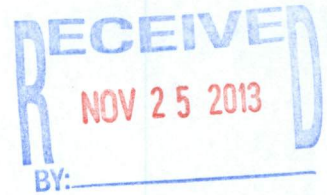


BEFORE THE ZONING HEARING BOARD  
TOWNSHIP OF EAST LAMPETER



IN RE: :  
: No. 2013-28  
APPLICATION OF SONYA BRODERICK :

DECISION

**I. FINDINGS OF FACT**

1. Applicant is Sonya Broderick, 2604 Lincoln Highway East, Ronks, Pennsylvania 17572 ("Applicant").

2. The property which is the subject of the instant application is 2771 Lincoln Highway East, East Lampeter Township, Lancaster County, Pennsylvania (the "Property").

3. Applicant is the owner of the Property.

4. The Property is located in the Commercial C-2 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. Roger Fry, of Fry of Fry Surveying, Inc., appeared at the hearing on behalf of Applicant.

9. Sam Ebersole and Mark Meyers also appeared at the hearing on behalf of Applicant.

10. The following person(s) completed and entry of appearance forms and were recognized as parties to the hearing:

Scott and Jane Shenk  
2777 Lincoln Highway East  
Ronks, PA 17572

11. Applicant has requested: (i) a variance from the terms of Section 1201 of the Zoning Ordinance; (ii) a variance from the terms of Section 1201.11 of the Zoning Ordinance; (iii) a variance from the terms of Section 1702.4 of the Zoning Ordinance; and (iv) a variance from the terms of Section 1702.5 of the Zoning Ordinance.

12. Section 1201 of the Zoning Ordinance sets forth those uses permitted within the Commercial C-2 District.

13. Section 1201.11 of the Zoning Ordinance states that lumber and coal yards, building material storage yards, contractors' equipment and storage yards, and warehouses are permitted, provided that all items are within a completely enclosed building.

14. Section 1702.4 of the Zoning Ordinance states that parking facilities shall be paved with a hard all-weather surface.

15. Section 1702.5 of the Zoning Ordinance states that there shall be a minimum 20 foot wide greenbelt (where lot is adjacent to

a Rural or Residential District) provided between all lot lines and all parking areas, driveways and vehicular accessways within the lot.

16. The Property contains approximately 4.856 net acres of area.

17. Applicant has entered into an agreement to sell the Property to Ronks Storage, LLC.

18. Ronks Storage, LLC, proposes to construct upon the Property an operations building and an office building, as more fully shown on the plan ("Plan") submitted by Applicant.

19. The operations building is 200 feet by 100 feet.

20. The office building is 120 feet by 32 feet.

21. A 20 foot by 200 foot outside storage area (located under an overhang) is proposed at the rear of the operations building.

22. Ronks Storage, LLC, will lease the buildings to two of its subsidiaries / related entities known as Mid-Atlantic Timberframes and B & D Builders, LLC.

23. The proposed uses are as follows: manufacturing of timber frame structures for erection and sale; manufacturing of building components, such as doors and cupolas; manufacturing of custom accessories for horse barns and custom homes; outside storage of lumber and building materials; employee offices; and a showroom.

24. Manufacturing operations will be conducted between 5:30 a.m. and 5:00 p.m., Monday through Friday. However, in busy times,

the manufacturing may operate between 3:00 a.m. and 9:00 p.m. Saturday hours are from 5:30 a.m. until 12:00 noon.

25. The office and showroom would operate during normal commercial business hours.

26. It is anticipated that there will be 6 to 8 tractor trailer trips to/from the Property per week.

27. It is anticipated that there will be 8 to 10 construction crew trucks.

28. The types of equipment to be used on-site are: planer; milling machine; dust collector; other miscellaneous equipment.

29. Outside storage of lumber and building materials is proposed to the rear of the building, as shown on the Plan.

30. A 10 foot wide greenbelt is proposed, as shown on the Plan.

31. Applicant proposes to use gravel (rather than a macadam surface) at the material unloading areas.

32. Manufacturing uses are not permitted within the Commercial C-2 District.

33. Outside storage (with regard to the proposed lumber and building material storage) is not permitted within the Commercial C-2 District.

34. It is possible to use the Property in compliance with the use requirements set forth in Section 1201 of the Zoning Ordinance.

35. It is possible to use the Property in compliance with the use requirements set forth in Section 1201.11 of the Zoning Ordinance.

36. It is possible to use the Property in compliance with the paving requirements set forth in Section 1702.4 of the Zoning Ordinance.

