

DECISION
OF THE HONEY BROOK TOWNSHIP ZONING HEARING BOARD,
CHESTER COUNTY, PENNSYLVANIA

Re: Application of Jacob S. Esh

No. 2023 - 7

Date of Application: May 23, 2023

Date of Hearing: June 26, 2023

FINDINGS OF FACT

1. The property which is the subject of this zoning application is located at 335 Pleasant View Road, Honey Brook Township, Chester County, Pennsylvania, in the Agricultural (A) Zoning District, being Tax Parcel Number 22-7-51 (the "Property").
2. The owner of the Property is Sadie S. Stoltzfus.
3. The applicant is Jacob Esh, the son-in-law of Ms. Stoltzfus ("Applicant").
4. Ms. Stoltzfus authorized the Applicant to file the Application which was submitted to the Honey Brook Township Zoning Hearing Board on May 23, 2023, requesting a variance from Section 27-1002.C.(4) of the Honey Brook Township Zoning Ordinance, as amended (the "Zoning Ordinance") to permit the construction of a new single-family dwelling unit and an attached accessory dwelling unit which will have a habitable area exceeding 50% of the total habitable floor area of the principal dwelling. (See Board Exhibit B-1)
5. Ms. Stoltzfus authorized Applicant to represent her at the hearing and testify on her behalf.
6. The Honey Brook Township Zoning Hearing Board was represented at the hearing by Christopher J. Hartman, Esquire.
7. The Property is improved with a single-family home, two mobile homes, and several storage sheds.
8. Ms. Stoltzfus and two of her children reside in the single-family dwelling located on the Property.
9. The Applicant, his wife and his three children reside in one of the mobile homes located on the Property, said mobile home having a mailing address of 26 Long Lane, Honey Brook, Pennsylvania.

10. Applicant desires to construct a new single-family dwelling unit and an attached accessory dwelling unit on the Property.

11. The proposed single-family dwelling unit will be 3,390 square feet and the proposed attached accessory dwelling unit will be 2,467.50 square feet.

12. Applicant further desires to remove from the Property the existing single-family home, the mobile home located at 26 Long Lane, four (4) storage sheds, and one of the two driveway entrances connected to Pleasant View Road, as shown on Sheet #1 of the Application.

13. Applicant plans to reside in the proposed single-family dwelling unit with his wife and children.

14. Applicant further plans for Ms. Stoltzfus and her two children to reside in the proposed attached accessory dwelling unit.

15. Section 27-1002.C.(4) of the Zoning Ordinance provides that the habitable floor area of an attached accessory dwelling unit shall not exceed 50% of the total habitable floor area of the principal dwelling.

16. The proposed attached accessory dwelling unit has a floor area exceeding 50% of the total habitable floor area of the proposed principal dwelling.

17. Applicant intends to construct the new principal dwelling and attached accessory dwelling prior to the removal of the existing single-family home, mobile home, storage sheds, and driveway entrance.

18. Applicant requires the variance to permit Ms. Stoltzfus and her two children to reside in the proposed accessory dwelling and to ensure that Applicant is able to adequately care for Ms. Stoltzfus and her two children.

19. The variance will not alter the essential character of the neighborhood or have a detrimental or negative effect on the neighborhood or public welfare.

20. The variance is the minimum variation which will afford relief and represent the least modification possible.

21. Public notice of this hearing was duly advertised in the Daily Local, a newspaper of general circulation within Honey Brook Township on June 8 and June 15, 2023; adjacent property owners were notified of the hearing by mail on June 5, 2023; and the Property was posted with the notice of the hearing on June 15, 2023. (See Board Exhibits B-3 through B-5)

22. The Board of Supervisors of Honey Brook Township submitted a letter, dated June 19, 2023, taking the position of support on the variance request. (See Board Exhibit B-6)

23. The Board provided opportunity for public comment, but none was presented.

24. After closing the testimony at the June 26, 2023 hearing, the Honey Brook Township Zoning Hearing Board announced its decision on the Application.

CONCLUSIONS OF LAW

1. The Board has jurisdiction to decide this variance application pursuant to Section 27-1409 of the Zoning Ordinance and Section 909.1 of the MPC, 53 P.S. 10909.1.

