



that now requires a rear yard setback of 10 feet. Mr. Wolesslagle testified that the greenhouse would cover the handhole if constructed 10 feet from the rear property line. In addition, the applicant considered rotating the placement of the greenhouse 90 degrees, but there is not sufficient space between the pool pump and property line. The applicant submitted letters from two adjacent property owners, neither of whom had any objection to the greenhouse's proposed location. In addition, the applicant submitted pictures of the property and a depiction of the greenhouse. All of the applicant's exhibits were admitted into the record.

The Ordinance requires a rear yard setback of 10 feet for an accessory structure. *See* Derry Township Zoning Ordinance, §225-315, Table 29. 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, creating an unnecessary hardship, because of the small yard and existing obstacles to construction. There is no evidence on the record that the applicant created the hardship. 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. There is no testimony in the record to indicate that the requested variance would negatively impact the surrounding properties. No neighbors testified in opposition to the application. 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 15 day of May, 2024:

1. The applicant's request for a variance from §225-315, Table 29, regarding the rear yard setback for an accessory structure is GRANTED. The applicant may encroach to within 5 feet of the rear yard property line for the proposed greenhouse.

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.

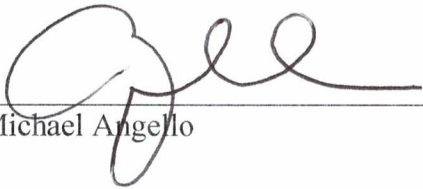
3. Except as extended by applicable law, the relief granted herein shall be valid for one (1) year from the date hereof. In the event the applicant has not, within the time period provided herein, commenced operations, applied for a building permit relative to the improvements where permits are necessary,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

Thomas DeDonatis



Michael Angello



William Tafuto