

BEFORE THE ZONING HEARING BOARD

TOWNSHIP OF EAST LAMPETER

IN RE: :
: No. 2017-15
APPLICATION OF JESSE GLICK :
AND JOHN GLICK :

DECISION

I. FINDINGS OF FACT

1. Applicants are Jesse Glick and John Glick, 415 A Peters Road, Gordonville, Pennsylvania 17529 ("Applicants").

2. The property which is the subject of the instant application is located at 66 Eastbrook Road, East Lampeter Township, Lancaster County, Pennsylvania (the "Property").

3. The owners of the Property are Jeffrey and Cynthia Rice, 66 Eastbrook Road, Ronks, Pennsylvania 17572.

4. The Property is located in the R-2 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 September 28, 2017.

7. Testimony at the hearing was stenographically recorded.

8. Applicants appeared personally at the hearing.

9. The following persons completed entry of appearance forms and were recognized as parties:

Janet C. Glick
80 Eastbrook Road
Ronks, PA 17572

Shirley M. Smith
64 Eastbrook Road
Ronks, PA 17572

10. Applicants have requested a variance from the terms of Section 23380 of the Zoning Ordinance.

11. Section 23380 of the Zoning Ordinance states that, for a horse barn for transportation, the minimum lot size shall be 20,000 square feet.

12. The Property is improved with a dwelling and two car garage.

13. The Property contains 16,989 square feet of area.

14. Applicants desire to erect a horse barn for transportation upon the Property.

15. The horse barn would be 18 feet by 12 feet and would be for the keeping of one horse.

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 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).

4. 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).

5. 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).

6. "[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).

7. 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).

8. 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).

9. The Property can be used as zoned.

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

11. 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.

12. Applicants are not entitled to a variance from the terms of Section 23380 of the Zoning Ordinance.

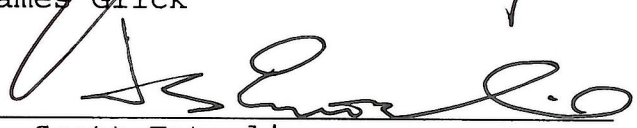
III. DECISION

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 Jesse Glick and John Glick for a variance from the terms of Section 23380 of the Zoning Ordinance.

ZONING HEARING BOARD OF THE
TOWNSHIP OF EAST LAMPETER



James Glick



J. Scott Enterline



Lester Weaver

Dated and filed October 26, 2017, after hearing held on September 28, 2017.

The undersigned certifies that a copy of this Decision was served upon all parties on or prior to October 27, 2017.

