

BEFORE THE ZONING HEARING BOARD

TOWNSHIP OF EAST LAMPETER

IN RE: :
: No. 2018-23
APPLICATION OF LANCE FOX :

DECISION

I. FINDINGS OF FACT

1. Applicant is Lance Fox, 110 Hartman Bridge Road, Ronks, Pennsylvania 17572 ("Applicant").

2. The property which is the subject of the instant application is 110 Hartman Bridge Road, East Lampeter Township, Lancaster County, Pennsylvania (the "Property").

3. The Property is located in the Agricultural District as shown on the Official Zoning Map of East Lampeter Township.

4. 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").

5. A public hearing was held before the Zoning Hearing Board of East Lampeter Township ("Board") on this application on December 13, 2018.

6. Testimony at the hearing was stenographically recorded.

7. Applicant appeared personally at the hearing.

8. Steve Gergely, of Harbor Engineering, also appeared at the hearing and testified on behalf of Applicant.

9. Applicant has requested a variance from the terms of Section 23370.C.5 of the Zoning Ordinance.

10. Section 23370.C sets forth the specific requirements for no impact home occupations, which are permitted as of right in the Agricultural District.

11. Section 23370.C.5 of the Zoning Ordinance states that the maximum area devoted to the home occupation shall be 25% of the floor area of the dwelling or 500 square feet, whichever is less.

12. The Property contains approximately 1.46 acres.

13. Applicant resides within the dwelling located on the Property.

14. The dwelling contains at least 5,000 square feet of floor space.

15. Applicant proposes to operate his concrete and excavating business as a no impact home occupation upon the Property. More specifically, Applicant proposes to construct a building containing 2,880 square feet of floor area and use 75% of such building (2,160 square feet) for storage of business equipment such as a track hoe, skid loader, dump truck and enclosed trailer.

16. Applicant is the only employee of the business.

17. 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); 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 imposed on the granting of the variance in order to preserve and protect the surrounding neighborhood and the purposes of the Zoning Ordinance.

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 Lance Fox for a variance from the terms of Section 23370.C.5 of the Zoning Ordinance. The variance 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.

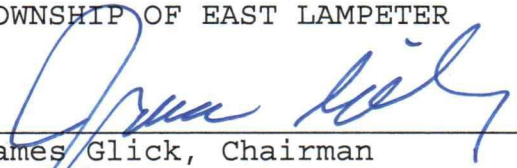
2. Applicant shall at all times comply with and adhere to the information and representations submitted with and contained in his application and the evidence presented to the Board at the hearing held on December 13, 2018.


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.

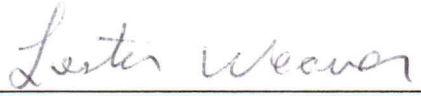
4. The approvals granted by this Decision shall expire in accordance with the terms of Section 25060 of the Zoning Ordinance.

5. The foregoing Decision shall be binding upon the Applicant and his heirs 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 January 10, 2019, after hearing held on December 13, 2018.

The undersigned certifies that a copy of this Decision was served upon all parties on or prior to January 11, 2019.

