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IN RE: PETITION OF : ZONING HEARING BOARD  
Todd J. Pietro Bono and Ann : MILLCREEK TOWNSHIP  
Marie V. Pietro Bono, his wife : LEBANON COUNTY, PENNSYLVANIA  
: :  
: Case No. 2021-03

**DECISION OF THE ZONING HEARING BOARD**

A hearing on the case was held on June 8, 2021 to consider a request by the Petitioners to seek a variance for their subject premises on West Texter Mission Road concerning lot sizes and lot widths as set forth in the Township's Zoning Ordinance.

Appearing for the Petitioners were the Petitioners themselves and their surveyor Robert Gearhart Jr. of Matthew and Hockley Associates, Inc. Also appearing was Karen Krater a member of the Township's Planning Commission who had no opposition to the petition.

**FINDINGS OF FACT**

1. The Petitioners are Todd J. Pietro Bono and Ann Marie V. Pietro Bono, his wife, who own and occupy the subject premises located at 264 West Texter Mission Road, Newmanstown, Millcreek Township, Lebanon County, Pennsylvania.
2. The subject premises is located in the E-1 Ecologically Sensitive District.
3. Proper notice of the Zoning Hearing was given pursuant to the Zoning Ordinance and the Pennsylvania Planning Municipalities Planning Code.
4. The subject premises is 28.8355 acres in size which is used primarily as agricultural open space except for a 3.888 acres tract that is improved with a residential house, driveway and outbuildings.

5. The Petitioners propose to subdivide the property and create a residential lot for their daughter and would be located on the 3.888 acre portion of the property and to the subdivision of approximately 8 acres from the subject area which lot addition that will be added to an adjacent residential lot owned by their daughter and son-in-law which is improved with a house and driveway as shown on exhibits 5 through 8 submitted by Lebanon County Planning Department.
6. The Petitioners request a variance to allow the proposed new lot size to be 1.6994 acres of land in lieu of the 2.0 acres required by the Zoning Ordinance.
7. The Petitioners also propose a lot width at the building set back line to be 157.76 feet in lieu of the 200 feet required by the Zoning Ordinance.
8. The Zoning Hearing Board has the right and duty to determine whether the Petitioners have met the required criteria for the granting of the two variances as set forth above.
9. The Zoning Hearing Board has the right to place appropriate conditions and safeguards as to the use of the property if the variance is granted by the Board.

#### **RELEVANT LAW**

Article 13.04A1 of the Zoning Ordinance of the Township provides for a minimum lot area of 2 acres to every principal building to be located on the lot.

Section 13.04B provides that there be a minimum building setback line of 200 feet.

Section 21.03 provides for the granting of variances from the provisions of the Zoning Ordinance and provides for appropriate conditions and safeguards in conforming with the Zoning Ordinance.

## CONCLUSIONS

The requirements of Article 21 Section 21.03 (A) have been met by the Applicants for a variance.

The Zoning Hearing Board finds that the reasons set forth in the application and the testimony induced at the hearing justify the granting of the variance that will make possible the reasonable use of Petitioner's land.

The Zoning Hearing Board finds that the granting of a variance will be in harmony with the general purpose and intent of the Zoning Ordinance and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.

The proposed new structures are permitted within the E-1 Ecologically Sensitive District and the Zoning Hearing Board adopts the reasoning of the Petitioners' engineer Robert Gearhart Jr., in exhibit number 10 which he introduced into evidence and which was accepted as a matter of evidence for the purposes of the hearing for the reasons that justify the granting of the two variances.

The Zoning Hearing Board believes the petitioner have met the intent of the E-1 Ecologically Sensitive District as set forth in the preamble to the Zoning Ordinance. The Zoning Hearing Board is permitted to prescribe appropriate conditions and safeguards in conformity with the Zoning Ordinance and, in fact, as proposed by the Petitioners.

The Zoning Hearing Board therefore attaches as conditions and safeguards to the granting of the petition for a variance as follows:

1. The remaining Agricultural open space shall be part of a conservation easement to ensure that the further use of the property would remain as agricultural open space and the same



shall be noted in writing and filed in the office of the Recorder of Deeds of County of Lebanon, Pennsylvania.

2. That in the development of the land as proposed by them, the Petitioners shall abide by all township, commonwealth, and other appropriate governmental land development and Zoning Regulations as part of the proposal to develop the land as proposed by the Petitioners.

### **DECISION OF THE BOARD**

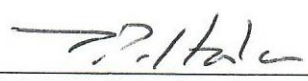
For the above reasons, the Zoning Hearing Board of the Township of Millcreek hereby grants the Variance to the Petitioners as stated and proposed, however, as modified by the Special Conditions and safeguards 1 and 2 above.

Voting for the granting of the variances and the attached conditions and safeguards were Board Members Robert Beisel and Timothy Bartow. Voting against the granting of the petition was Board Member Scott Sweigart.

Dated July 23, 2021

HENRY & BEAVER LLP

By: \_\_\_\_\_

  
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