

BEFORE THE ZONING HEARING BOARD

TOWNSHIP OF EAST LAMPETER

IN RE: :
 : No. 2020-11
APPLICATION OF DANIEL DANEKER :
AND CAROLYN DANEKER :

DECISION

I. FINDINGS OF FACT

1. Applicants are Daniel Daneker and Carolyn Daneker, of 2262 Old Philadelphia Pike, Lancaster, PA 17602 ("Applicants").

2. The property which is the subject of the instant application is 2262 Old Philadelphia Pike, East Lampeter Township, Lancaster County, Pennsylvania (the "Property").

3. The Property is located in the R-2 Residential 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 August 13, 2020.

6. Testimony at the hearing was stenographically recorded.

7. Applicants were represented at the hearing by Bernadette Hohenadel, Esquire.

8. Applicants have requested a variance from the terms of Section 6020.B.3 of the Zoning Ordinance (accessory apartments) and Section 23070.C.1.b regarding the maximum number of accessory apartments.

9. In 1995, Applicants' predecessors in title received a permit from the Township to construct an addition to the then-existing dwelling and to convert an attached garage into an optometrist office (Applicants' predecessors in title also received a special exception from the Board to operate the optometrists office within the converted attached garage).

10. In 2003, Applicants' predecessors in title received a permit from the Township to construct a 40 x 40 detached garage on the Property.

11. Applicants now desire to: (i) convert the optometrist office into an ECHO housing unit to be occupied by Carolyn Daneker's parents.

12. Applicants will enter into an ECHO housing agreement with the Township which shall govern use of the ECHO housing unit.

13. Applicants further desire to convert the second floor of the detached garage into an accessory apartment.

14. The Property is served by public sewer and an on-lot well.

15. There are six parking spaces located on the Property, along with four spaces in the detached garage.

II. CONCLUSIONS OF LAW

1. Applicants have requested a variance from the terms of Section 6020.B.3 of the Zoning Ordinance (accessory apartments) and Section 23070.C.1.b regarding the maximum number of accessory apartments.

2. 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.

3. 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).

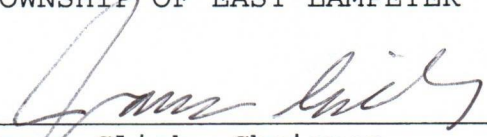
4. Applicants have satisfied the requirements for a variance from the terms of Section 6020.B.3 of the Zoning Ordinance (accessory apartments) and Section 23070.C.1.b regarding the maximum number of accessory apartments.

III. DECISION

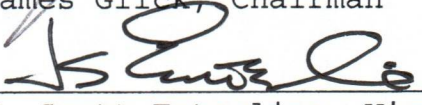
Based upon the foregoing findings of fact and conclusions of law the Board hereby, to the extent deemed necessary, approves Applicants' request for a variance from the terms of Section 6020.B.3 of the Zoning Ordinance (accessory apartments) and Section 23070.C.1.b regarding the maximum number of accessory apartments. The approvals 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 information and representations submitted with and contained in their application, and the evidence presented to the Board at the hearing held on August 13, 2020.
3. Applicants shall enter into and comply with the requirements of an ECHO housing with the Township of East Lampeter.
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 foregoing Decision shall be binding upon the Applicants and their heirs and assigns.

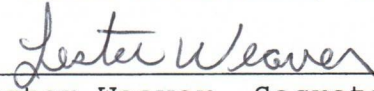
ZONING HEARING BOARD OF THE
TOWNSHIP OF EAST LAMPETER



James Glick, Chairman



J. Scott Enterline, Vice-Chairman



Lester Weaver, Secretary

Dated and filed August 27, 2020, after hearing held on August
13, 2020.

The undersigned certifies that a copy of this Decision was
served upon all parties on or prior to August 28, 2020.

