

meeting the side yard setback requirements. Additionally, the owner considered leaving the garage as a detached garage, but the owner wanted to stay out of the weather. The new residential dwelling complies with all other zoning requirements, and no additional relief is requested. Ms. Farrell noted that the existing dwelling currently encroaches into the front yard setback. When the existing dwelling is demolished, that non-conformity will be removed, and the property will be in greater conformance with the Ordinance. She argued that because the garage is an existing structure, the requested relief will not alter the existing character of the neighborhood. The property adjacent to the side yard setback is unimproved. No other members of the public testified.

The Ordinance requires a side yard setback of 20 feet. *See* Ordinance, §225-304, Table 7, Item E. 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 existing garage was constructed within the setback before the Ordinance was enacted. There is no evidence on the record that the applicant created this 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. The garage that will be attached to the new residential dwelling already exists. There is no testimony in the record to indicate that the requested variance would negatively impact surrounding properties. No neighbors testified in opposition to the application. Finally, the Board finds that this represents 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. *See* Ordinance, §225-1007.9.B. Based on the Board's findings and conclusions, the Board adopts the following:

ORDER

AND NOW, this 20th day of October, 2021:

1. The applicant's request for a variance from §225-304, Table 7, Item E regarding the side yard setback for a principal structure is GRANTED. The applicant may encroach to within 8.5789 feet of the side property line for the existing garage.
2. The relief granted herein is strictly contingent on the existing garage not being expanded, including its height, without further relief from this Board.
3. The applicant 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 applicant has 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 applicant 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

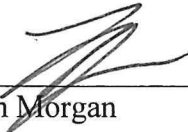
Township Zoning Ordinance and shall be enforced as provided in the Ordinance.



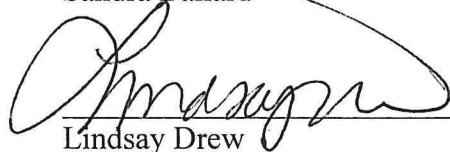
Steven Seidl



Sandra Ballard



F. Dean Morgan



Lindsay Drew