

BEFORE THE ZONING HEARING BOARD

TOWNSHIP OF EAST LAMPETER

IN RE: :
: No. 2019-03
APPLICATION OF JOHN GLICK :
AND LOIS GLICK :

DECISION

I. FINDINGS OF FACT

1. Applicants are John Glick and Lois Glick, P.O. Box 58, Intercourse, Pennsylvania 17534 ("Applicants").
2. The property which is the subject of the instant application is located at 60 North Ronks Road, East Lampeter Township, Lancaster County, Pennsylvania (the "Property").
3. Applicant is the equitable owner of the Property.
4. The record owner of the Property is Oasis of Life, LP.
5. The Property is located in the Village Commercial (VC) District as shown on the Official Zoning Map of East Lampeter Township.
6. 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").

7. A public hearing was held before the Zoning Hearing Board of East Lampeter Township ("Board") on this application on March 28, 2019.

8. Testimony at the hearing was stenographically recorded.

9. Applicants were represented at the hearing by Claudia N. Shank, Esquire.

10. William Swiernick, of David Miller Associates, appeared at the hearing and testified on behalf of Applicants.

11. Jeff Herr, of Bennett Williams Real Estate, and Joseph Wachter also appeared at the hearing and testified on behalf of Applicants.

12. The following persons were recognized as parties to the hearing:

Lloyd and Judith Scalyer
2796 North Cherry Lane
Ronks, PA 17572

13. Applicants have requested:

(i) A variance from Section 19020(A)(15) of the Zoning Ordinance to permit a manufacturing use in a building in the VC Zone with a floor area that is greater than 30,000 square feet.

(ii) A variance from Section 19020(A)(15) and Section 23450(D)(11) of the Zoning Ordinance to permit a manufacturing

use in a building in the VC Zone located along a public road that is not owned and maintained by the Township.

(iii) A variance, to the extent necessary, from Section 23450(C)(2) of the Zoning Ordinance to permit more than fifteen percent of a building containing a manufacturing use to be used for retail sales.

(iv) A variance from Section 19020(A) of the Zoning Ordinance to permit a wholesale and distribution facility in the VC Zone.

(v) A variance, to the extent necessary, from Section 23880(C)(2) of the Zoning Ordinance to permit more than 5,000 square feet of a building containing a wholesale and distribution facility to be used for retail sales.

(vi) A variance from Section 23880(D)(3) to permit a wholesale and distribution facility that is not served by public water.

(vii) A variance, to the extent necessary, from Section 23590 of the Zoning Ordinance to permit multiple principal uses on the same property.

(viii) A modification of Condition 10 contained in a Zoning Hearing Board decision dated September 10, 1987, related to the Property.

14. The Property contains approximately 7.41 acres, as more fully shown on the plan (the "Plan") submitted by Applicants at the hearing.

15. The Property is currently improved with a multi-use building.

16. The current tenants/users of the building are: (i) Lancaster Agricultural Products; (ii) Heritage Flooring, Inc.; (iii) Woodland Wholesale; and (iv) Oasis of Bird-in-Hand.

17. Some space within the building is currently vacant.

18. The second floor of the multi-use building contains three apartments.

19. Applicants are the owners and operators of Peaceful Valley Furniture ("Peaceful Valley"), a retailer of handcrafted furniture products manufactured by members of the Amish community.

20. Peaceful Valley's business consists of purchasing furniture from Amish craftsmen and selling it to consumers.

21. Peaceful Valley currently has three retail locations in Intercourse, Bird-in-Hand and Strasburg. Products are also sold at Roots and Green Dragon markets.

22. Applicants plan to use the building to consolidate Peaceful Valley's warehousing, shipping activities and office space, and to develop a wholesaling operation.

23. In addition, Applicants intend to convert a small portion of the building into a manufacturing space/workshop to be utilized by Amish craftsmen.

24. Finally, Applicants plan to operate a retail store in the Building.

25. Initially, the Applicants intend to use only a portion of the Building while retaining some, if not all, of the current tenants, as more fully shown on the Plan.

26. In the future, as their business grows, Applicants hope to expand Peaceful Valley's operations into a larger portion of the Building.

27. Pursuant to Section 19020(A) (15) of the Zoning Ordinance, a manufacturing use is permitted by right in the VC Zone provided that it is located on a lot with a minimum of two and a maximum of ten acres and is contained within building(s) that do not exceed 30,000 square feet of cumulative gross floor area.

28. The Building is approximately 106,554 square feet.

29. Section 23450 of the Zoning Ordinance sets forth the specific use regulations applicable to manufacturing facilities. Section 23450(C)(2) provides that retail sales of goods and products manufactured, processed, assembled or maintained in the manufacturing facility may be permitted as an accessory use, provided that the designated area for the retail use does not exceed 5,000 square feet of gross floor area or fifteen percent of the total gross floor area, whichever is greater. The Applicants are requesting, to the extent necessary, a variance from Section 23450(C)(2) to permit more than 15,983 square feet (or fifteen percent of the gross floor area) of the Building to be used for retail sales. Currently, several of the existing tenants have retail sales operations in the Building. The Applicants also plan

to use a portion of the Building for retail sales. Finally, pursuant to Section 19020(A)(28) of the Zoning Ordinance, retail sales operations are permitted by right in the VC Zone.

30. A "Wholesale and Distribution Facility" is defined by Section 2020 of the Zoning Ordinance as follows: "A building or group of buildings primarily utilized for the sale and distribution of merchandise in large quantities or transactions of commodities to retailers, contractors, businesses and their agents. A portion of the operations may include retail sales that are available to the general public."

