

BEFORE THE ZONING HEARING BOARD

TOWNSHIP OF EAST LAMPETER

IN RE: :
APPLICATION OF TAMMY FORTE : No. 2024-02
:

DECISION

I. FINDINGS OF FACT

1. Applicant is Tammy Forte, 12 Landis Avenue, Lancaster, Pennsylvania 17602 ("Applicant").

2. The property which is the subject of the instant application is located at 12 Landis Avenue, East Lampeter Township, Lancaster County, Pennsylvania (the "Property").

3. Applicant is the owner of the Property.

4. The Property is located in the Medium Density Residential District R-2 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 22, 2024.

7. Testimony at the hearing was stenographically recorded.

8. Applicant appeared personally at the hearing.

9. The Property contains 9,240 square feet of area.

10. The Property is improved with a single family dwelling and driveway, as more fully shown on the plan ("Plan") submitted by Applicant.

11. Applicant proposes to construct a carport at the end of the existing driveway.

12. The carport will be 21 feet by 21 feet, as more fully shown on the Plan.

13. Applicant testified that the carport will be located no less than 2 feet from the side property line.

14. Section 6030.B.3.a of the Zoning Ordinance provides that the minimum side yard setback for a lot containing a single family dwelling shall be 10 feet.

15. Applicant requires a variance from the terms of Section 6030.B.3.a of the Zoning Ordinance.

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. In determining whether unnecessary hardship has been established, zoning hearing boards should examine whether the variance sought is use or dimensional. To justify the grant of a dimensional variance, zoning hearing boards may consider multiple factors, including the economic detriment to the applicant if the variance was denied, the financial hardship created by any work necessary to bring the building into strict compliance with the zoning requirements and the characteristics of the surrounding neighborhood. Hertzberg v. Zoning Board of Adjustment of the City of Pittsburgh, 721 A.2d 43 (1998); Talkish v. Zoning Hearing Board of Harborcreek Township, 738 A.2d 50 (1999).

3. When seeking a dimensional variance within a permitted use, the owner is asking only for a reasonable adjustment of the zoning regulations in order to utilize the property in a manner consistent with the applicable regulations. Thus, the grant of a dimensional variance is of lesser moment than the grant of a use variance, since the latter involves a proposal to use the property in a manner that is wholly outside the zoning regulation.

Hertzberg v. Zoning Board of Adjustment of the City of Pittsburgh,
721 A.2d 43 (1998).

4. The quantum of proof required to establish unnecessary hardship is lesser when a dimensional variance, as opposed to a use variance, is sought. Hertzberg v. Zoning Board of Adjustment of the City of Pittsburgh, 721 A.2d 43 (1998).

5. Applicant requires a variance from the terms of Section 6030.B.3.a of the Zoning Ordinance.

6. The location of the existing improvements warrant the granting of the variance requested.

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

8. Applicant has presented evidence sufficient to establish that unnecessary hardship will result if the variance is not granted, that the grant of the proposed variance will not be contrary to the public interest, and that the variance requested is the minimum that will afford relief and will represent the least modification of the ordinance.

9. Conditions must be attached to a grant of the variance 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 Tammy Forte for a variance from the terms of Section 6030.B.3.a of the Zoning Ordinance in order to permit the construction of the carport no less than 2 feet from the side property line. 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 information and representations submitted with and contained in her application and the evidence presented to the Board at the hearing held on February 22, 2024.

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.

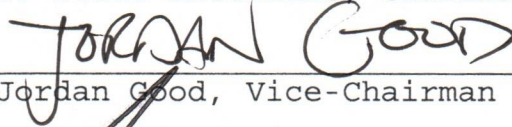
4. The approval granted by this Decision shall expire in accordance with the terms of Section 25060 of the Zoning Ordinance.

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

ZONING HEARING BOARD OF THE
TOWNSHIP OF EAST LAMPETER



J. Scott Enterline, Chairman



Jordan Good, Vice-Chairman


Alex Reedy

Dated and filed March 14, 2024, after hearing held on February 22, 2024.

The undersigned certifies that a copy of this Decision was served upon all parties on or prior to March 15, 2024.

