoning permit within three (3) months from the date of this Decision and do 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.

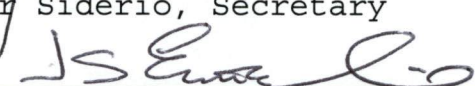
5. The foregoing Decision shall be binding upon the Applicants and their heirs, personal representatives and assigns.

ZONING HEARING BOARD OF THE  
TOWNSHIP OF EAST LAMPETER



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Walter Siderio, Secretary




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J. Scott Enterline, Alternate

DISSENT:

I dissent from the foregoing Decision. I conclude that the Applicants have failed to meet their burden to establish that unnecessary hardship will result if the variances are not granted and that the variances as requested are the minimum that will afford relief and will represent the least modification of the ordinance.



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David Petrisek, Chairman

Dated and filed January 27, 2011, after hearing held on January 13, 2011.

The undersigned certifies that a copy of this Decision was served upon all parties on or prior to January 28, 2011.

Jana A. Hitchens