

intersection of Clark Road and Sylvania Road, with the house facing Clark Road. The residence extends into the setback along Sylvania Road, resulting in its nonconformity. There are no other nonconformities. The residence is serviced by public water and sewer.

The house was built in 1953. It originally contained 1,865.40 square feet. In 2010, the Zoning Hearing Board granted the previous owners a special exception and variance to construct a 910.10 square foot addition, representing a 48.9% expansion of the floor area. It currently contains floor area of approximately 2,775.5 square feet.

Mr. Zuck explained that as a result of him working from home, the applicants wish to construct a 573 square foot addition to their home with a 160 square foot patio. The proposed addition will contain a bedroom, bathroom, and laundry area. The existing den will be enlarged slightly. After the proposed addition, the residence will have 3,348.5 square feet of floor area or an increase of 20.6% of the currently permitted square footage of the residence. Together with the previously permitted 2010 addition, the proposed addition would result in a total increase of 79.5% of the residence's square footage as it existed on January 26, 1993.

The proposed addition will be constructed at the rear of the residence and will be behind a fence. Currently, the existing residence's eastern wall extends into the setback for a horizontal distance of 34.5'. The proposed addition would extend an additional horizontal distance of 28'8", which represents an increase of the horizontal length of the building by 83.1%. The proposed addition will extend into the front setback on Sylvania Road, varying from 3'7" at the northern point and 8'5" at the southern point. Nonetheless, the proposed addition will not

encroach further into the Sylvania Road front yard setback than the existing residence. The proposed addition cannot be moved out of the setback because of an existing exterior staircase.

The existing impervious coverage is 4,970 square feet, and after the proposed addition, the impervious coverage will be 5,662 square feet. Further, the applicants have an active permit to install a deck of 760 square feet around their pool, but no construction of the deck was started at the time of the hearing. Even with the proposed addition and pool deck, the impervious coverage would be 22.5% when the Ordinance permits 40%.

Mr. Zuck argued that if the property was not a corner lot, no relief would be required because the side yard setback would be 5'. He noted that the property was a corner lot when the applicants purchased the property so they could not have created this hardship. He testified that the proposed addition would not alter the essential character of the neighborhood as the addition's style is similar to the style of the existing residence. According to Mr. Zuck, there is no house across from the proposed addition, and there are larger homes in the neighborhood. He confirmed the addition would be constructed within a fence. He argued the applicants requested the minimum relief necessary, and the addition would not result in any other nonconformities. He also testified that the neighbors support the relief requested and have no objection to the addition. The applicants submitted ten letters from the neighbors, verifying that the neighbors have no objection to the applicants' project. All of the neighbors' letters, sketch plans, drawings, and other exhibits were admitted into the record.

The Ordinance requires a front yard setback of 20 feet. *See* Ordinance, §225-315, Table 29, Item D. In addition, the Ordinance limits the expansion of an existing nonconforming

building into a nonconforming yard area to 75% of the horizontal length of the building wall that already encroaches into the yard area. *See* Ordinance, §225-602.B.5. Lastly, the Ordinance prohibits the expansion of an existing nonconforming building by more than 50% of the floor area which existed on January 26, 1993. *See* Ordinance, §225-602.B.2.

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 applicants are entitled to the requested relief. Initially, the Board finds that the property is subject to two front yards, which the Board finds

imposes a unique hardship. 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 proposed addition will not encroach further into the front yard than the existing building's encroachment. There is no testimony in the record to indicate that the requested variances would negatively impact surrounding properties. In fact, many neighbors offered their written consent to the applicants' project. Moreover, the proposed addition will be behind a fence. 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 15th day of June, 2022:

1. The applicants' request for a variance from §225-315, Table 29, Item D, regarding the front yard setback for a principal structure is **GRANTED**. The applicants may encroach 8'5" into the front yard setback along Sylvania Avenue for the proposed addition.

2. The applicants' request for a variance from §225-602.B.5, regarding an expansion of an existing nonconforming structure into a nonconforming yard area that exceeds 75% of the horizontal length of the building wall that already encroaches into the yard area is **GRANTED**. The applicants may extend the eastern wall of the existing structure an additional 28'8" for a increase of the horizontal length of the structure of 83.1%.

3. The applicants' request for a variance from §225-602.B.2, regarding the expansion in the floor area of a nonconforming structure is **GRANTED**. The applicants may expand the floor area an additional 573 square feet to a total of 3,348.50 square feet, representing a total increase of 79.5% of the structure's square feet as of January 26, 1993.

4. 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.

5. Except as extended by applicable law and as provided herein, the relief granted herein shall be valid for one (1) year from the date hereof. In the event the applicants have not,

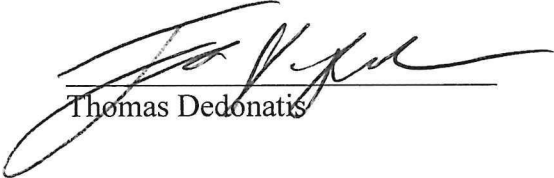
within the time period provided herein, commenced operations, applied for a building permit relative to the improvements where permits are necessary, or constructed the improvements not requiring permits, the relief granted herein shall be deemed to have expired, and the applicants shall be required to comply with the then existing terms of the Zoning Ordinance.

6. 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

Michael Angello


Thomas Dedonatis