

BEFORE THE ZONING HEARING BOARD

TOWNSHIP OF EAST LAMPETER

IN RE: :
: No. 2024-11
APPLICATION OF MINNICK WEAVER :
PROPERTIES, LLC :

DECISION

I. FINDINGS OF FACT

1. Applicant is Minnick Weaver Properties, LLC, 753 Rosemont Drive, Lititz, Pennsylvania 17543 ("Applicant").

2. The property which is the subject of the instant application is 131 Elmwood Road, East Lampeter Township, Lancaster County, Pennsylvania (the "Property").

3. Applicant is the owner of the Property.

4. The Property is located within the R-2 Medium Density Residential 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 July 11, 2024.

7. Testimony at the hearing was stenographically recorded.

8. Applicant was represented at the hearing by Claudia Shank, Esquire.

9. Ron Weaver, Doug Minnick and Frederick Taggart appeared at the hearing and testified on behalf of Applicant.

10. Applicant has requested: (i) a variance from the terms of Section 375-23590 of the Zoning Ordinance; (ii) a variance from the terms of Section 375-6020 of the Zoning Ordinance; and (iii) a modification of the Board's Decision in Case No. 2022-15.

11. Section 375-23590 of the Zoning Ordinance permits multiple uses on a lot located within the C-1, C-3, I-1, I-2, BP, MU, BH, VG and VC Districts. Multiple uses are not permitted on lots located within the R-2 Medium Density Residential District.

12. Section 375-6020 of the Zoning Ordinance sets forth those uses permitted within the R-2 Medium Density Residential District.

13. In Case No. 2022-15, the Board granted Applicant's request for a special exception under Section 24030.C of the Zoning Ordinance for a substitution of nonconforming uses. More particularly, Weaver Associates, Inc., was permitted to occupy one-half of the existing building to operate a business selling and servicing office equipment. Minnick Wall Solutions, Inc., was

permitted to occupy the other one-half of the building to operate a home exterior repair and remediation company.

14. Applicant now desires to permit a third party to operate a business known as Lancaster Golf Academy within a portion of the building.

15. The golf business is owed by Frederick Taggart.

16. The golf business involves the use of a golf simulator for the purpose of providing golfing lessons to the public.

17. The business would operate 4 to 5 days per week.

18. Lessons would be provided by appointment only.

19. Lessons would be "one on one". Possibly, a family may come together for lessons.

20. The earliest lessons would commence at 6:00 a.m. and the latest lesson would be at 7:00 p.m.

21. The golf business would be conducted within one room in the existing building.

22. There would be one door sign, 12 inches by 18 inches, advertising the golf business.

23. There are approximately 50 parking spaces located on the Property which Applicant testified would be sufficient for all uses.

II. CONCLUSIONS OF LAW

1. A commercial recreational business involving golfing lessons is not a permitted use within the R-2 Medium Density Residential District.

2. To permit a business involving golfing lessons, Applicant requires: (i) a variance from the terms of Section 375-23590 of the Zoning Ordinance; (ii) a variance from the terms of Section 375-6020 of the Zoning Ordinance; and (iii) a modification of the Board's Decision in Case No. 2022-15.

3. "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.

4. "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 consider-

ations in and of themselves are insufficient to constitute hardship." McNally v. Bonner, ___ Pa. Commonwealth Ct. ___, 645 A.2d 287, 289 (1994) (citations omitted).

5. 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).

6. 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).

7. The Property can be used, and is being used, as zoned.

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

9. 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.

10. Applicant is not entitled to the requested variances.

III. DECISION

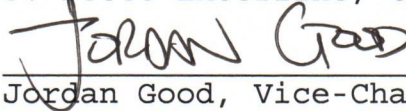
Based upon the foregoing findings of fact and conclusions of law, the Zoning Hearing Board of the Township of East Lampeter hereby denies the application for: (i) a variance from the terms of

Section 375-23590 of the Zoning Ordinance; (ii) a variance from the terms of Section 375-6020 of the Zoning Ordinance; and (iii) a modification of the Board's Decision in Case No. 2022-15.

ZONING HEARING BOARD OF THE
TOWNSHIP OF EAST LAMPETER



J. Scott Enterline, Chairman



Jordan Good, Vice-Chairman

Scott Augsburger, Secretary

Dated and filed July 25, 2024, after hearing held on July 11, 2024.

The undersigned certifies that a copy of this Decision was served upon all parties on or prior to July 26, 2024.

