BEFORE THE ZONING HEARING BOARD

TOWNSHIP OF EAST LAMPETER

IN RE:	:	
	:	No. 2024-24
APPLICATION OF EDWIN P. JONAS AND MELANEY M. JONAS	:	

DECISION

I. FINDINGS OF FACT

1. Applicants are Edwin P. Jonas and Melaney M. Jonas, 2410 Creek View Drive, Lancaster, Pennsylvania 17602 ("Applicants").

2. The property which is the subject of the instant application is located at 2410 Creek View Drive, East Lampeter Township, Lancaster County, Pennsylvania (the "Property").

3. The owner of the Property is Jonas Family Trust.

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 January 9, 2025.

7. Testimony at the hearing was stenographically recorded.

8. Applicants were represented at the hearing by Christopher Grab, Esquire.

9. Applicants have appealed a notice of violation ("Notice of Violation"), dated October 22, 2014, issued by the Township Zoning Officer. In the alternative, Applicants have requested a variance from the terms of Section 375-6030.B.2 regarding minimum front yard setback.

10. At the hearing, the Township withdrew the Notice of Violation and Applicants proceeded with the request for a variance from the terms of Section 375-6030.B.2 of the Zoning Ordinance.

11. The Property is a corner lot containing approximately 0.29 acre.

12. The configuration of the Property is irregular, as more fully shown on the plans presented by Applicants.

13. The Property is improved with a single family dwelling with attached garage.

14. Applicants applied for and obtained a Residential Zoning Permit to construct an additional one-car garage (the "Addition") to be attached to the existing garage.

15. Applicants have completed construction of the Addition.

16. Upon inspection of the completed Addition by the Zoning Officer, the Zoning Officer determined that the Addition is not in compliance with the front yard setback requirements set forth in Section 375-6030.B.2 of the Zoning Ordinance.

17. Section 375-6030.B.2 of the Zoning Ordinance states that the minimum front yard setback shall be 30 feet measured from the street right of way line.

18. Because of the irregular configuration of the Property, the Addition is located less than 30 feet from the street right of way line.

19. Applicants require a variance from the terms of Section 375-6030.B.2 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 irregular configuration of the Property and location of the existing improvements warrant the granting of the variance 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 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.

8. 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 for a variance from the terms of Section 375-6030.B.2 of the Zoning Ordinance. 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. 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 January 9, 2025.

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 375-25060 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

Alex Reedy, Alternate

Dated and filed February 13, 2025, after hearing held on January 9, 2025.

The undersigned certifies that a copy of this Decision was served upon all parties on or prior to February 14, 2025.