

BEFORE THE ZONING HEARING BOARD

TOWNSHIP OF EAST LAMPETER

IN RE: :
 : No. 2021-17
APPLICATION OF EG PROPERTIES OF :
2359 LINCOLN HIGHWAY LLC :

DECISION

I. FINDINGS OF FACT

1. Applicant is EG Properties of 2359 Lincoln Highway LLC, P.O. Box 156, Bedford, Pennsylvania 15522 ("Applicant").
2. The property which is the subject of the instant application is located at 2359 Lincoln Highway East, East Lampeter Township, Lancaster County, Pennsylvania (the "Property").
3. Applicant is the owner of the Property.
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 12, 2021.
6. Testimony at the hearing was stenographically recorded.

7. Applicant was represented at the hearing by J. Dwight Yoder, Esquire.

8. Applicant has requested a variance from Section 22070.A.4 of the Zoning Ordinance.

9. 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.

10. Applicant intends to lease the building located upon the Property to a company known as VeriLife aka Pharmacon (hereinafter "VeriLife").

11. Bill McMenamy, the President of VeriLife, appeared at the hearing and testified on behalf of Applicant.

12. VeriLife desires to operate a medical marijuana dispensary within the building on the Property.

13. The Commonwealth of Pennsylvania requires that the product delivery entrance be secure and not visible from the public perspective.

14. The Property is a corner lot, being located at the intersection of Route 30 and Witmer Road.

15. The product delivery entrance will be located on the side of the building fronting Witmer Road (which is a front yard).

16. Because of the slope of the Property, Applicant must erect a fence eight feet in height to completely secure and screen the product delivery entrance.

17. No persons appeared in opposition to the application.

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. Applicant has 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. Applicant has 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. Applicant shall obtain all approvals and permits required by applicable laws and regulations.

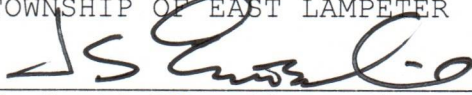
2. Applicant shall at all times comply with and adhere to the evidence presented to the Board at the hearing held on August 12, 2021.

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.

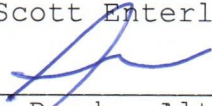
4. The approval granted by this Decision shall expire in accordance with the terms of Section 25060 of the Zoning Ordinance.

5. The foregoing Decision shall be binding upon the Applicant and its successors and assigns.

ZONING HEARING BOARD OF THE
TOWNSHIP OF EAST LAMPETER



J. Scott Enterline, Vice-Chairman



Alex Reedy, Alternate

Dated and filed August 26, 2021, after hearing held on August 12, 2021.

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