

BEFORE THE ZONING HEARING BOARD

TOWNSHIP OF EAST LAMPETER

IN RE: :
 : No. 2025-06
APPLICATION OF PARADISE HAVEN :
INVESTMENTS LLC :

DECISION

I. FINDINGS OF FACT

1. Applicant is Paradise Haven Investments LLC, 2950 Lincoln Highway East, Gordonville, Pennsylvania 17529 ("Applicant").

2. The property which is the subject of the instant application is 2840 Lincoln Highway East, East Lampeter Township, Lancaster County, Pennsylvania (the "Property").

3. The Property is located in the Village Commercial District as shown on the Official Zoning Map of East Lampeter Township.

4. Applicant is the owner of the Property.

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 May 22, 2025.

7. Testimony at the hearing was stenographically recorded.

8. Applicant was represented at the hearing by Reilly Noetzel, Esquire.

9. Joseph Fisher and John Allgyer appeared at the hearing and testified on behalf of Applicant.

10. Applicant has requested: (i) a variance from the terms of Section 375-19020(A)(35) of the Zoning Ordinance; and (ii) a variance from the terms of Section 375-23110(F)(1) of the Zoning Ordinance.

11. Section 375-19020(A)(35) of the Zoning Ordinance states that a tourist home, as a principal or accessory use within a single-family detached dwelling, is a permitted use in the Village Commercial District, subject to the provisions of Section 375-23110 of the Zoning Ordinance.

12. Section 375-23110(F)(1) of the Zoning Ordinance states, in pertinent part, that a tourist home shall be contained within a single family detached dwelling.

13. Section 375-2020 of the Zoning Ordinance defines the term "tourist home", in pertinent part, as follows:

Tourist Home. A single family detached dwelling, where the accommodations are rented to a maximum of ten (10) overnight guests on a daily basis for a period of time not exceeding thirty (30) consecutive days.

14. The Property contains approximately 0.42 acre.

15. At the time Applicant purchased the Property, the Property was improved with a single family detached dwelling.

16. Upon purchase, Applicant renovated the existing dwelling and constructed an additional attached second dwelling.

17. There are now two semi-detached dwelling units on the Property, as more fully shown on the plans submitted by Applicant.

18. Each semi-detached dwelling has its own separate entrance.

19. Each semi-detached dwelling contains 3 bedrooms, a kitchen, living room and bathrooms.

20. The semi-detached dwellings are served by an on-lot well and public sanitary sewer.

21. There are four parking spaces located on the Property.

22. Applicant currently leases both semi-detached dwellings as long-term rentals (each semi-detached dwelling is separately leased).

23. Applicant now proposes to use both of the semi-detached dwellings for tourist home purposes.

24. There are residential uses located adjacent to the Property.

25. There are also hotels and commercial uses within the vicinity of the Property.

26. Applicant asserts that, based upon its location, a tourist home would be more supportive of the long-term viability of the Property.

II. CONCLUSIONS OF LAW

1. Because the semi-detached dwellings are not single-family detached dwellings, Applicant's proposal does not comply with the requirements of Section 375-19020(A)(35) of the Zoning Ordinance.

2. Because the semi-detached dwellings are not single-family detached dwellings, Applicant's proposal does not comply with the requirements of Section 375-23110(F)(1) of the Zoning Ordinance.

3. Because the semi-detached dwellings are not single-family detached dwellings, Applicant's proposal does not comply with the definition of a tourist home as set forth in Section 375-2020 of the Zoning Ordinance.

4. Applicant requires variances from the aforesaid sections of the Zoning Ordinance to utilize the two semi-detached dwellings as tourist homes.

5. 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.

6. "To obtain relief in the form of a variance, the applicant must establish that: (1) there are unique physical circumstances or

conditions; (2) causing unnecessary hardship in the form of an unreasonable inhibition of usefulness of the property; (3) the hardship is not self-inflicted; (4) the grant of the variance will not adversely impact public health, safety and welfare; and (5) the variance sought is the minimum that will afford relief." Township of East Caln v. Zoning Hearing Board of East Caln Township, 915 A.2d 1249, ____ (Pa. Cmwlth. 2007).

7. 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).

8. Potential economic loss from the inability to create an additional lot or an additional dwelling unit or maximum profit does not warrant the granting of a variance. Cardamone v. Whitpain Township Zoning Hearing Board, 771 A.2d 103 (Pa. Cmwlth. 2001); Society Created to Reduce Urban Blight v. Zoning Board of Adjustment of the City of Philadelphia, 771 A.2d 874 (Pa. Cmwlth. 2001).

9. "Diminution of profitability has long been considered as legally insufficient to justify a variance." Atlantic Refining and Marketing Company v. Zoning Hearing Board of Upper Merion Township, 133 Pa. Commonwealth Ct. 261, 575 A.2d 961, 963 (1990).

10. Where "the property is actually used for any purpose permitted by the zoning ordinance, the owner does not suffer

unnecessary hardship for granting a variance." Patullo v. Zoning Hearing Board of the Township of Middletown, 701 A.2d 295, 300 (Pa. Cmwlth. 1997).

11. Applicant could have used the single family detached dwelling for a tourist home. Applicant constructed the attached second dwelling, thus rendering the semi-detached dwellings ineligible for tourist home use purposes, and any economic hardship is self-created.

12. "In zoning cases it is well-settled that the Board is the fact finder, with exclusive province over matters of credibility and weight to be afforded to the evidence." Manayunk Neighborhood Council v. Zoning Board of Adjustment of the City of Philadelphia, 815 A.2d 652, 658 (Pa. Cmwlth. 2003).

13. Applicant failed to meet its burden to establish by credible evidence that it cannot make a reasonable use of the Property without the requested variances.

14. The Board rejects as not credible any testimony that Applicant cannot reasonably make use of the Property in compliance with the requirements of the Zoning Ordinance.

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 375-19020(A)(35) of the Zoning Ordinance; and (ii) a

variance from the terms of Section 375-23110(F)(1) of the Zoning Ordinance.

ZONING HEARING BOARD OF THE
TOWNSHIP OF EAST LAMPETER



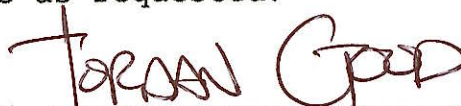
J. Scott Enterline, Chairman



Edward R. Kennett, Member

DISSENT:

I would approve the variances as requested.



Jordan Good, Vice-Chairman

Dated and filed 06/06, 2025, after hearing held on May 22, 2025.

The undersigned certifies that a copy of this Decision was served upon all parties on or prior to 06/09, 2025.

