

BEFORE THE ZONING HEARING BOARD

TOWNSHIP OF EAST LAMPETER

IN RE: :
: No. 2024-14
APPLICATION OF BRENT HURST AND :
ALANNA HURST :

DECISION

I. FINDINGS OF FACT

1. Applicants are Brent Hurst and Alanna Hurst, 2156 Sherreem Road, Lancaster, Pennsylvania 17601 ("Applicants").

2. The property which is the subject of the instant application is located at 2156 Sherreem Road, East Lampeter Township, Lancaster County, Pennsylvania (the "Property").

3. Applicants are the owners 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 September 12, 2024.

7. Testimony at the hearing was stenographically recorded.

8. Applicant Brent Hurst appeared personally at the hearing.

9. The Property contains 0.86 acre.

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

11. Applicants propose to construct an addition to the existing dwelling which will be an apartment as accessory use, including a covered porch, as shown on the Plan.

12. The porch will encroach into the required side yard and front yard setbacks, as shown on the Plan.

13. The porch will be located, at its closest point, approximately 5 feet 4 inches from the side property line and 24 feet from the street right of way.

14. Section 6030.B.3.a of the Zoning Ordinance provides that the minimum side yard setback shall be 10 feet.

15. Section 6030.B.2.a of the Zoning Ordinance provides that the minimum front yard setback shall be 30 feet from the street right of way line.

16. Applicants require a variance from the terms of Section 6030.B.3.a of the Zoning Ordinance and a variance from the terms of Section 6030.B.2.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. The location of the existing improvements warrant the granting of the variances requested.

6. The unnecessary hardship has not been created by the Applicants.

7. Applicants have 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.

8. 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 for a variance from the terms of Section 6030.B.3.a of the Zoning Ordinance and a variance from the terms of Section 6030.B.2.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. Applicants shall obtain all approvals and permits required by applicable laws and regulations.

2. Applicants shall at all times comply with and adhere to the information and representations submitted with and contained in their application and the evidence presented to the Board at the hearing held on September 12, 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.

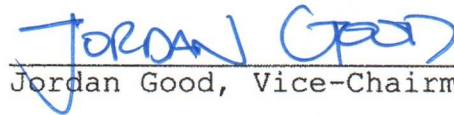
4. The approval granted by this Decision shall expire in accordance with the terms of Section 25060 of the Zoning Ordinance.

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

ZONING HEARING BOARD OF THE
TOWNSHIP OF EAST LAMPETER



J. Scott Enterline, Chairman



Jordan Good, Vice-Chairman

Dated and filed October 3, 2024, after hearing held on September 12, 2024.

The undersigned certifies that a copy of this Decision was served upon all parties on or prior to October 4, 2024.

