

BEFORE THE ZONING HEARING BOARD

TOWNSHIP OF EAST LAMPETER

IN RE: :
: No. 2017-3
APPLICATION OF DANIEL S. FISHER :

DECISION

I. FINDINGS OF FACT

1. Applicant is Daniel S. Fisher, 2623 Old Philadelphia Pike, Bird-in-Hand, Pennsylvania 17505 ("Applicant").

2. The property which is the subject of the instant application is located at 2630 Old Philadelphia Pike, East Lampeter Township, Lancaster County, Pennsylvania (the "Property").

3. Applicant is the owner of the Property.

4. The Property is located within the VR-Village Residential 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 February 23, 2017.

7. Testimony at the hearing was stenographically recorded.

8. Applicant appeared personally at the hearing.

9. Brian Masterson, of Register Associates, Inc., also appeared at the hearing and testified on behalf of Applicant.

10. Applicant has requested: (i) a variance from the terms of Section 23380.C.1 of the Zoning Ordinance; and (ii) a variance from the terms of Section 23380.C.2 of the Zoning Ordinance.

11. Section 23380.C.1 of the Zoning Ordinance states that a horse barn shall only be located on a lot with a minimum lot area of 20,000 square feet.

12. Section 23380.C.2 of the Zoning Ordinance states that the minimum side yard setback for a horse barn shall be 20 feet.

13. The Property contains 19,602 square feet of area.

14. The Property is currently improved with a single family dwelling, as more fully shown on the plan (the "Plan") submitted by Applicant.

15. Applicant desires to construct a horse barn upon the Property, as more fully shown on the Plan.

16. The barn would be located 10 feet from the side property line, as more fully shown on the Plan.

17. Applicant testified that the horse barn cannot satisfy the 20 foot setback requirement because of a garden and the location of a proposed driveway.

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. Applicant has presented evidence sufficient 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.

4. 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 for: (i) a variance from the terms of Section 23380.C.1 of the Zoning Ordinance; and (ii) a variance from the terms of Section 23380.C.2 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. 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 February 23, 2017.

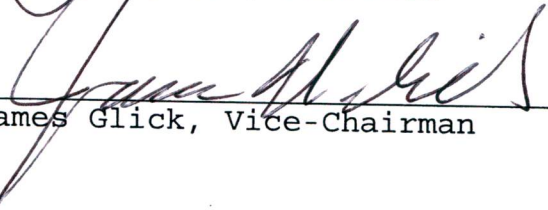
3. Any violation of the conditions contained in this Decision shall be considered a violation of the Zoning Ordinance and shall be subject to the penalties and remedies contained in the Pennsylvania Municipalities Planning Code.

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

ZONING HEARING BOARD OF THE
TOWNSHIP OF EAST LAMPETER



David Petrisek, Chairman



James Glick, Vice-Chairman

CONCURRING IN PART AND DISSENTING IN PART:

I concur with the grant of the variance from Section 23380.C.1 of the Zoning Ordinance with regard to the required minimum lot size. I would deny the requested variance from Section 23380.C.2 of the Zoning Ordinance with regard to side yard setback.



J. Scott Enterline, Secretary

Dated and filed March 9, 2017, after hearing held on February 23, 2017.

The undersigned certifies that a copy of this Decision was served upon all parties on or prior to March 10, 2017.

