

BEFORE THE ZONING HEARING BOARD

TOWNSHIP OF EAST LAMPETER

IN RE: :  
: No. 2018-24  
APPLICATION OF AARON LANTZ :

DECISION

I. FINDINGS OF FACT

1. Applicant is Aaron Lantz, 2348 Rockvale Road, Lancaster, Pennsylvania 17602 ("Applicant").

2. The property which is the subject of the instant application is located at 2348 Rockvale Road, East Lampeter Township, Lancaster County, Pennsylvania (the "Property").

3. Applicant is the owner 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 January 10, 2019.

7. Testimony at the hearing was stenographically recorded.

8. Applicant was represented at the hearing by Matthew J. Creme, Jr., Esquire.

9. Applicant has requested variances from the terms of Sections 3030.B.2, 3030.B.3, 24030.I and 24070 of the Zoning Ordinance.

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

11. Section 3030.B.3 of the Zoning Ordinance states that the minimum side yard setback shall be 20 feet.

12. Section 24030.I of the Zoning Ordinance states that no dimensional nonconformity may be extended or enlarged.

13. Section 24070 of the Zoning Ordinance states, with regard to dimensionally nonconforming structures, that in developed areas where existing buildings are located closer to the street than is permitted by the Zoning Ordinance, additions may be constructed to the front of the existing building provided that the addition does not extend closer to the street than the adjacent buildings. If the adjacent buildings have varying setbacks, the proposed addition shall not be located closer to the street than the average setback distance of the two existing adjacent buildings.

14. The Property is currently improved with a dwelling, as shown on the plans (the "Plans") submitted by Applicant.

15. The dwelling contains a front porch.

16. The existing dwelling is located in excess of 40 feet from the street right of way. However, the porch encroaches into the required front yard setback, as shown on the Plans. Based upon changes to the Zoning Ordinance definition of the term "building", it is unclear whether the dwelling is conforming or nonconforming.

17. With regard to the side yard setback, a portion of the existing dwelling encroaches into the side yard setback by approximately 6 inches.

18. Applicant desires to remove the existing porch and construct an addition to the front and side of the dwelling, as more fully shown on the Plans.

19. The front addition will come no closer to the street right of way than the existing porch.

20. With regard to the side addition, such addition will come no closer than 6 inches side yard.

21. The two homes adjacent to the Property have varying front yard setbacks, each being less than 40 feet.

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); 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. 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).

4. 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).

5. 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).

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

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

8. Applicant have satisfied the requirements for the requested dimensional variances.

9. 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 Aaron Lantz for variances from the terms of Sections 3030.B.2 and 3030.B.3, and if necessary and applicable, Sections 24030.I and 24070 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 January 10, 2019.

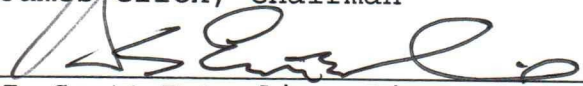
3. Any violation of the conditions contained in this Decision shall be considered a violation of the Zoning Ordinance and shall be subject to the penalties and remedies contained in the Pennsylvania Municipalities Planning Code.

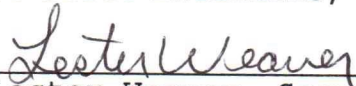
4. The approval granted by this Decision shall expire in accordance with the terms of Section 25060 of the Zoning Ordinance.

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

ZONING HEARING BOARD OF THE  
TOWNSHIP OF EAST LAMPETER

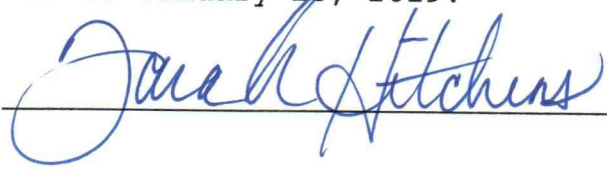
  
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James Glick, Chairman

  
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J. Scott Enterline, Vice- Chairman

  
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Lester Weaver, Secretary

Dated and filed January 24, 2019, after hearing held on  
January 10, 2019.

The undersigned certifies that a copy of this Decision was  
served upon all parties on or prior to January 25, 2019.

  
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