

BEFORE THE ZONING HEARING BOARD

TOWNSHIP OF EAST LAMPETER

IN RE: :
: No. 2021- 2
APPLICATION OF LANCE FOX AND :
ABIGAIL FOX :

DECISION

I. FINDINGS OF FACT

1. Applicants are Lance Fox and Abigail Fox, 110 Hartman Bridge Road, Ronks, Pennsylvania 17572 ("Applicant").

2. The property which is the subject of the instant application is located at 110 Hartman Bridge Road, East Lampeter Township, Lancaster County, Pennsylvania (the "Property").

3. Applicants are the owners 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 February 11, 2021.

7. Testimony at the hearing was stenographically recorded.

8. Applicant Lance Fox appeared personally at the hearing.

9. Applicants has 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 was the subject of a previous zoning hearing and the Board takes administrative notice of its Decision in Case No. 2020-10.

12. In Case No. 2020-10, the Board denied Applicants' request for a variance from Section 22070.A.4 of the Zoning Ordinance. Applicants had constructed a fence, 6 feet in height, within the front yard of the Property, in violation of Section 22070.A.4. The fence encroached into PennDOT's right of way and the Board found that the height of the fence could impair vision for vehicles exiting nearby driveways and motorists traveling along Hartman Bridge Road.

13. Applicants testified that they have now removed that portion of the fence located within PennDOT's right of way. PennDOT's right of way is measured as 30 feet from the centerline of Hartman Bridge Road and the fence is now 30 feet 9 inches from the centerline of Hartman Bridge Road.

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. Applicants have presented evidence to establish that the Zoning Ordinance imposes an unnecessary hardship because of unique physical circumstances or conditions peculiar to the Property and the unnecessary hardship is due to such conditions.

3. Applicants have satisfied the requirements for the requested variance.

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 for a variance from the terms of Section 22070.A.4 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. Applicants shall obtain all approvals and permits required by applicable laws and regulations.

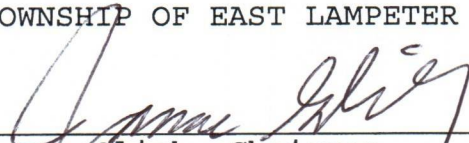
2. Applicants shall at all times comply with and adhere to the evidence presented to the Board at the hearing held on February 11, 2021.

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 Applicants and their heirs, personal representatives and assigns.

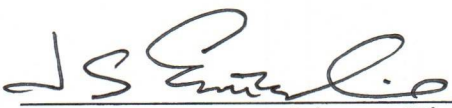
ZONING HEARING BOARD OF THE
TOWNSHIP OF EAST LAMPETER


James Glick, Chairman


Jordan Good, Secretary

DISSENT:

I dissent from the foregoing Decision. I would deny the requested variance.


J. Scott Enterline, Vice-Chairman

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