

BEFORE THE DERRY TOWNSHIP ZONING HEARING BOARD

IN THE MATTER OF:	: NO. 2022 – 012
	:
Rachel S. Stull	:
	:
	: PREMISES LOCATION:
	: 532 Hilltop Road
	: Hummelstown, Derry Township, PA

MEMORANDUM, FINDINGS, OPINION AND ORDER

This is the application of Rachel S. Stull with regard to the property located at 532 Hilltop Road, Hummelstown, Derry Township, that she owns with Jason Pedaci. A hearing in this matter was held on October 19, 2022, 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 Conservation 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 to construct a shed to store yard care supplies.

The applicant testified that Hilltop Road is steep, and her property has a sloped topography. The rear of the property slopes down to a valley and then slopes back up. In addition, the runoff from Hilltop Road enters the back yard, sometimes leading to saturation of the back yard. The representative Pine Creek Structures, the company constructing the shed, advised the applicant that the shed would deteriorate quickly if it was constructed in the back yard because of the water runoff. The representative also advised that the shed could not be

placed in the back yard due to the topography. Constructing the proposed shed in the back yard would require disturbance of the steep slopes. As a result, the only feasible location for the proposed shed is in the front yard. The other side of the front yard is not feasible because it is sloped and wooded. None of the 100 year old trees will be cut down for the shed, but the shed will back up against an existing tree.

The proposed 10' x 14' shed will be 36 feet from the road and 32.5 feet from the right-of-way. The size of the proposed shed is necessary to accommodate the applicant's 12' kayaks. The shed will be closer to the road than the applicant's house. The neighbor, Lilia B. Reyes, 510 Hilltop Road, whose property will be closest to the shed, submitted a letter in support of the applicant's proposed shed, including the proposed location. The existing trees on the property will prevent Ms. Reyes from seeing the shed from her property. The shed will be in compliance with the required 12' side yard setback.

The Ordinance requires a front yard setback of 50 feet. *See* Ordinance, §225-303, Table 5. 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 sloping topography. 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 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, closest to where the shed would be constructed, submitted a letter in support of the applicant's relief. 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 16th day of November, 2022:

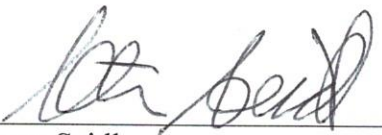
1. The applicant's request for a variance from §225-303, Table 4, regarding the front yard setback for an accessory structure is GRANTED. The applicant may encroach to within 32.50 feet of the front yard property line for the proposed shed.

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

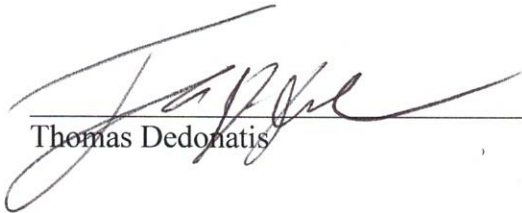
Township Zoning Ordinance and shall be enforced as provided in the Ordinance.


Steven Seidl


Sandra Ballard


Lindsay Drew


Michael Angello


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