

BEFORE THE DERRY TOWNSHIP ZONING HEARING BOARD

IN THE MATTER OF:	: NO. 2023 – 08
	:
Andrew Speacht	:
	:
	: PREMISES LOCATION:
	: 2053 Colonial Way
	: Hummelstown, Derry Township, PA

MEMORANDUM, FINDINGS, OPINION AND ORDER

This is the application of Andrew Speacht with regard to the property he owns with his wife, Nicole Speacht, located at 2053 Colonial Way, Hummelstown, Derry Township. A hearing in this matter was held on July 19, 2023, after proper advertising. At that time, the applicant appeared, was sworn, and 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 applicant proposes to continue that use. The application seeks variances from the side and rear yard setbacks for a shed, an accessory structure.

According to the applicant, the property is irregularly shaped. Further, the property is burdened with a 20 feet easement for stormwater and sewer as well as a drain pipe. The topography of the property is sloped to channel the water to the drain.

The applicant installed a shed 4 feet from the side and rear property lines before realizing that the shed company had not secured the necessary permit. The applicant filed his application for relief within two weeks of the shed being installed without a violation notice being issued or a neighbor making a complaint.

The shed is 10'x12'x11' and is installed on gravel. The applicant also installed a 6 feet privacy fence behind the shed. The neighbor to the rear has trees that, according to the applicant, screen the shed from the rear neighbors. The applicant intends to mulch and landscape around the shed with the assistance of Creek View Landscape, to fix the drainage in the back yard and to further blend the shed in with the landscape.

The applicant spoke with several neighbors who signed a document in support of the current location of the shed. The applicant admits he did not speak with his Carter Cove neighbors to the rear because he thought the neighbors' trees screened the shed. According to the applicants' research, 21 of the 22 accessory structures in the neighborhood are installed on the property lines. The applicant submitted exhibits in support of the requested relief, all of which were admitted into the record.

Erika Gallisdorfer, who resides at 921 Carter Cove, testified at the hearing in this matter. She testified that she lives behind the applicant. Although there are trees screening the properties, she can see the shed through the trees. Ms. Gallisdorfer was not consulted about the applicant's request for a variance from the rear yard setback. Currently, water pools at the rear of her property, including at the wooden, raised flower beds, which abut the applicant's back yard. She is concerned that the shed placement will detrimentally impact the drainage of her property. Ms. Gallisdorfer does not want the applicant's shed 4 feet from her property line.

Michael Katzman, 2054 Colonial Way, testified at the hearing in this matter. He confirmed there is a small swale running along the back of the properties, but property owners

have built things in the swale. He thinks the shed is attractive, and the location makes sense so it is tucked into the corner of the property.

The Ordinance requires side and rear yard setbacks of 10 feet. *See* Ordinance, §225-305, Table 9. 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.

Initially, the Board finds that the applicant's shed did not create his neighbor's drainage issues. The Board recommends that the neighbors work together to resolve the drainage issues of the neighborhood. With respect to the applicant's application, the Board finds that the

applicant is entitled to the requested relief. The Board finds that the property is unique because of its stormwater and sewer easements as well as the sloping topography to channel stormwater to the drain. 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 variance would negatively impact surrounding properties. Finally, based on the particular facts of this case and in light of the applicant coming forward immediately upon learning that a permit had not been obtained, the Board finds that this represents the minimum relief necessary.

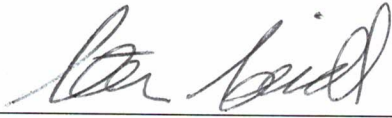
In granting any variance, the Zoning Hearing Board may attach such reasonable conditions and safeguards as it deems necessary to implement the purposes of the Pennsylvania Municipalities Planning Code, and the Ordinance. *Ordinance*, §225-1007.9.B. Based on the Board's findings and conclusions, the Board adopts the following:

ORDER

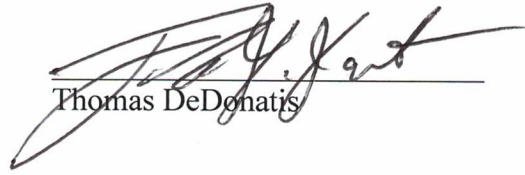
AND NOW, this 16th day of August, 2023:

1. The applicant's request for a variance from §225-305, Table 9 regarding the side and rear yard setbacks for an accessory structure is GRANTED. The applicant may encroach to within 4 feet of the side and rear yard property lines for the shed.
2. The applicant shall maintain the improvements in strict compliance with the plans and specifications submitted to the Board during the hearing of this matter.

3. 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



Thomas DeDonatis

William Tafuto