



that it is 38 feet from the side yard property line. Other locations on the property were considered but dismissed as unfeasible. For example, it was recommended that the pool not be any closer to the house or the existing shed and well. Moreover, the applicant anticipates installing a stormwater management system that will have to be a distance from the pool. In addition, the applicant wants to keep the existing trees that line three sides of the property. The property to which the pool would be closest is vacant and wooded. The nearest house is a distance away from the applicant's property because the adjoining properties are very narrow so the houses are set back from the road and applicant's house. The applicant submitted a site plan and photographs, all of which were admitted into the record.

The Ordinance requires a side yard setback of 50 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 applicant is entitled to the requested relief.

Initially, the Board finds that the property is unique because of its narrow, odd shape. 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. 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**

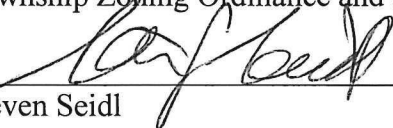
AND NOW, this 15<sup>th</sup> day of December, 2021:

1. The applicant's request for a variance from §225-303, Table 5, regarding the side yard setback for an accessory use is GRANTED. The applicant may encroach to within 38 feet of the side yard property line for the proposed pool.

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.

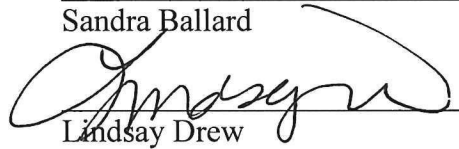
4. Any violation of any condition imposed herein shall be a violation of the Township Zoning Ordinance and shall be enforced as provided in the Ordinance.

  
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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