

BEFORE THE ZONING HEARING BOARD

TOWNSHIP OF EAST LAMPETER

IN RE: :
: No. 2020-08
APPLICATION OF ELMER S. BEILER :

DECISION

I. FINDINGS OF FACT

1. Applicant is Elmer S. Beiler, 623 Willow Road, Lancaster, Pennsylvania 17601 ("Applicant").

2. The property which is the subject of the instant application is located at 623 Willow 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 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 23, 2020.

7. Testimony at the hearing was stenographically recorded.

8. Applicant appeared personally at the hearing.

9. Jeremy Weaver, of Team Ag, also appeared at the hearing and testified on behalf of Applicant.

10. The Property is a farm containing various agricultural structures and a dwelling, as more fully shown on the plan (the "Plan") submitted by Applicant.

11. Existing agricultural structures, including a heifer barn and concrete cattle area, are located to the front of the front face of the dwelling and are nonconforming with regard to front yard setback.

12. Applicant proposes to construct a cover over the concrete cattle area, as more fully shown on the Plan.

13. The cover area will be located approximately 16 feet closer to the street right of way than the existing heifer barn.

14. Because the cover will be located in front of the front face of Applicant's dwelling, Applicant requires a variance from the terms of Section 3030.C.2.a of the Zoning Ordinance.

15. No one appeared at the hearing 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. The layout of the Property and the location of existing structures and uses creates an unnecessary hardship and necessitates the location of the cover.

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

5. 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.

6. Conditions must be attached to a grant of the variance in this case to preserve and protect 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 Elmer S. Beiler for a variance from the terms of Section 3030.C.2.a of the Zoning Ordinance in order to permit the construction of the cover in front of the front face of the dwelling, in accordance with the Plan. The variance 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.

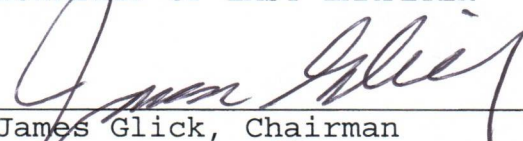
2. Applicant shall at all times comply with and adhere to the evidence presented to the Board at the hearing held on July 23, 2020.


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.

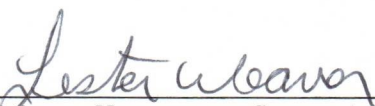
4. The approval granted by this Decision shall expire in accordance with the terms of Section 25060 of the Zoning Ordinance.

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

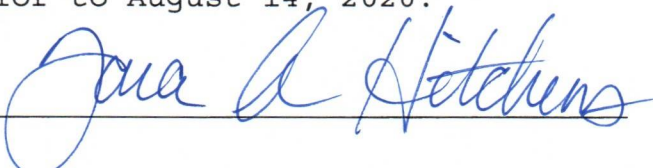

James Glick, Chairman


J. Scott Enterline, Vice-Chairman


Lester Weaver, Secretary

Dated and filed August 13, 2020, after hearing held on July 23, 2020.

The undersigned certifies that a copy of this Decision was served upon all parties on or prior to August 14, 2020.


Jana A. Hitchens