

passed. There was no stake out inspection. The corner of the garage is 19 feet from the right-of-way and 21 feet from the property line as indicated in the application and on the survey drawing.

Mr. Stine testified that if the requested variance is not granted, the applicant would have to take down the garage and excavate the footer, which could cost the owner between \$50,000 - \$100,000. Mr. Stine was not aware of any objections from the neighboring property owners. No members from the public testified.

The Director of Community Development, Charles Emerick, testified that there are no traffic issues or sight obstructions with the current placement of the garage. The house on the subject property is closer to the intersection than the garage. Mr. Emerick surmised that in placing the garage the former builder had measured from the property line rather than the right-of-way as required.

The Ordinance requires a front yard setback of 20 feet for principal uses. *See* Ordinance, §225-315, Table 29, Item D. 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 there is no evidence on the record that the applicant or the property owner created the hardship. In fact, the hardship was created by the property owner's previous contractor. 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. 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

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 18th day of March, 2020:

1. The applicant's request for a variance from §225-3150, Table 29, Item D, regarding the front yard setback for an accessory use is GRANTED. The applicant may encroach to 1 foot into the 20 foot front yard setback for the garage.

2. The applicant shall maintain the improvements in strict compliance with the plans and specifications submitted to the Board during the hearing of this matter

3. 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.

Adopted by 4-0 vote as indicated by the Chairman's signature

A handwritten signature in black ink, appearing to read 'Stephen Moniak', written over a horizontal line.

Stephen Moniak, CHAIRMAN