31. Wholesale and distribution facilities are not permitted in the VC Zone. The Applicant is proposing to use a portion of the Building for Pleasant Valley's wholesale operations. While wholesaling is currently only a small portion of their business, the Applicants hope to expand these operations in the future. Although the Building includes a loading dock which could accommodate the sale of large quantities of merchandise, the Applicants anticipate that the majority of their wholesale customers will be purchasing small quantities of product that will be transported by pick-up or box truck.

32. Section 23880 of the Zoning Ordinance sets forth the specific use regulations applicable to wholesale and distribution

facilities. Section 23880(C) (2) provides that retail sales of goods and products produced, stored, or maintained at a wholesale and distribution facility may be permitted as an accessory use, provided that the designated area for the retail use does not exceed 5,000 square feet of the gross floor area or fifteen percent of the total gross floor area, whichever is less. Applicants are requesting, to the extent necessary, a variance from Section 23880(C) (2) to permit more than 5,000 square feet of the Building to be used for retail sales.

33. The Building is served by public sewer and a private on-lot water system. Public water is not currently available in the area where the Property is located.

34. Section 19020(A) (22) of the Zoning Ordinance permits principal uses "in combination with other uses" in the VC Zone, subject to the provisions of Section 23590. The Building meets all of the requirements of Section 23590, with the exception of the requirement that it be served by public water facilities, and the requirement that each use have separate utility connections (which is impractical given the age and composition of the Building). The Applicant requests, to the extent necessary, a variance to permit multiple principal uses on the Property including retail, manufacturing, wholesale and distribution, warehousing, office

space and apartments. Given the size and unique configuration of the Building, multiple uses are necessary to ensure its continued economic viability.

35. By Decision dated September 10, 1987 (the 1987 Decision), the Jay Group, prior owners of the Property, obtained a variance to construct a ±28,750 addition to the Building.

36. The Jay Group's business is described in the 1987 Decision as "a clearing house involving the receipt, sorting and distribution of mail and other publications" and the "processing of rebates, labels, sweepstakes, coupons and proofs of purchase".

37. The 1987 Decision contains the following condition on Page 8: "That the expansion be used for the processing of Applicants' business and not for long-term warehousing."

38. It is unclear whether the proposed expansion was ever constructed. Applicants are requesting that the aforementioned condition be removed from the 1987 Decision so that the Building can be used for Pleasant Valley's operations.

39. There is adequate parking on the Property for the three apartments and the multi-use building.

40. 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. The existing structures and the previous uses of the building warrant the granting of variances requested.

3. The unnecessary hardship has not been created by the Applicant.

4. Applicants have presented evidence sufficient to establish that unnecessary hardship will result if the variances are not granted, that the grant of the proposed variances will not be contrary to the public interest, and that the variances requested are the minimum that will afford relief and will represent the least modification of the 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 John Glick and Lois Glick for:

- (i) A variance from Section 19020(A)(15) of the Zoning Ordinance to permit a manufacturing use in a building in the

VC Zone with a floor area that is greater than 30,000 square feet.

(ii) A variance from Section 19020(A)(15) and Section 23450(D)(11) of the Zoning Ordinance to permit a manufacturing use in a building in the VC Zone located along a public road that is not owned and maintained by the Township.

(iii) A variance, to the extent necessary, from Section 23450(C)(2) of the Zoning Ordinance to permit more than fifteen percent of a building containing a manufacturing use to be used for retail sales.

(iv) A variance from Section 19020(A) of the Zoning Ordinance to permit a wholesale and distribution facility in the VC Zone.

(v) A variance, to the extent necessary, from Section 23880(C)(2) of the Zoning Ordinance to permit more than 5,000 square feet of a building containing a wholesale and distribution facility to be used for retail sales.

(vi) A variance from Section 23880(D)(3) to permit a wholesale and distribution facility that is not served by public water.

(vii) A variance, to the extent necessary, from Section 23590 of the Zoning Ordinance to permit multiple principal uses on the same property.

(viii) A modification of Condition 10 contained in a Zoning Hearing Board decision dated September 10, 1987, related to the Property.

The variances and modification 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. Applicants shall obtain all approvals and permits required by applicable laws and regulations.

2. Applicants shall at all times comply with and adhere to the evidence presented to the Board at the hearing held on March 29, 2019.

3. With regard to the gap in the existing landscape screen, Applicants shall install additional landscape screening to fill the gap.

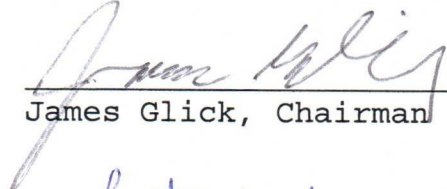
4. Applicants shall prohibit tractor trailers from parking overnight while idling.

5. 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.

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

7. The foregoing Decision shall be binding upon the Applicants and their personal representatives, heirs successors and assigns.

ZONING HEARING BOARD OF THE
TOWNSHIP OF EAST LAMPETER

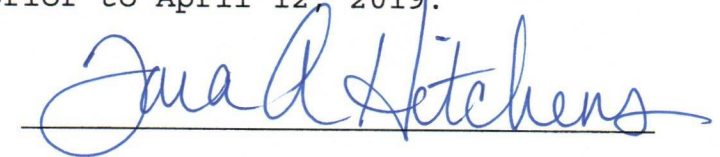

James Glick, Chairman


Lester Weaver, Secretary

Jordan Good, Alternate

Dated and filed April 11, 2019, after hearing held on March 28, 2019.

The undersigned certifies that a copy of this Decision was served upon all parties on or prior to April 12, 2019.



Jana D. Hitchens