

BEFORE THE ZONING HEARING BOARD

TOWNSHIP OF EAST LAMPETER

IN RE: :
: No. 2021-01
APPLICATION OF ALVIN E. YODER :
AND ELMER STOLTZFUS :

DECISION

I. FINDINGS OF FACT

1. Applicants are Alvin E. Yoder and Elmer Stoltzfus, 71 North Soudersburg Road, Gordonville, Pennsylvania 17529 ("Applicants").
2. The property which is the subject of the instant application is 71 North Soudersburg Road, East Lampeter Township, Lancaster County, Pennsylvania (the "Property").
3. Alvin E. Yoder and Marian S. Yoder are the owners of the Property.
4. The Property is located within the AG-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 February 11, 2021.

7. Testimony at the hearing was stenographically recorded.

8. Applicants were represented at the hearing by Ashley Glick, Esquire.

9. The Property was the subject of a previous zoning hearing and the Board takes administrative notice of its Decision in Case No. 2017-11.

10. In Case No. 2017-11, the Board granted a special exception in order to substitute a poly lawn furniture assembly business for a nonconforming engineering design company business.

11. The approval granted by the Board in Case No. 2017-11 was subject to conditions. More particularly, Condition No. 4 stated that there be no outside storage.

12. Applicants have now requested a variance to remove Condition No. 4 and allow outside storage.

13. Applicants' business has grown and Applicants are currently renting off-site space for storage. This is an economic and time burden.

14. Applicants desire to have outside storage in the area shown on the plan provided by Applicants with their application. The area contains approximately 4,500 square feet of area.

15. Applicants will store raw material and finished product in the outside storage area.

16. The proposed storage area is currently paved.

17. The uses of the properties surrounding the Property are pasture/meadow. The closest residential property is across Soudersburg Road.

II. CONCLUSIONS OF LAW

1. An applicant requesting the modification of a condition imposed by a zoning hearing board in a prior decision from which no appeal was taken has the same burden as that imposed upon the applicant for a variance. *Gazebo, Inc. v. Zoning Board of Adjustment of the City of Pittsburgh*, 112 Pa. Commonwealth Ct. 37, 535 A.2d 214 (1987).

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); Pennsylvania Municipalities Planning Code ("MPC") §910.2.

3. Applicants 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.

4. Conditions must be attached to a grant of the variances 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 Alvin E. Yoder and Elmer Stoltzfus for a variance to remove Condition No. 4 of Case No. 2017-11 in order to permit outside storage. 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 hearings.

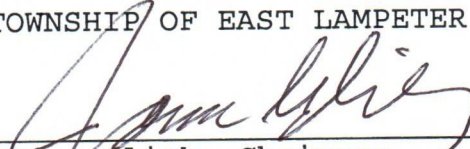
3. Any violation of the conditions contained in this Decision shall be considered a violation of the Zoning Ordinance and shall be subject to the penalties and remedies contained in the Pennsylvania Municipalities Planning Code.

4. The outside storage area, as shown on the plan, shall be enclosed with a six (6) foot high complete privacy fence. The privacy fence shall be located no closer than five (5) feet from the property lines.

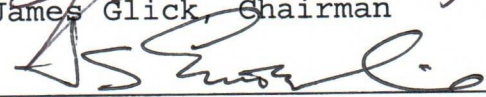
5. The approval granted by this Decision shall expire in accordance with the terms of Section 25060 of the Zoning Ordinance.

6. The foregoing Decision shall be binding upon the Applicants and their heirs and assigns.

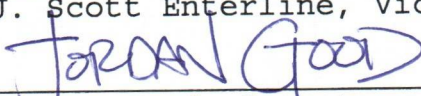
ZONING HEARING BOARD OF THE
TOWNSHIP OF EAST LAMPETER



James Glick, Chairman



J. Scott Enterline, Vice-Chairman



Jordan Good, Secretary

Dated and filed February 26, 2021, after hearing held on February 11, 2021.

The undersigned certifies that a copy of this Decision was served upon all parties on or prior to February 27, 2021.

Jana A. Hitchens