

BEFORE THE DERRY TOWNSHIP ZONING HEARING BOARD

IN THE MATTER OF: : NO. 2023 - 10
:
John A. Gildersleeve and :
Bonnie S. Gildersleeve :
:
:
: PREMISES LOCATION:
: 1081 Greenlea Road
: Hershey, Derry Township, PA

MEMORANDUM, FINDINGS, OPINION AND ORDER

This is the application of John A. Gildersleeve and Bonnie S. Gildersleeve with regard to their property located at 1081 Greenlea Road, Hershey, Derry Township. A hearing in this matter was held on August 16, 2023, 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 Hershey Mixed Use 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 20' x 30' detached garage.

The property is a corner lot that is located at the intersection of Greenlea Road and Governor Road (Route 322). In addition, the property is burdened by a right-of-way for Governor Road, which limits the available buildable space on the property. In this instance, the right-of-way is 80 feet wide. Under the Ordinance, with the 40 feet wide right-of-way from the centerline of Governor Road combined with the 50 feet setback, the proposed garage must be 90 feet from the centerline of Governor Road. Instead, the applicants propose to construct the

proposed garage at the end of the existing concrete driveway. As a result, the proposed garage would be 7 feet from the right-of-way, but it would be more than 30 feet from the edge of the road. According to the applicants, the proposed garage would not extend into the back yard much further than the existing sunroom.

The applicants wish to construct the detached garage to park a vehicle and store equipment such as a lawn mower, snow thrower, and power washer. While the existing house has an attached two car garage, the applicants admit to having too many cars so a smaller garage is not ideal. Similarly, the applicants did not want a shed to store their equipment because they want to be able to park a vehicle in the proposed garage rather than parking in the driveway. The garage will have electric but will not have water. The applicants confirmed that the color of the proposed garage would match the color of the existing home. They argued that proposed garage would be only partially visible to the public as an existing 12 feet wide shrub wall blocks the view of the property from Governor Road.

The Ordinance requires a front yard setback of 50 feet. *See* Ordinance, §225-315, Table 29. 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 as a corner lot burdened by a large right-of-way. 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. No neighbors testified in opposition to the application. According to the applicants, the neighbor behind the applicant, who would be most affected by the proposed garage, agreed with the requested relief. Finally, 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 20th day of September, 2023:

1. The applicants' request for a variance from §225-315, Table 29, regarding the side yard setback for an accessory structure is GRANTED. The applicant may encroach to within 7 feet the road right-of-way for the proposed garage.

2. 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.

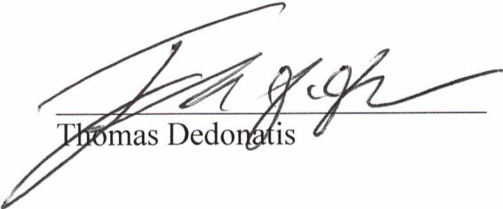
3. Except as extended by applicable law, the relief granted herein shall be valid for one (1) year from the date hereof. In the event the applicants have not, within the time period provided herein, commenced operations, applied for a building permit relative to the improvements where permits are necessary, 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.

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



Thomas Dedonatis

Lindsay Drew