

BEFORE THE ZONING HEARING BOARD

TOWNSHIP OF EAST LAMPETER

IN RE: :
 : No. 2020-14
APPLICATION OF LUKE KALTREIDER :
AND HEATHER KALTREIDER :

DECISION

I. FINDINGS OF FACT

1. Applicants are Luke Kaltreider and Heather Kaltreider, 25 Willowdale Drive, Lancaster, Pennsylvania 17602 ("Applicants").

2. The property which is the subject of the instant application is located at 25 Willowdale Drive, East Lampeter Township, Lancaster County, Pennsylvania (the "Property").

3. Applicants are the owners of the Property.

4. The Property is located in the R-2 Residential 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 October 8, 2020.

7. Testimony at the hearing was stenographically recorded.
8. Applicants appeared personally at the hearing.
9. Applicants have requested a variance from Section 22070.A.4 of the Zoning Ordinance.
10. Section 22070.A.4 of the Zoning Ordinance states, in pertinent part, that fences located within the front yard shall not exceed a height of 3 feet.
11. The Property is a corner lot (corner of Willowdale Drive and Ellendale Drive).
12. The Property is improved with a dwelling, as more fully shown on the photographs (the "Photos") submitted by Applicants.
13. Applicants constructed a fence, 6 feet in height, within the front yard of the Property, as fully shown on the Photos.
14. Applicants testified that they installed the fence 6 feet in height for privacy and safety concerns.
15. Applicants' 6-year-old son has autism.
16. Applicants submitted a letter from Camilla S. Keady, an occupational therapist with Schreiber Pediatric Center. Ms. Keady stated that it is not uncommon for Applicants' son to become uncomfortable when approached by neighbors or individuals passing by. He is also an elopement risk and is unaware of safety concerns associated with staying within a designated area. Because Applicants' home is located adjacent to a busy road, the safety of

Applicants' son without a fence, or with a shorter fence, is called into question. Ms. Keady concluded her letter as follows:

This letter of medical necessity is to request that the Kaltreiders can continue to utilize the fence in their yard in order to provide increased comfort and safety for [their son] when he is playing outside.

17. Applicants provided sufficient evidence to establish that the 6 foot high fence will not impair vision for motorists traveling along the adjacent roads.

18. No persons appeared in opposition to the application.

II. CONCLUSIONS OF LAW

1. Because Applicants' son is a qualified individual with a disability, the Americans with Disabilities Act mandates that the Township make reasonable accommodations in its zoning policies when modifications are necessary to avoid discrimination on the basis of disability unless the Township can demonstrate that making the modification would fundamentally alter the nature of the zoning policies.

2. Whether a requested accommodation is reasonable is highly fact-specific and determined on a case-by-case basis by balancing the cost to the municipality and the benefit to the disabled person. Whether a requested accommodation is necessary requires a showing that the desired accommodation will affirmatively enhance a disabled person's quality of life by ameliorating the effects of

the disability. The focus is on whether the accommodation in the case at hand would be so at odds with the purposes behind the zoning regulation that it would be a fundamental and unreasonable change.

3. Applicants have provided sufficient evidence and testimony to support their argument that the variance is a medical necessity and is an accommodation mandated by the Americans with Disabilities Act.

III. DECISION

Based upon the foregoing findings of fact and conclusions of law, the Zoning Hearing Board of the Township of East Lampeter hereby approves the application for a variance from the terms of Section 22070.A.4 of the Zoning Ordinance. 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. Applicants shall obtain all approvals and permits required by applicable federal, state and Township 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 October 8, 2020.

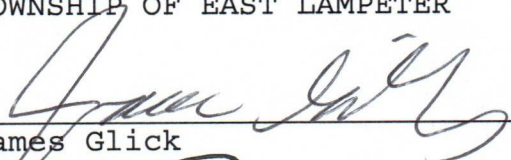
3. Before consummating a sale of the Property, the fence shall be brought into compliance with the applicable terms of the Zoning Ordinance.

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 Applicants, their heirs, successor and assigns.

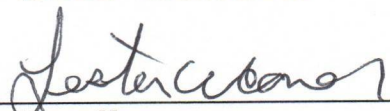
ZONING HEARING BOARD OF THE
TOWNSHIP OF EAST LAMPETER



James Glick



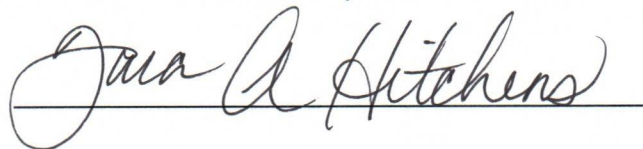
J. Scott Enterline



Lester Weaver

Dated and filed October 22, 2020, after hearing held on October 8, 2020.

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

A handwritten signature in cursive script, reading "Jana A. Hitchens", is written above a solid horizontal line.