2. Section 27-1409 of the Zoning Ordinance and Section 910.2 of the MPC, 53 P.S. § 10910.2 provide that no variance shall be granted unless the applicant can demonstrate to the satisfaction of the Board that:

- a. There are unique physical circumstances or conditions (including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property) and that the unnecessary hardship is due to such conditions and not the circumstances or conditions generally created by the provisions of this Chapter in the neighborhood or district in which the property is located;
- b. Because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of this Chapter and a variance is therefore necessary to enable the reasonable use of the property;
- c. Such unnecessary hardship has not been created by the appellant;
- d. The variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, nor substantially or permanently impair the appropriate use or development of adjacent property, nor be detrimental to the public welfare; and
- e. The variance, if authorized, will represent the minimum variance that will afford relief and will represent the least modification possible of the regulation in issue.

3. The Board has determined that the Applicant has met the requirements for the grant of the variance requested under Section 27-1409 of the Zoning Ordinance.

4. Applicant has shown that there exist unique physical circumstances and/or conditions of the Property that create hardships and the variance is necessary to enable reasonable use of Property. The hardships have not been created by the Applicant.

5. Applicant has also established that the variance will not alter the essential character of the neighborhood or district in which the Property is located, nor substantially or

permanently impair the appropriate use or development of adjacent property, nor be detrimental to the public welfare.

6. Section 27-1409.A.(6) of the Zoning Ordinance and Section 910.2(b) of the MPC, 53 P.S. §10910.2(b) provides that the Board may attach reasonable conditions and safeguards it deems necessary to implement the purposes of the MPC and the Zoning Ordinance.

7. The following conditions are necessary to implement the purposes of the MPC and the Zoning Ordinance:

- a. Applicant shall obtain all applicable permits and approvals.
- b. Applicant shall remove the existing single-family dwelling unit and the mobile home having a mailing address of 26 Long Lane within six (6) months following the construction of the new principal dwelling unit and attached accessory dwelling unit.
- c. Applicant shall remove the four (4) storage sheds and one of the two driveway entrances connected to Pleasant View Road, as shown on Sheet #1 of the Application, within one (1) year following the construction of the new principal dwelling unit and attached accessory dwelling unit.
- d. The construction of the new single-family dwelling unit and attached accessory dwelling unit and the removal of the existing single-family home, the mobile home located at 26 Long Lane, four (4) storage sheds, and one of the two driveway entrances connected to Pleasant View Road shall be consistent with the Application.

DECISION

AND NOW, this 26th day of June, 2023, the Zoning Hearing Board of Honey Brook Township, hereby APPROVES the request of Jacob S. Esh for a variance from Section 27-1002.C.(4) of the Zoning Ordinance for the creation of a new single-family home with an attached accessory dwelling unit which will have a habitable area exceeding 50% of the total habitable floor area of the principal dwelling, subject to the following conditions:

1. Applicant shall obtain all applicable permits and approvals.
2. Applicant shall remove the existing single-family dwelling unit and the mobile home having a mailing address of 26 Long Lane within six (6) months following the construction of the new principal dwelling unit and attached accessory dwelling unit.
3. Applicant shall remove the four (4) storage sheds and one of the two driveway entrances connected to Pleasant View Road, as shown on Sheet #1 of the Application, within one (1) year following the construction of the new principal dwelling unit and attached accessory dwelling unit.
4. The construction of the new single-family dwelling unit and attached accessory dwelling unit and the removal of the existing single-family home, the mobile home located at 26 Long Lane, four (4) storage sheds, and one of the two driveway entrances connected to Pleasant View Road shall be consistent with the plans submitted as part of the Application.



Chairman



Vice Chairman

Member

Date of Issuance of Written Decision: August 10, 2023.

ANY AGGRIEVED PERSON MAY APPEAL THIS DECISION TO THE COURT OF COMMON PLEAS OF CHESTER COUNTY WITHIN THIRTY (30) DAYS FROM THE DATE OF ISSUANCE OF THE WRITTEN DECISION.