

200 – 300 feet apart. All of the lot owners will share in the maintenance of the private, common driveway.

Lot 1 as depicted on the applicant's sketch plan is in the northwest corner of the property. This lot has an existing house and two driveway access points directly to Stauffers' Church Road. The house and an agriculture outbuilding have been removed, and a new residence will be constructed. It has not yet been determined whether the barn will be removed. One driveway is macadam and has already been removed by the applicant. The other driveway is gravel, and the applicant intends to remove that driveway as well. All gravel that remains as a result of the structures being removed will be removed from the property and landscaped appropriately.

Instead of using the existing driveways to access Stauffers' Church Road, the applicant proposes that Lot 1 also be served by the common, private driveway. The Lot 1 owner would have a 20 foot driveway easement over the common areas to access the lot. This proposed plan would minimize the connectors to Stauffers' Church Road. Mr. Wright argued that the existing slope of Stauffers' Church Road makes the sight distances from the existing driveway of Lot 1 less safe than the sight distances that would exist from the proposed common, private driveway. The applicant introduced a sight distance exhibit, which was admitted into the record, which indicates that the sight distances increase about 100 feet if the common, private driveway was used instead of existing driveway of Lot 1. If the requested relief is not granted, the applicant will access Lot 1 directly from Stauffers' Church Road, but there will be continued safety issues.

The Ordinance limits the maximum number of dwelling units that can be served by a common driveway to six dwelling units. *See* Ordinance, §225-501.43.B.4. 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 slope of Stauffers' Church Road that makes the sight distances from the existing driveway less safe. 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 19th day of January, 2022:

1. The applicant's request for a variance from §225-501.43.B.4, regarding the maximum number of dwelling units served by a common, private driveway is GRANTED. The applicant may construct a common, private driveway that serves no more than seven dwelling units.

2. The relief granted herein shall be strictly contingent upon the following:

A. The common, private driveway shall be used solely for residential and related residential purposes only.

B. All proposed lots shall be single-family residences.

C. The applicant shall remove all other access to Stauffers' Church Road, particularly the gravel driveway of Lot 1 on the applicant's sketch plan, except for the common,

private driveway. No future access from the property to Stauffers' Church Road, other than the access from the common, private driveway, shall be permitted.

D. The applicant shall remove the gravel from Lot 1 on the applicant's sketch plan.

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.

Adopted by 3 – 0 vote as indicated by the Chairman's signature as authorized by the Zoning Hearing Board.



Steven Seidl, Chairman