

BEFORE THE ZONING HEARING BOARD

TOWNSHIP OF EAST LAMPETER

IN RE: :
: No. 2021-23
APPLICATION OF MELVIN L. STOLTZFUS :

DECISION

I. FINDINGS OF FACT

1. Applicant is Melvin L. Stoltzfus, 290 Clearview Road, Lancaster, Pennsylvania 17602 ("Applicant").
2. The property which is the subject of the instant application is located at 290 Clearview Road, East Lampeter Township, Lancaster County, Pennsylvania (the "Property").
3. Applicant is the owner 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 Township 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 28, 2021.

7. Testimony at the hearing was stenographically recorded.

8. Applicant appeared personally at the hearing.

9. The Property is a farm containing various agricultural structures and a dwelling, as more fully shown on the plan (the "Plan") submitted by Applicant.

10. Existing agricultural structures, including a corn barn and silo, are located to the front of the front face of the dwelling and are nonconforming with regard to front yard setback.

11. The corn barn is located approximately 42 feet from Clearview Road, as shown on the Plan.

12. The silo is located adjacent to a heifer pen and horse/dairy barn and in excess of 40 feet from Clearview Road, as shown on the Plan.

13. Applicant proposes to demolish the corn barn and construct in its place a horse barn/storage/shop building, as more fully shown on the Plan.

14. The Horse barn/storage shop building will be 80 feet by 38 feet and will be located approximately 40 feet from Clearview Road.

15. Applicant proposes to demolish the silo and construct a new 12 foot wide by 60 foot high silo approximately 40 feet from Clearview Road, as shown on the Plan.

16. There is another existing silo which will remain. It is located approximately 40 feet from Clearview Road, as shown on the Plan.

17. Applicant has requested variances from Section 3030.C.2.a and Section 24030.A of the Zoning Ordinance.

18. Section 3030.C.2.a of the Zoning Ordinance states that unattached buildings for accessory structures that exceed 120 square feet of gross floor area shall have a minimum front yard setback of 15 feet to the rear of the front facade of the principal building.

19. Section 24030.A of the Zoning Ordinance sets forth requirements for the expansion of nonconforming structures and uses. No extension or enlargement of a dimensional nonconformity shall be permitted.

20. No one appeared at the hearing 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. 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 layout of the Property and the location of existing structures and uses creates an unnecessary hardship and necessitates the location of the proposed accessory structures.

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, that the grant of the proposed variances will not be contrary to the public interest, and that the variances requested are the minimum that will afford relief and will represent the least modification of the ordinance.

6. 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 Melvin L. Stoltzfus for variances from the terms of Section 3030.C.2.a and Section 24030.A 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 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 October 28, 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.

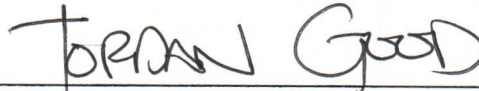
5. The foregoing Decision shall be binding upon the Applicant and his heirs, personal representatives and assigns.

ZONING HEARING BOARD OF THE
TOWNSHIP OF EAST LAMPETER

James Glick, Chairman



J. Scott Enterline, Vice-Chairman



Jordan Good, Secretary

Dated and filed November 18, 2021, after hearing held on
October 28, 2021.

The undersigned certifies that a copy of this Decision was
served upon all parties on or prior to November 19, 2021.