

After speaking with the Township, the applicants, in consultation with their contractor and designer, tried to flatten the pitch of the roof in order to comply with the Ordinance. Mr. Buerk testified that the residence has a 10 – 12 pitch roof. When the designer held the 10 -12 pitch for the front of the proposed addition, the height was pushed to 24’9”. At that pitch, the front of the proposed addition would have a height of 20.8’. Mr. Buerk acknowledged that the proposed addition could have dormers at a height of 22’9”, as was originally proposed when the applicants applied for a building permit, but the applicants decided to request a variance for a maximum height of 24’9” in order to have additional storage and options for the space in the future. He argued that the 2 stories of the garage/pool house would not be visible to the neighbors, but instead would appear to be compliant. The property to the rear for the applicants’ property opposite the proposed structure is undeveloped.

Mr. Buerk submitted photographs of the existing residence and the subject property. The photographs as well as the plans submitted with the application were all admitted into the record. Mr. Buerk testified that he spoke with the neighbors to the left of his property and the neighbors across the street, and none of the neighbors had any objection to the proposed project. No members from the public testified.

The Ordinance limits the maximum height of an accessory structure to 20 feet. *See* Ordinance, §225-304, Table 7, Item H. The criteria for issuing zoning variances are set forth in §225-1007.9.A of the Derry Township Zoning Ordinance. The Zoning Board may grant a variance provided that all of the following findings are made where relevant:

1. There are unique physical circumstances or conditions of the lot in question, and due to these conditions, an unnecessary hardship results to the property owner;

2. That because of the physical circumstances, there is no possibility that the property can be developed in strict conformity with the provisions of the Zoning Ordinance, and that the authorization of the variance is necessary to enable the reasonable use of the property;
3. The unnecessary hardship has not been created by the applicant;
4. The variance will not alter the essential character of the neighborhood or otherwise impair the appropriate use or development of adjacent property or be detrimental to the public welfare; and
5. That the variance if authorized will represent the minimum variance that will afford relief and will represent the least modification possible of the regulation at issue.

In this matter, the Board finds that the applicant is entitled to the requested relief.

Initially, the Board finds that the property is unique because of the change in elevation. There is no evidence on the record that the applicants created the hardship. Most significantly, the Board finds that the proposed relief will not have a detrimental impact on any other property in the area or the public welfare. The Board finds that the proposed relief will not alter the essential character of the neighborhood. In fact, the Board finds that the applicants have tried to maintain the character of the neighborhood by proposing dormers to match their residence. There is no evidence in the record to indicate that the requested variance would negatively impact surrounding properties. No neighbors appeared to testify in opposition to the application.

Finally, the Board finds that this represents the minimum relief necessary to allow a pool house to be constructed under the garage. In making this determination, the Board notes that the height of the garage from the public street view will not appear different than a permitted structure as it

only exceeds that height by 8". The minor relief allows the applicants to more easily provide storage above the garage.

In granting any variance, the Zoning Hearing Board may attach such reasonable conditions and safeguards as it deems necessary to implement the purposes of the Pennsylvania Municipalities Planning Code, and the Ordinance. *Ordinance*, §225-1007.B. Based on the Board's findings and conclusions, the Board adopts the following:

ORDER

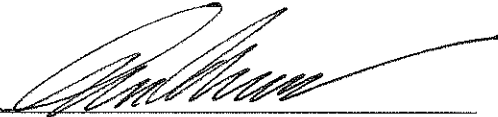
AND NOW, this 19th day of February, 2020:

1. The applicants' request for a variance from §225-304, Table 7, Item H, regarding the maximum height of an accessory structure is GRANTED. The applicants may construct the two car garage/pool house to a maximum height of 24'9".
2. The relief granted herein is strictly contingent on the front face of the proposed two car garage/pool house aligning with the rear face of the existing dwelling.
3. The applicants shall construct the improvements in strict compliance with the plans and specifications submitted to the Board during the hearing of this matter, provided, however, that if the improvements that are the subject of this hearing, as finally constructed, require less relief than granted by the Board herein, no additional relief from this Board shall be required.
4. Except as extended by applicable law, the relief granted herein shall be valid for one (1) year from the date hereof. In the event the applicants have not, within the time period provided herein, commenced operations, applied for a building permit relative to the improvements where permits are necessary, or constructed the improvements not requiring

permits, the relief granted herein shall be deemed to have expired, and the applicants shall be required to comply with the then existing terms of the Zoning Ordinance.

5. Any violation of any condition imposed herein shall be a violation of the Township Zoning Ordinance and shall be enforced as provided in the Ordinance.

THE FOLLOWING BOARD MEMBERS VOTE TO ADOPT THIS DECISION AS WRITTEN AND GRANT THE RELIEF TO THE APPLICANTS:

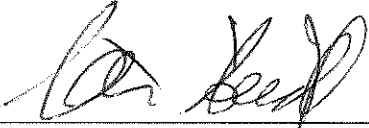


Stephen Moniak



F. Dean Morgan

THE FOLLOWING BOARD MEMBER VOTES AGAINST THIS DECISION AS WRITTEN AND WOULD INSTEAD DENY THE RELIEF REQUESTED BY THE APPLICANTS:



Steven Seidl

As a result of a vote of two members in favor of the requested relief, and one member against the requested relief, the relief is **GRANTED**.