

BEFORE THE ZONING HEARING BOARD

TOWNSHIP OF EAST LAMPETER

IN RE: :  
: No. 2013-25  
APPLICATION OF BRYAN HIGH :  
AND MELISSA HIGH :

DECISION

I. FINDINGS OF FACT

1. Applicants are Bryan High and Melissa High, 2350 Old Philadelphia Pike, Lancaster, Pennsylvania 17602 ("Applicants").
2. The property which is the subject of the instant application is located at 2350 Old Philadelphia Pike, East Lampeter Township, Lancaster County, Pennsylvania (the "Property").
3. Applicants are the owners of the Property.
4. The Property is located in 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 November 14, 2013.

7. Testimony at the hearing was stenographically recorded.

8. Applicants appeared personally at the hearing.

9. The Property is improved with a single family dwelling with an attached garage.

10. Applicants propose to construct an addition which will be attached to the existing dwelling.

11. The addition will be 27 feet by 16 feet, as shown on the plan submitted by Applicants.

12. The addition will be located 12 feet from the side property line.

13. Applicants are not able to locate the addition elsewhere on the Property in compliance with setback requirements because of the location of an existing drain field and well.

14. Applicants have requested a variance from Section 705.6 of the Zoning Ordinance to construct the addition approximately 12 feet from the side property line.

15. Section 705.6 of the Zoning Ordinance states that the minimum side yard setback 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 grant-

ed 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. With regard to the setback variance for the proposed dwelling addition, the location of the existing dwelling, drain field and well warrant the granting of the variance requested.

3. Conditions must be attached to a grant of the variance 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 of Bryan High and Melissa High for a variance from the terms of Section 705.6 of the Zoning Ordinance in order to permit the construction of a dwelling addition approximately 12 feet from the side property line, as more particularly shown on the plan. 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. Applicants shall obtain all approvals and permits required by applicable laws and regulations.

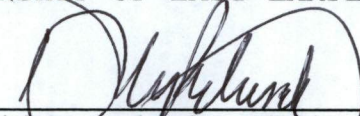
2. Applicants shall at all times comply with and adhere to the evidence presented to the Board at the hearing held on November 14, 2013.

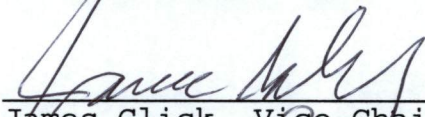
3. Any violation of the conditions contained in this Decision shall be considered a violation of the Zoning Ordinance and shall be subject to the penalties and remedies contained in the Pennsylvania Municipalities Planning Code.

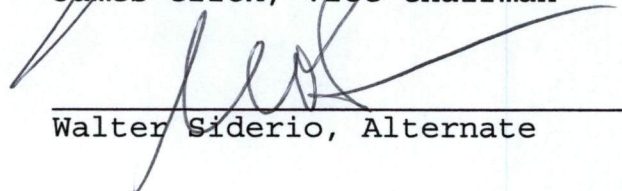
4. The approval granted by this Decision shall expire if Applicants do not obtain a zoning permit within three (3) months from the date this Decision and do not complete construction of the improvements, if any, so authorized and commence the use so authorized within twelve (12) months from the date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

  
\_\_\_\_\_  
David Petrisek, Chairman

  
\_\_\_\_\_  
James Glick, Vice-Chairman

  
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Walter Siderio, Alternate

Dated and filed December 5, 2013, after hearing held on November 14, 2013.

The undersigned certifies that a copy of this Decision was served upon all parties on or prior to December 6, 2013.

Anna A. Hitchens