

BEFORE THE ZONING HEARING BOARD

TOWNSHIP OF EAST LAMPETER

IN RE: :
: No. 2019-13
APPLICATION OF 9 NEW :
PHILADELPHIA ASSOCIATES, LP :

DECISION

I. FINDINGS OF FACT

1. Applicant is 9 New Philadelphia Associates, LP, 2439 Old Philadelphia Pike, Lancaster, Pennsylvania 17602 ("Applicant").

2. The property which is the subject of the instant application is a vacant lot located on the east side of Mount Sidney Road directly north of the access drive for the existing Sheetz convenience store, in East Lampeter Township, Lancaster County, Pennsylvania (the "Property").

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

4. Applicant is the owner of the Property.

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 Township 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 July 12, 2019.

7. Testimony at the hearing was stenographically recorded.

8. Applicant was represented at the hearing by Bernadette Hohenadel, Esquire.

9. Perry Mehta appeared and testified on behalf of Applicant.

10. Mark Magrecki, of PennTerra Engineering, Inc., also appeared at the hearing and testified on behalf of Applicant.

11. The following persons completed entry of appearance forms and were recognized as parties to the hearing:

Mel Glick
Box 7
Smoketown, PA 17576

Merv and Jan Stoltzfus
2435B Old Philadelphia Pike
Smoketown, PA 17576

Ronald R. Kritzer
17 Quarry Road
Leola, PA 17540

12. Applicant has requested a variance from the terms of Section 18030.B.2.b of the Zoning Ordinance regarding maximum front yard setback.

13. Section 18030.B.2.b of the Zoning Ordinance states that the maximum front yard setback requirement shall be 25 feet, as measured from the street right of way line.

14. The Property contains approximately 1.82 acres.

15. Applicant proposes to construct a 9,000 square foot building on the Property, as more fully shown on the plans ("Plans") submitted by Applicant.

16. Applicant does not currently know the proposed use of the building. However, Applicant stated that the building would be used for a use permitted within the Village General District.

17. There are existing overhead and underground PPL facilities located upon that portion of the Property located along Mount Sidney Road.

18. Because of the location of the PPL facilities, Applicant is unable to comply with the maximum front yard setback limitation of 25 feet from the street right of way line.

19. Applicant agreed that the maximum front yard setback of the building to be constructed on the Property will be no more than 40 feet from the street right of way line.

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 satisfied the requirements for the variance as requested.

4. Conditions must be attached to the grant of the variance 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 9 New Philadelphia Associates, LP, for a variance from the terms of Section 18030.B.2.b of the Zoning Ordinance regarding maximum front yard setback. 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 its application and the evidence presented to the Board at the hearing held on July 11, 2019.

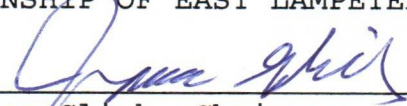
3. The maximum front yard setback of the building to be constructed on the Property shall be 40 feet from the street right of way line.

4. 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.

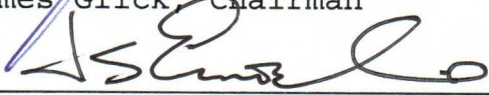
5. The approval granted by this Decision shall expire in accordance with the applicable terms of the Zoning Ordinance.

6. The foregoing Decision shall be binding upon the Applicant and its successors and assigns.

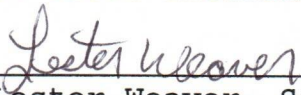
ZONING HEARING BOARD OF THE
TOWNSHIP OF EAST LAMPETER



James Glick, Chairman



J. Scott Enterline, Vice-Chairman



Lester Weaver, Secretary

Dated and filed August 8, 2019, after hearing held on July 11, 2019.

The undersigned certifies that a copy of this Decision was served upon all parties on or prior to August 9, 2019.

