

was built closer to the house so as not to be as close to the property lines, it would be on a higher elevation so it would be visible from Grandview Drive. In addition, other locations on the property for the shed are limited due to the property's stormwater management basins.

The proposed two-story shed is 36 feet long and 30 feet deep. According to the applicants, the shed is necessary to store the equipment necessary to maintain the applicants' property, private drive, and the home owner's association's common area. In determining the size of shed they would need, they arranged all of the equipment in the yard and measured. The proposed size would house all of their equipment. The first floor is 10 feet high with 12' x 8' barn doors. The second floor would be for storage and would allow the applicants to move items out of their basement. The proposed shed will be accessed from the grass, and no access area will be constructed. The applicants propose a maximum height for the shed of 26.6 feet. According to the applicants, this will enable the shed to look like a barn which will blend into the countryside. If the shed was 20 feet tall, as permitted by the Ordinance, it would look more like a warehouse, which would not add to the aesthetics of the neighborhood.

In addition to the letter of support signed by neighbors, which was admitted into the record, Ross and Sara Rodgers, 808 Grandview Drive, appeared, were sworn, and testified at the hearing. They are the applicants' neighbors who live two lots away from the applicants. They testified in support of the applicants' project. According to Mr. and Mrs. Rodgers, the applicants' shed does not just benefit the applicants, but also benefits the homeowners' association. The applicants allow the neighbors to use their equipment. They expect that the shed will be similar to the house and will add to the beauty of the neighborhood.

Susan Craft, 811 Grandview Drive, also appeared, was sworn, and testified at the hearing. She and her husband, Jim, live right next door to the applicants. Her house would be the one most affected by the applicants' shed. They have no objection to the proposed shed. The applicants share their equipment without hesitation. She thinks the shed would be adorable and appropriate for the neighborhood. She thinks the project should proceed.

The Ordinance requires a side yard setback and rear yard setback of 50 feet for accessory uses. *See* Ordinance, §225-303, Table 5. In addition, the Ordinance limits the maximum height of an accessory structure to 20 feet. *See* Ordinance, §225-303, Table 5, 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 property is unique because of its diamond shape and the topography with changing elevations. There is no evidence on the record that the applicant created the hardship. The Board finds that the proposed shed with a maximum height of 24 feet will not alter the essential character of the neighborhood or impair the appropriate use or development of adjacent properties. Furthermore, the Board finds that the relief granted will not have a detrimental impact on any other property in the area or the public welfare. As such, the Board finds that the relief granted would not negatively impact surrounding properties. Finally, the Board finds that this relief represents the minimum variance necessary to afford relief and represents the least modification possible of the Ordinance.

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. *See* Ordinance, §225-1007.9.B. Based on the Board's findings and conclusions, the Board adopts the following:

ORDER

AND NOW, this 16th day of June, 2021:

1. The applicants' request for a variance from §225-303, Table 5 regarding the side yard setback for an accessory use is GRANTED. The applicants may encroach to within 18 feet of the side property line for the proposed shed.

2. The applicants' request for a variance from §225-303, Table 5 regarding the rear yard setback for an accessory use is GRANTED. The applicants may encroach to within 26 feet of the rear property line for the proposed shed.

3. The applicants' request for a variance from §225-303, Table 5, Item H, regarding the maximum height of an accessory structure is GRANTED in part and DENIED in part. The applicants may construct the proposed shed to a maximum height of 24 feet.


4. 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.

5. 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.

6. 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 a 2 – 0 vote as indicated by the Vice Chairwoman’s signature as authorized by the Zoning Hearing Board.


Sandra Ballard, Vice Chairwoman