

BEFORE THE ZONING HEARING BOARD

TOWNSHIP OF EAST LAMPETER

IN RE: :
 : No. 2016-24
APPLICATION OF HERBERT TROUT, :
KARLEEN TROUT AND STACEY HERMAN :

DECISION

I. FINDINGS OF FACT

1. Applicants are Herbert Trout, Karleen Trout and Stacey Herman, 2626 Siegrist Road, Ronks, Pennsylvania 17572 ("Applicants").

2. The property which is the subject of the instant application is located at 2626 Siegrist Road, East Lampeter Township, Lancaster County, Pennsylvania (the "Property").

3. Applicants are the owners of the Property.

4. The Property is located in the Agricultural 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 East Lampeter Zoning Ordinance of 2016 (the "Zoning Ordinance").

6. A public hearing was held before the Zoning Hearing Board of East Lampeter Township ("Board") on this application on September 8, 2016.

7. Testimony at the hearing was stenographically recorded.

8. Applicants appeared personally at the hearing.

9. The Property is improved with a dwelling.

10. Applicants proposes to construct a porch on the front of the dwelling.

11. The porch will be 10 feet by 23 feet, as shown on the plan ("Plan") submitted by Applicants.

12. The porch will located approximately 29 feet from the right of way line of Siegrist Road.

13. Section 3030.B.2.a of the Zoning Ordinance provides that the minimum front yard setback shall be 40 feet from the street right of way line.

14. Applicant requires a variance from the terms of Section 3030.B.2.a of the Zoning Ordinance.

15. No one appeared at the hearing 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. In determining whether unnecessary hardship has been established, zoning hearing boards should examine whether the variance sought is use or dimensional. To justify the grant of a dimensional variance, zoning hearing boards may consider multiple factors, including the economic detriment to the applicant if the variance was denied, the financial hardship created by any work necessary to bring the building into strict compliance with the zoning requirements and the characteristics of the surrounding neighborhood. Hertzberg v. Zoning Board of Adjustment of the City of Pittsburgh, 721 A.2d 43 (1998); Talkish v. Zoning Hearing Board of Harborcreek Township, 738 A.2d 50 (1999).

3. When seeking a dimensional variance within a permitted use, the owner is asking only for a reasonable adjustment of the zoning regulations in order to utilize the property in a manner consistent with the applicable regulations, Thus, the grant of a dimensional variance is of lesser moment than the grant of a use variance, since the latter involves a proposal to use the property in a manner that is wholly outside the zoning regulation. Hertzberg v. Zoning Board of Adjustment of the City of Pittsburgh, 721 A.2d 43 (1998).

4. The quantum of proof required to establish unnecessary hardship is lesser when a dimensional variance, as opposed to a use variance, is sought. Hertzberg v. Zoning Board of Adjustment of the City of Pittsburgh, 721 A.2d 43 (1998).

5. The location of the existing dwelling warrants the granting of the variance requested.

6. The unnecessary hardship has not been created by the Applicants.

7. Applicants have presented evidencesufficient to establish that unnecessary hardship will result if the variance is not granted, that the grant of the proposed variance will not be contrary to the public interest, and that the variance requested is the minimum that will afford relief and will represent the least modification of the ordinance.

8. Conditions must be attached to a grant of the variance in this case 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 Herbert Trout, Karleen Trout and Stacey Herman for a variance from the terms of Section 3030.B.2.a of the Zoning Ordinance in order to permit the construction of a porch 29 feet from the right of way line of Siegrist Road. The variance granted herein shall be subject to the following condi-

tions and safeguards which the Board deems necessary to implement the purposes of the Zoning Ordinance and the Pennsylvania Municipalities Planning Code:

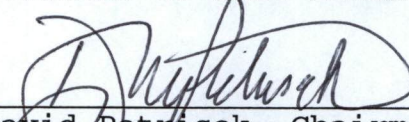
1. Applicants shall obtain all approvals and permits required by applicable laws and regulations.

2. Applicant shall at all times comply with and adhere to the evidence presented to the Board at the hearing held on September 8, 2016.

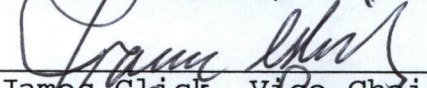
3. Any violation of the conditions contained in this Decision shall be considered a violation of the Zoning Ordinance and shall be subject to the penalties and remedies contained in the Pennsylvania Municipalities Planning Code.

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

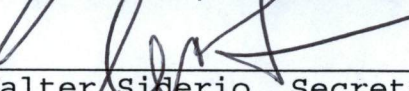
ZONING HEARING BOARD OF THE
TOWNSHIP OF EAST LAMPETER



David Petrusek, Chairman



James Glick, Vice-Chairman



Walter Siderio, Secretary

Dated and filed September 30, 2016, after hearing held on September 8, 2016.

The undersigned certifies that a copy of this Decision was served upon all parties on or prior to October 1, 2016.

Jana A Hitchens