

BEFORE THE ZONING HEARING BOARD

TOWNSHIP OF EAST LAMPETER

IN RE: :
: No. 2022-03
APPLICATION OF STEPHEN A. BEILER :

DECISION

I. FINDINGS OF FACT

1. Applicant is Stephen A. Beiler, 206 North Ronks Road, Ronks, Pennsylvania 17572 ("Applicant").
2. The property which is the subject of the instant application is located at 206 North Ronks Road, East Lampeter Township, Lancaster County, Pennsylvania (the "Property").
3. Applicant is the owner of the Property.
4. The Property is located in the Bird-in-Hand 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 March 24, 2022.

7. Testimony at the hearing was stenographically recorded.

8. Applicant appeared personally at the hearing.

9. Applicant has requested: (i) a variance from Section 17030.C.2.a of the Zoning Ordinance; and (ii) a variance from the terms of Section 23380.D.1 of the Zoning Ordinance.

10. Section 17030.C.2.a of the Zoning Ordinance states that the minimum setback shall be 10 feet as measured from the street right of way line.

11. Section 23380.D.1 of the Zoning Ordinance states that no more than one (1) horse shall be housed on a residential lot containing a lot area between 20,000 square feet and one (1) acre. An additional horse may be added for each additional acre over the one (1) acre base requirement.

12. The Property is improved with a dwelling, horse barn and shed and is used for residential purposes.

13. The Property contains 2.3 acres.

14. Applicant desires to construct an addition to the horse barn, as more fully shown on the plan ("Plan") submitted by Applicant.

15. The horse barn addition would be 30 feet by 44 feet. Also, there would be a 12 foot by 40 foot lean-to.

16. The horse barn addition would be located as shown on the Plan.

17. Applicant currently houses two (2) horses within the horse barn. One horse is a utility horse and one horse is Applicant's personal/transportation horse.

18. Applicant desires to house four (4) horses within the expanded horse barn.

19. Applicant testified that he has seven (7) children and requires two (2) additional horses and vehicles for his two teenage sons.

20. Applicant has a one (1) acre fenced pasture area for horses.

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 will be granted when a 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. Unnecessary hardship justifying a grant of a variance is shown where denial of the variance would render

the property practically useless. Economic and personal considerations in and of themselves are insufficient to constitute hardship." McNally v. Bonner, ___ Pa. Commonwealth Ct. ___, 645 A.2d 287, 289 (1994) (citations omitted).

3. Circumstances unique to the user of a property and not the property itself do not constitute unnecessary hardship. See, e.g. Chrin v. Zoning Hearing Board of the Borough of Nazareth, 127 Pa. Commonwealth Ct. 279, 561 A.2d 833 (1989).

4. The determination as to whether zoning regulations render a property valueless is to be made with reference to the property as a whole. Hansen Properties III v. Zoning Hearing Board of Horsham Township, 130 Pa. Commonwealth Ct. 8, 566 A.2d 926 (1989).

5. The "failure of proof [to demonstrate the property cannot be used as zoned] is alone sufficient to deny the request for a variance." Smith v. Zoning Hearing Board of the Borough of Bellevue, 152 Pa. Commonwealth Ct. 427, 619 A.2d 399, 402 (1992); see also Beecham Enterprises v. Zoning Hearing Board of Kennedy Township, 556 A.2d 981 (1989).

6. "Zoning boards . . . are not entitled to substitute their concept of a better ordinance than the one enacted." Piscioneri v. Zoning Hearing Board of the Borough of Munhall, 523 Pa. 597, 568 A.2d 610, 611 (1990).

7. The Property can be used as zoned.

8. The fact that Applicant has seven (7) children, including two (2) teenage sons, are circumstances unique to the user of the Property and not the Property itself and do not constitute unnecessary hardship justifying the grant of the requested variances.

9. The applicable zoning regulations do not render the Property valueless.

10. Applicant has not presented credible 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.

11. Applicant is not entitled to the requested variances.

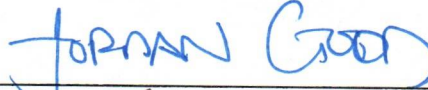
III. DECISION

Based upon the foregoing findings of fact and conclusions of law, the Zoning Hearing Board of the Township of East Lampeter hereby denies the application of Stephen A. Beiler for: (i) a variance from Section 17030.C.2.a of the Zoning Ordinance; and (ii) a variance from the terms of Section 23380.D.1 of the Zoning Ordinance.

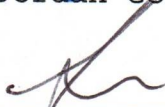
ZONING HEARING BOARD OF THE
TOWNSHIP OF EAST LAMPETER



J. Scott Enterline, Chairman



Jordan Good, Vice-Chairman



Alex Reedy, Alternate

Dated and filed April 28, 2022, after hearing held on March 24, 2022.

The undersigned certifies that a copy of this Decision was served upon all parties on or prior to April 29, 2022.

