

BEFORE THE ZONING HEARING BOARD

TOWNSHIP OF EAST LAMPETER

IN RE: :
 : No. 2026-12
APPLICATION OF ELAM S. LAPP :
AND SUSIE R. LAPP :

DECISION

I. FINDINGS OF FACT

1. Applicants are Elam S. Lapp and Susie R. Lapp, 51 Eastbrook Road, Ronks, Pennsylvania 17572 ("Applicants").

2. The property which is the subject of the instant application is located at 51 Eastbrook Road, East Lampeter Township, Lancaster County, Pennsylvania (the "Property").

3. Applicants are the owners of the Property.

4. The Property is located in the Agricultural 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 September 10, 2026.

7. Testimony at the hearing was stenographically recorded.

8. Applicants appeared personally at the hearing.

9. Nancy Harris, of Weaver Environmental Partners, also appeared at the hearing and testified on behalf of Applicants.

10. Applicants have requested a variance from the terms of Section 375-3030.E.3 of the Zoning Ordinance.

11. Section 375-3030.E.3 of the Zoning Ordinance states that the maximum height of an accessory agricultural building or structure including a silo shall be 60 feet.

12. The Property contains approximately 58 acres and is used for agricultural purposes.

13. Applicants testified that they need more storage space for their agricultural use. Applicants removed silos that were 55 feet in height and desire to construct two new silos upon the Property.

14. The proposed height of each of the new silos is 78 feet.

15. Applicants failed to provide credible testimony that it is not possible to construct silos no higher than 60 feet in height.

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

3. A variance, if granted, "must be the minimum that will afford relief and will represent the least modification of the ordinance." Rogers v. Zoning Hearing Board of East Pikeland Township, 103 Pa. Commonwealth Ct. 478, 520 A.2d 922, 924 (1987); MPC §910.2(a)(5).

4. "Zoning boards . . . are not entitled to substitute their concept of a better ordinance than the one enacted." Piscioneri v. Zoning Hearing Board of the Borough of Munhall, 523 Pa. 597, 568 A.2d 610, 611 (1990).

5. A variance is to be "granted only in exceptional circumstances." M & M Sunoco, Inc. v. Upper Makefield Township Zoning

Hearing Board, 154 Pa. Commonwealth Ct. 316, 623 A.2d 908, 911 (1993).

6. 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).

7. 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).

8. "[T]he reasons underlying the grant of a variance must be substantial, serious, and compelling." Constantino v. Zoning Hearing Board of the Borough of Forest Hills, 152 Pa. Commonwealth Ct. 258, 618 A.2d 1193, 1196 (1992).

9. The "failure of proof [to demonstrate the property cannot be used as zoned] is alone sufficient to deny the request for a variance." Smith v. Zoning Hearing Board of the Borough of Bellevue, 152 Pa. Commonwealth Ct. 427, 619 A.2d 399, 402 (1992); see also Beecham Enterprises v. Zoning Hearing Board of Kennedy Township, 556 A.2d 981 (1989).

10. The desire of a landowner to erect an accessory structure does not establish unnecessary hardship required for the granting of a variance. Patullo v. Zoning Hearing Board of the Township of Middletown, 701 A.2d 295 (Pa. Cmwlth. 1997).

11. An applicant is not entitled to a dimensional variance if a conforming structure, albeit a less desirable one, can be erected. Greene Townes Financial Corporation v. Zoning Hearing Board of Lower Merion Township, ___ Pa. Commonwealth Ct. ___, 630 A.2d 492 (1993).

12. The Property can be used as zoned.

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

14. Applicants have 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.

15. Applicants are not entitled to a variance from the terms of Section 375-3030.E.3 of the Zoning Ordinance.

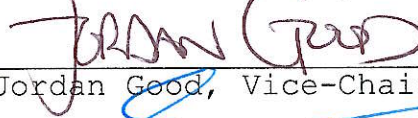
III. DECISION

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 of Elam S. Lapp and Susie R. Lapp for a variance from the terms of Section 375-3030.E.3 of the Zoning Ordinance.

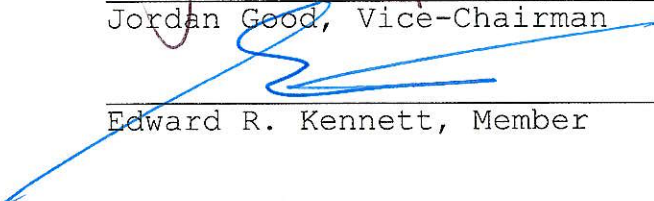
ZONING HEARING BOARD OF THE
TOWNSHIP OF EAST LAMPETER



J. Scott Enterline, Chairman



Jordan Good, Vice-Chairman



Edward R. Kennett, Member

Dated and filed October 8, 2026, after hearing held on
September 10, 2026.

The undersigned certifies that a copy of this Decision was
served upon all parties on or prior to October 9, 2026.