37. It is possible to use the Property in compliance with the greenbelt requirements set forth in Section 1702.5 of the Zoning Ordinance.

## **II. CONCLUSIONS OF LAW**

1. Section 1201 of the Zoning Ordinance sets forth those uses permitted as of right within the Commercial C-2 District.

2. Section 1201.11 of the Zoning Ordinance states that lumber and coal yards, building material storage yards, contractors' equipment and storage yards, and warehouses are permitted, provided that all items are within a completely enclosed building.

3. Applicant's proposed manufacturing use and outside lumber storage use are not permitted within the Commercial C-2 District.

4. Applicant requires a variance from the use provisions of Section 1201 and Section 1201.11 of the Zoning Ordinance.

5. Applicant also require a variance from the paving requirements set forth in Section 1702.4 of the Zoning Ordinance and greenbelt requirements set forth in Section 1702.5 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 will be granted when a zoning ordinance imposes an unnecessary hardship because of unique physical circumstances or conditions peculiar to the property and the unnecessary hardship is due to such conditions. Unnecessary hardship justifying a grant of a variance is shown where denial of the variance would render the property practically useless. Economic and personal considerations in and of themselves are insufficient to constitute hardship." McNally v. Bonner, \_\_\_ Pa. Commonwealth Ct. \_\_\_, 645 A.2d 287, 289 (1994) (citations omitted).

8. 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).

9. A variance is to be "granted only in exceptional circumstances." M & M Sunoco, Inc. v. Upper Makefield Township Zoning

Hearing Board, 154 Pa. Commonwealth Ct. 316, 623 A.2d 908, 911 (1993).

10. Circumstances unique to the user of a property and not the property itself do not constitute unnecessary hardship. See, e.g. Chrin v. Zoning Hearing Board of the Borough of Nazareth, 127 Pa. Commonwealth Ct. 279, 561 A.2d 833 (1989).

11. The determination as to whether zoning regulations render a property valueless is to be made with reference to the property as a whole. Hansen Properties III v. Zoning Hearing Board of Horsham Township, 130 Pa. Commonwealth Ct. 8, 566 A.2d 926 (1989).

12. "[T]he reasons underlying the grant of a variance must be substantial, serious, and compelling." Constantino v. Zoning Hearing Board of the Borough of Forest Hills, 152 Pa. Commonwealth Ct. 258, 618 A.2d 1193, 1196 (1992).

13. The "failure of proof [to demonstrate the property cannot be used as zoned] is alone sufficient to deny the request for a variance." Smith v. Zoning Hearing Board of the Borough of Bellevue, 152 Pa. Commonwealth Ct. 427, 619 A.2d 399, 402 (1992); see also Beecham Enterprises v. Zoning Hearing Board of Kennedy Township, 556 A.2d 981 (1989).

14. The Property can be used as zoned and in compliance with all use, storage, paving and greenbelt requirements.

15. The applicable zoning regulations do not render the Property valueless.

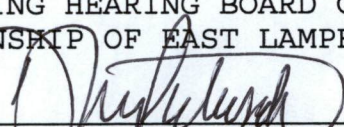
16. Applicant has not presented evidence to establish that the Zoning Ordinance imposes an unnecessary hardship because of unique physical circumstances or conditions peculiar to the Property and the unnecessary hardship is due to such conditions.

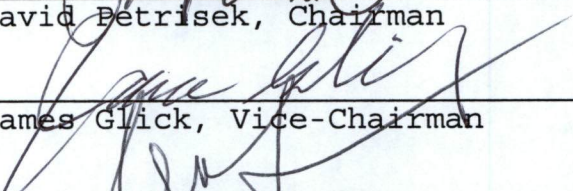
17. Applicant is not entitled to the requested variances.

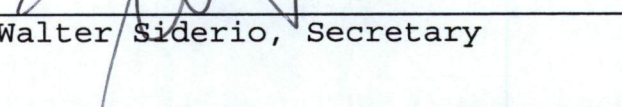
**III. DECISION**

Based upon the foregoing findings of fact and conclusions of law, the Zoning Hearing Board of the Township of East Lampeter hereby denies the application of Sonya Broderick for: (i) a variance from the terms of Section 1201 of the Zoning Ordinance; (ii) a variance from the terms of Section 1201.11 of the Zoning Ordinance; (iii) a variance from the terms of Section 1702.4 of the Zoning Ordinance; and (iv) a variance from the terms of Section 1702.5 of the Zoning Ordinance.

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.

Jara A. Hitchens