

BEFORE THE ZONING HEARING BOARD

TOWNSHIP OF EAST LAMPETER

IN RE: :  
 : No. 2017-13  
APPLICATION OF PERRY J. ARGIRES :  
AND MICHELLE P. ARGIRES :

DECISION

I. FINDINGS OF FACT

1. Applicants are Perry J. Argires and Michelle P. Argires, 2171 New Holland Pike, Lancaster, Pennsylvania 17601 ("Applicants").

2. The property which is the subject of the instant application is located at 2171 New Holland Pike, 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 14, 2017.

7. Testimony at the hearing was stenographically recorded.

8. Applicants were represented at the hearing by Caroline Hoffer, Esquire.

9. The following person completed an entry of appearance form and was recognized as a party:

Sheila Cummins  
2169 New Holland Pike  
Lancaster, PA 17601

10. The Property contains 27.46 acres and includes Applicants' residence, residential accessory uses, and farm fields.

11. Applicants installed a 48' X 26' greenhouse on the Property to grow and propagate lavender plants to transplant to their fields.

12. Applicants learned, after the fact, that a permit was required to install the greenhouse.

13. Applicants applied for a permit from East Lampeter Township.

14. The permit was denied on the basis that the greenhouse is a residential accessory building and is required to be located behind the front façade of the residence.

15. The greenhouse is located in front of the residence.

16. Applicants have appealed the determination of the Assistant Zoning Officer.

17. In the alternative, Applicants have requested variances to permit the greenhouse to remain on the Property.

18. As noted above, by way of a Zoning Determination Letter the Assistant Zoning Officer determined that the greenhouse is a residential accessory building. Residential accessory buildings are subject to the building setback requirements of Section 3030.C.3 of the Zoning Ordinance:

Section 3030. C. Setback and dimensional requirements for a residential accessory use.

3. The following regulations shall apply to unattached building for accessory uses that exceed one hundred twenty (120) square feet of gross floor area:

a. The minimum front yard setback line from all streets shall be fifteen (15) feet to the rear of the front façade of the principal building.

b. The minimum side yard setback shall be twenty (20) feet.

c. The minimum rear yard setback shall be six (6) feet.

19. Applicants believe that the greenhouse is an agricultural building, and not a residential accessory building.

20. The greenhouse is an integral part of Applicants' agricultural use of the Property, a principal use of the Property.

21. Principal uses in the Agricultural District are subject to the building setback requirements of Section 3030.B.2, .3, and .4 as follows:

Section 3030.B. Lot width, building setback and dimensional requirements for a principal use:

2. The minimum front yard setback requirements shall be as follows:

a. The minimum building setback line shall be forty (40) feet, as measured from the street right-of-way line.

3. The minimum side yard setback shall be twenty (20) feet.

4. The minimum rear yard setback shall be fifty (50) feet.

22. The greenhouse is located approximately 178 feet 11 inches from Mondale Road.

23. The greenhouse substantially exceeds all of the building setback requirements for an agricultural building, and exceeds all of the building setback requirements for a residential accessory building with the exception of the front yard building setback requirement, which requires the residential accessory building to be located 15 feet behind the front facade of the residence.

24. The building setback requirement for a residence is 40 feet.

25. Applicants' residence is located in excess of 350 feet from Mondale Road.

26. The Property has been occupied as a residence and farmed for many years.

27. The Property is subject to a Conservation Easement granted to the Lancaster Farmland Trust in 2012 that limits the use of the Property to agricultural uses and agricultural support uses.

28. Prior to installing the greenhouse, the Argires confirmed with the Lancaster Farmland Trust that the Conservation Easement permits the construction of a greenhouse as part of the agricultural use of the Property.

29. Further, following the grant of the Conservation Easement on the Property, the Property was rezoned by East Lampeter Township from the Residential R-1 Zoning District to the Agricultural Zoning District.

## **II. CONCLUSIONS OF LAW**

1. The Assistant Zoning Officer concluded that the principal building on the Property is residential, not agricultural, and, accordingly, any structures would be residential accessory structures. The Board concludes that this interpretation is incorrect.

2. A principal use of the Property is agriculture and the greenhouse, because it is an agricultural building, is a principal building on the Property, subject to the building setback requirements of Section 3030.B.

3. The Zoning Ordinance provides for more than one principal use on a lot and the permitted uses in the Agricultural Zoning

District include both agricultural operations (Section 3020.A.1) and single family residential (Section 3020.A.8).

4. The greenhouse is an agricultural building, as its use is exclusively for the agricultural use of the Property.

5. The greenhouse is not an accessory structure for the residential use.

6. An accessory use is defined in the Zoning Ordinance as follows: "Accessory Use: A use customarily incidental and subordinate to the principal use or building and located on the same lot such principal use or building. Refer also in the definitions contained under "Floodplain Overlay District" and "Use"."

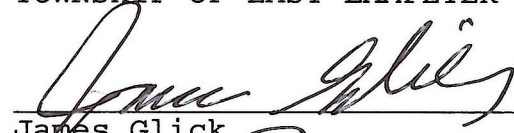
7. The Board concludes that the greenhouse is an agricultural building, subject to the building setback requirements of Section 3030.B. and not a residential accessory building.

8. Applicants have presented evidence sufficient to establish that the Assistant Zoning Officer's determination is incorrect. As such, Applicant's request in the alternative for variances is moot.

### **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 appeal and concludes that the determination of the Assistant Zoning Officer is incorrect.

ZONING HEARING BOARD OF THE  
TOWNSHIP OF EAST LAMPETER

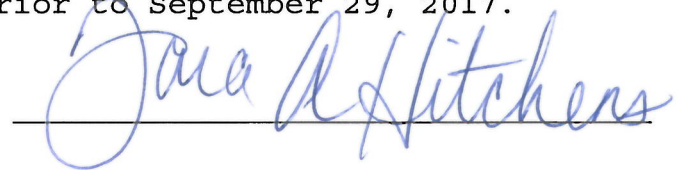
  
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James Glick

  
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J. Scott Enterline

  
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Lester Weaver

Dated and filed September 28, 2017, after hearing held on  
September 14, 2017.

The undersigned certifies that a copy of this Decision was  
served upon all parties on or prior to September 29, 2017.

  
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