

BEFORE THE ZONING HEARING BOARD

TOWNSHIP OF EAST LAMPETER

IN RE: :
: No. 2017-22
APPLICATION OF 2232 LINCOLN :
HIGHWAY EAST LLC :

DECISION

I. FINDINGS OF FACT

1. Applicant is 2232 Lincoln Highway East LLC, 950 Smile Way, York, Pennsylvania 17404 (hereinafter referred to as "Applicant").

2. The property which is the subject of the instant application is located at 2232 Lincoln Highway East, East Lampeter Township, Lancaster County, Pennsylvania (referred to as the "Property").

3. Applicant is the owner of the Property.

4. The Property is located in the C-3 Commercial 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 November 9, 2017.

7. Testimony at the hearing was stenographically recorded.

8. Chris Venarchick, of RGS Associates, Inc., appeared at the hearing and testified on behalf of Applicant.

9. Gary Gilbert and Joseph Clark also appeared at the hearing on behalf of Applicant.

10. Applicant has requested: (i) a variance from Section 24060.A of the Zoning Ordinance; and (ii) a variance from Section 22240.B.3 of the Zoning Ordinance.

11. Section 24060.A of the Zoning Ordinance states that a nonconforming lot may be developed for any use permitted within the district provided such development complies with all setback, coverage, bulk, height and other requirements. In the instant case, the maximum permitted lot coverage is 75%.

12. Section 22240.B.3 of the Zoning Ordinance sets forth certain setback requirements for dumpsters used for solid waste disposal. In the instant case, the required setback is 25 feet.

13. The Property currently contains approximately 1 acre and is a nonconforming lot.

14. The Property is improved with a building and accessory parking.

15. The current lot coverage is 84.8% and is dimensionally nonconforming.

16. Applicant intends to raze the existing building and construct a new building (containing approximately 7,500 square feet of floor area) and accessory parking.

17. There will be four retail uses within the building and the use is considered a shopping center.

18. The proposed post construction lot coverage is 83%, a slight reduction from the existing lot coverage.

19. Applicant proposes to place two dumpsters upon the Property, the locations of which are more fully shown on the plan submitted by Applicant.

20. The dumpsters will be 8 feet from rear property line.

21. The current dumpster is also located 8 feet from the rear property line.

22. No persons appeared 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); MPC §910.2.

2. A variance, if granted, must be the minimum that will afford relief and will represent the least modification of the zoning ordinance. Rogers v. Zoning Hearing Board of East Pikeland Township, 103 Pa. Commonwealth Ct. 478, 520 A.2d 922 (1987); MPC §910.2(a)(5).

3. An applicant is entitled to a variance if: there is unique hardship to the property; there will be no adverse effect on the public health, safety or general welfare; and the variance represents the minimum variance that will afford relief. See East Torresdale Civic Association v. Zoning Hearing Board of Adjustment of Philadelphia County, 639 A.2d 446 (1994).

4. The Property is subject to hardship due to its relatively small size.

5. There will be no adverse effect on the public health, safety or general welfare if the variances are granted.

6. The variances requested by Applicant are the minimum variances necessary to grant relief.

7. Conditions must be attached to the granting of the variances 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 2232 Lincoln Highway East LLC for:

- (i) a variance from Section 24060.A of the Zoning Ordinance; and
- (ii) a variance from Section 22240.B.3 of the Zoning Ordinance.

The variances shall be subject to the following conditions and safeguards which the Board deems necessary to implement the purposes of the Zoning Ordinance and the MPC:

1. Applicant shall obtain all approvals and permits required by applicable federal, state and Township laws and regulations.

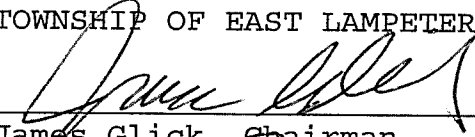
2. Applicant shall at all times comply with and adhere to the information and representations submitted with and contained in its application and the evidence presented to the Board at the hearing held on November 9, 2017.

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.

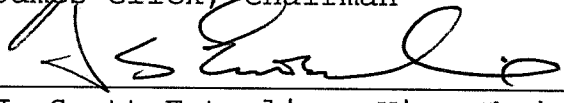
4. The approval granted by this Decision shall expire in accordance with the terms of Section 25060 of the Zoning Ordinance.

5. The foregoing Decision shall be binding upon the Applicant and his, her, its or their heirs, personal representatives, successors and assigns.

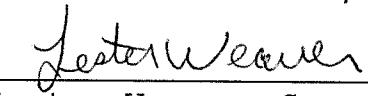
ZONING HEARING BOARD OF THE
TOWNSHIP OF EAST LAMPETER



James Glick, Chairman



J. Scott Enterline, Vice-Chairman



Lester Weaver, Secretary

Dated and filed December 14, 2017, after hearing held on November 9, 2017.

The undersigned certifies that a copy of this Decision was served upon all parties on or prior to December 15, 2017.

