

BEFORE THE ZONING HEARING BOARD

TOWNSHIP OF EAST LAMPETER

IN RE: :
: No. 2020-13
APPLICATION OF DANIEL KRIEGER :

DECISION

I. FINDINGS OF FACT

1. Applicant is Daniel Krieger, 2544 South Cherry Lane, Ronks, Pennsylvania 17572 ("Applicant").

2. The property which is the subject of the instant application is located at 2544 South Cherry Lane, 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 August 27, 2020.

7. Testimony at the hearing was stenographically recorded.
8. Applicant appeared personally at the hearing.
9. Applicant has requested a variance from the terms of Section 3030.C.2.b of the Zoning Ordinance.
10. Section 3030.C.2.b of the Zoning Ordinance states that the minimum side yard setback shall be 20 feet.
11. The Property contains 20,900 square feet of area.
12. The Property is improved with a dwelling and a shed.
13. The existing shed (10 feet x 16 feet) is located 14 feet from the side property line and is dimensionally nonconforming.
14. Applicant desires to remove the existing shed and erect a new detached garage/shed.
15. The garage/shed would be 14 feet by 34 feet.
16. The garage/shed would be located 10 feet from the side property line.
17. Because of existing structures and improvements, Applicant cannot reasonably locate the garage/shed on the Property in compliance with the side yard setback requirements.

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 location of existing structures and improvements creates an unnecessary hardship and necessitates the location of the garage/shed.

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

5. Applicant have 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 Daniel Krieger for a variance from the terms of Section 3030.C.2.b of the Zoning Ordinance. 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 federal, state and Township laws and regulations.

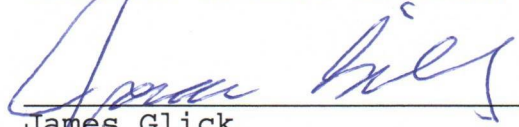
2. Applicant shall at all times comply with and adhere to the information and representations submitted with and contained in his application and the evidence presented to the Board at the hearing held on August 27, 2020.

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.

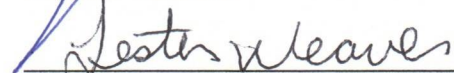
4. The approval granted by this Decision shall expire in accordance with the terms of Section 25060 of the Zoning Ordinance.

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

ZONING HEARING BOARD OF THE
TOWNSHIP OF EAST LAMPETER



James Glick



Lester Weaver

DISSENT:

I dissent from the foregoing Decision. I do not believe that the Applicant has satisfied the requirements necessary for the requested variance.



J. Scott Enterline

Dated and filed Sept. 22, 2020, 2020, after hearing held on August 27, 2020.

The undersigned certifies that a copy of this Decision was served upon all parties on or prior to Sept. 23, 2020.