

BEFORE THE ZONING HEARING BOARD

TOWNSHIP OF EAST LAMPETER

IN RE: :
: No. 2021-22
APPLICATION OF LEGACY MANOR, LLC :

DECISION

I. FINDINGS OF FACT

1. Applicant is Legacy Manor, LLC, 45 Riverside Avenue, Lancaster, Pennsylvania 17602 ("Applicant").

2. The property which is the subject of the instant application is an unaddressed parcel located along Mount Sidney Road (Tax Parcel ID 310-13822-0-0000), East Lampeter Township, Lancaster County, Pennsylvania (the "Property").

3. The Property is located in the Village Residential (VR) District as shown on the Official Zoning Map of East Lampeter Township.

4. Applicant is the owner of the Property.

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 26, 2021.

7. Testimony at the hearing was stenographically recorded.

8. Applicant was represented at the hearing by Reilly Noetzel, Esquire.

9. The following persons completed entry of appearance forms and were recognized as parties to the hearing:

Jane King
439 Mount Sidney Road
Lancaster, PA 17602

Susan Snyder
435 Mount Sydney Road
Lancaster, PA 17602

10. Applicant's owner, Gideon Fisher, appeared at the hearing and testified on behalf of Applicant.

11. Jeff Bowlby, of Trimble Surveyors, also appeared at the hearing and testified on behalf of Applicant.

12. Immediately prior to this hearing, the Board conducted a hearing on an application filed by Applicant for an adjacent property known as 441 Mount Sidney Road, East Lampeter Township, Lancaster County, Pennsylvania (Case No. 2021-21). The application in Case No. 2021-21 involved an application for a tourist home to be operated on the adjacent property. The testimony provided at

the hearing (including testimony of neighbors recognized as parties) at times overlaps with testimony provided in the instant case.

13. With regard to the instant application, Applicant has requested:

(i) a variance from the terms of Section 23110.F.1 of the Zoning Ordinance;

(ii) a variance from the terms of Section 20030.B.1.e of the Zoning Ordinance;

(iii) a variance from the terms of Section 20030.B.2.b of the Zoning Ordinance; and

(iv) a variance from the terms of Section 20030.B.3.f of the Zoning Ordinance.

14. Section 23110.F.1 of the Zoning Ordinance states that a tourist home shall be contained within a single family detached dwelling that is either an owner-occupied dwelling unit or a non-owner occupied dwelling.

15. Section 20030.B.1.e of the Zoning Ordinance states that a lot containing a permitted non-residential building and use shall have a minimum lot width of 75 feet as measured at the street right of way line.

16. Section 20030.B.2.b of the Zoning Ordinance states that a maximum front yard setback shall be 25 feet as measured at the street right of way line.

30. All changes to the existing dwelling will be internal. There will be no exterior changes to the dwelling.

31. Although testimony regarding parking spaces was unclear, it appears that there are 4 parking spaces located on the Property.

32. Guests will not be permitted to conduct outside activities on the Property. In addition, no alcohol will be permitted on the Property.

33. The Property is located in a residential area. However, there is a greenhouse/landscaping business, school and fire house in the vicinity of the Property.

34. Residential neighbors expressed concerns regarding the impact of the proposed use on their wells and water supply. More specifically, neighbors testified that there is a history of low water issues in the area and one neighbor testified that her well went dry when the middle school was constructed.

35. Applicant was unable to provide testimony regarding the existing well on the Property, the water flow / yield of the well, or the impact of Applicant's proposed use on neighbors' wells.

36. Residential neighbors also expressed concerns regarding noise and traffic.

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 the existing structure and improvements warrants the granting of the variances requested.

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

5. Applicant has presented evidence sufficient to establish that unnecessary hardship will result if the variances are not granted and that the variances requested are the minimum that will

afford relief and will represent the least modification of the ordinance.

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:

- (i) a variance from the terms of Section 23110.F.1 of the Zoning Ordinance;
- (ii) a variance from the terms of Section 20030.B.1.e of the Zoning Ordinance;
- (iii) a variance from the terms of Section 20030.B.2.b of the Zoning Ordinance; and
- (iv) a variance from the terms of Section 20030.B.3.f of the Zoning Ordinance.

The variances 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 MPC:

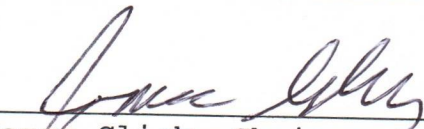
1. Applicant shall obtain all approvals and permits required by applicable federal, state and Township laws and regulations.
2. Applicant shall at all times comply with and adhere to the information and representations submitted with and contained in its application and the evidence presented to the Board at the hearing held on August 26, 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.

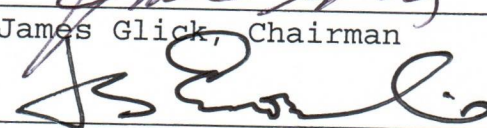
4. The approval granted by this Decision shall expire in accordance with the terms of Section 25060 of the Zoning Ordinance.

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

ZONING HEARING BOARD OF THE
TOWNSHIP OF EAST LAMPETER



James Glick, Chairman



J. Scott Enterline, Vice-Chairman



Jordan Good, Secretary

Dated and filed September 9, 2021, after hearing held on August 26, 2021.

The undersigned certifies that a copy of this Decision was served upon all parties on or prior to September 10, 2021.

