BEFORE THE DERRY TOWNSHIP ZONING HEARING BOARD

IN THE MATTER OF:

: NO. 2020-02

Stine's Designs Inc.

: PREMISES LOCATION:

595 Sandhill Road

: Hershey, Derry Township, PA 17033

MEMORANDUM, FINDINGS, OPINION, AND ORDER

This is the application of Stine's Designs Inc. with regard to the property owned by Lynch Financial, LLC. The subject property is located at 595 Sandhill Road, Hershey, Derry Township, Pennsylvania. A hearing in this matter was held on February 19, 2020, after proper advertising. At that time, Ross Stine, on behalf of the applicant, appeared, was sworn, and testified.

The application indicates that the subject property is located in the Hershey Mixed Use zoning district. The property contains a residential dwelling, and the applicant proposes to continue that use. The application seeks a variance from the front yard setback to retain an attached garage as constructed.

Mr. Stine testified that the applicant is the builder for the project, which consists of constructing a house and two car garage. The applicant obtained a permit to connect the house and garage via a breezeway, reducing the required front yard setback from 50 feet to 20 feet. The applicant took over the project in July 2019 for another builder, who had been fired by the owner for incompetence. The project has been in progress for three years, during which time Lynch Financial, LLC has owned the property. At the time the applicant took over the project, the garage had been constructed. It was under roof with an external shell and open studs. No further work has been performed on the garage to date. The footer inspection was performed on January 4, 2019, and the concrete inspection was performed on March 13, 2019, both of which

passed. There was no stake out inspection. The corner of the garage is 19 feet from the right-ofway 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 15th 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

Stephen Moniak, CHAIRMAN