

**BEFORE THE DERRY TOWNSHIP ZONING HEARING BOARD**

IN THE MATTER OF: : NO. 2022 – 04  
:   
Matthew Curran and :   
Melinda Curran :   
:   
:   
: PREMISES LOCATION:  
: 2046 Joann Avenue  
: Hummelstown, Derry Township, PA

**MEMORANDUM, FINDINGS, OPINION AND ORDER**

This is the application of Matthew Curran and Melinda Curran with regard to their property located at 2046 Joann Avenue, Hummelstown, Derry Township. A hearing in this matter was held on March 16, 2022, after proper advertising. At that time, the applicants appeared, were 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 R-2 zoning district. The property is improved with a single family residence, and the applicants propose to continue that use. The application seeks a variance from the side yard setback to construct a new garage and woodshop area.<sup>1</sup>

According to the applicants, the existing house was constructed in 1963, and the applicants purchased it in 2014. The house was placed at an approximately 40-degree angle on

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<sup>1</sup> The application also sought a variance from the side yard setback to enlarge the footprint of the residence to enlarge the master bedroom and bathroom and add a walk-in closet. Because a portion of the existing house falls within this side yard setback, it is considered an existing nonconformity. The proposed expansion will not encroach further than already exists into this side yard setback. Because the proposed expansion will be less than 25% of the floor area which existed on January 26, 1993, no relief is necessary. Therefore, the request was withdrawn. See Ordinance, §225-602.A.2.

the lot rather than parallel to the property lines. The proposed garage and woodshop addition will be 12'6" wide x 36'4" long and will be constructed to attach to the right side of the existing house. This placement will cause 8 square feet to extend into the side yard setback, such that the addition will be 12.6' from the side yard property line, resulting in an encroachment of 2.4'.<sup>2</sup> The back of the addition will extend such that it is even with the existing patio in the back yard.

The applicants considered constructing the addition in the back yard, but that placement would result in more impervious coverage. More importantly to the applicants, the addition in the back yard would make it more difficult to supervise their young children when they are playing in the back yard. The applicants argued that their proposed addition would not change the neighborhood because other homes in the area also have attached garages. The applicants submitted a letter from their neighbors, Lawrence and Elain Templin, who live on the side where the addition will be constructed. In their letter, which was admitted into the record, Mr. and Mrs. Templin confirm that they are in agreement with the applicants' requested relief.

The Ordinance requires a side yard setback of 15 feet. *See* Ordinance, §225-305, Table 9, 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;

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<sup>2</sup> The application seeks a variance for relief of 3.4', but the applicants attribute that to an arithmetic error and orally amended their application.

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 applicants are entitled to the requested relief. Initially, the Board finds that the property is unique because of the placement of the residence at an approximately 40-degree angle on the lot. There is no evidence on the record that the applicant created this hardship as the house was built in 1963, but the applicants did not purchase it until 2014. Most significantly, the Board finds that the proposed relief will not have a detrimental impact on any other property in the area or to 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 variances would negatively impact surrounding properties. No neighbors testified in opposition to the application. In fact, the adjacent neighbor on the side where the proposed garage will be built submitted a letter in support of the applicants. 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. *Ordinance*, §225-1007.9.B. Based on the Board's findings and conclusions, the Board adopts the following:

**ORDER**


AND NOW, this 20<sup>th</sup> day of April, 2022:

1. The applicants' request for a variance from §225-305, Table 9, Item E, regarding the side yard setback for a principal use is GRANTED. The applicants may encroach to 12.6 feet of the side yard property line for the proposed garage and woodshop.
2. The applicant's request for a variance from §225-305, Table 9, Item E, regarding the side yard setback for a principal use for the master bedroom and bathroom is WITHDRAWN.
3. 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.
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 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.

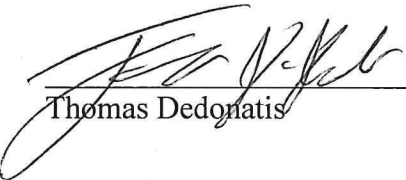
5. Any violation of any condition imposed herein shall be a violation of the Township Zoning Ordinance and shall be enforced as provided in the Ordinance.

  
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Steven Seidl

  
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Sandra Ballard

  
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Lindsay Drew

  
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Michael Angello

  
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Thomas Dedonatis