

5. A public hearing was held before the Zoning Hearing Board of East Lampeter Township ("Board") on this application on November 14, 2013.

6. Testimony at the hearing was stenographically recorded.

7. Applicant appeared personally at the hearing.

8. The Property is currently improved with a house and attached garage, as more fully shown on the plan ("Plan") submitted by Applicant.

9. Applicant desires to construct a detached garage upon the Property.

10. The garage will be 26 feet by 28 feet

11. The height of the garage will be 22.5 feet.

12. Applicant has requested a variance from the terms of Section 905.1 of the Zoning Ordinance.

13. Section 905.1 of the Zoning Ordinance states that the maximum height of accessory structures shall be 20 feet.

14. Applicant testified that he requires a garage 22.5 feet in height for second floor storage.

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 their request for a variance from the height limitations set forth in Section 905.1 of the Zoning Ordinance, Applicant has satisfied the requirements for a variance in order to construct the detached garage at a height of 22.5 feet.

4. Conditions must be attached to the granting of the variance 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 grants the application of Barry Simpson for a variance from the terms of Section 905.1 of the Zoning Ordinance in order to permit the construction of a detached garage with a height of 22.5 feet. 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.

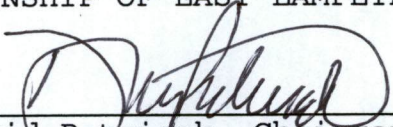
2. Applicant shall at all times comply with and adhere to the evidence presented to the Board at the hearing held on November 14, 2013.

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.

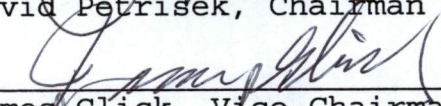
4. The approval granted by this Decision shall expire if Applicant does not obtain a zoning permit within three (3) months from the date of this Decision and does not complete construction of the improvements, if any, so authorized and commence the use so authorized within twelve (12) months from the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

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

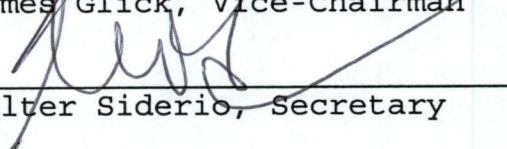
ZONING HEARING BOARD OF THE
TOWNSHIP OF EAST LAMPETER



David Petrisek, Chairman



James Glick, Vice-Chairman



Walter Siderio, Secretary

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.

Jana D. Hitchens