

**BEFORE THE DERRY TOWNSHIP ZONING HEARING BOARD**

IN THE MATTER OF: : NO. 2021 – 11  
:   
Paul Furniss :   
:   
:   
: PREMISES LOCATION:  
: 125 Robin Road  
: Hershey, Derry Township, PA

**MEMORANDUM, FINDINGS, OPINION AND ORDER**

This is the application of Paul Furniss with regard to the property he owns with his wife, Kathleen Furniss, located at 125 Robin Road, Hershey, Derry Township. A hearing in this matter was held on October 20, 2021, after proper advertising. At that time, the applicant, appeared, was sworn, and testified at the hearing. No members from the public testified at the hearing.

The application indicates that the subject property is located in the Hershey Mixed Use zoning district. The property is improved with a single family residence, and the applicant proposes to continue that use. The application seeks a variance from the front yard setback for a shed, an accessory structure.

Mr. Furniss testified that his home was built in 1964. His property, which he bought in June 2021, is triangular in that it is surrounded by streets in the front, back, and sides. He desires to construct an 8 feet by 10 feet frame shed on the north side of the property to store lawn equipment and for storage so as to maximize the use of the existing garage for his vehicle. The shed would be 9 feet from the right-of-way. There would be 6 feet between the house and the shed. He considered other locations on the property to construct the shed. Because of the

property's shape, however, he cannot meet the 50 feet setback requirement at any place on the property. In addition, the sewer and gas lines, and existing maple tree limit his options for placement of the shed. He cannot turn the shed to limit his encroachment into the setback because any water would flow into the house. Since he bought the property, the applicant has cleaned up the property and landscaped. He intends to landscape around the shed. He argued that the shed would enhance the curb appeal. According to the applicant, other properties in the neighborhood have sheds. He has spoken with his neighbors who have expressed no concerns with his project.

The Ordinance requires a front yard setback of 50 feet. *See* Ordinance, §225-315, Table 29. 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 triangular shape of the property. There is no evidence on the record that the applicant created this hardship as the home was built in 1964, and the applicant bought the property in 2021. 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 as other neighboring properties have sheds. 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**

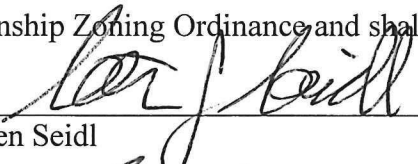
AND NOW, this 17<sup>th</sup> day of November, 2021:


1. The applicant's request for a variance from §225-315, Table 29 regarding the front yard setback for an accessory use is GRANTED. The applicant may encroach to within 9 feet of front yard right-of-way for the proposed shed.

2. 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.

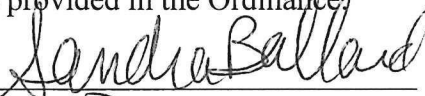
3. Except as extended by applicable law, the relief granted herein shall be valid for one (1) year from the date hereof. In the event the applicant has not, within the time period provided herein, commenced operations, applied for a building permit relative to the improvements where permits are necessary, 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.

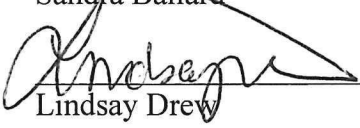
4. Any violation of any condition imposed herein shall be a violation of the Township Zoning Ordinance and shall be enforced as provided in the Ordinance.

  
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Steven Seidl

  
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F. Dean Morgan

  
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Michael Angello

  
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Sandra Ballard

  
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Lindsay Drew