

BEFORE THE DERRY TOWNSHIP ZONING HEARING BOARD

IN THE MATTER OF:	: NO. 2024 - 13
	:
Frank Nardo	:
	:
	: PREMISES LOCATION:
	: 207 Cedar Avenue
	: Hershey, Derry Township, PA

MEMORANDUM, FINDINGS, OPINION AND ORDER

This is the application of Frank Nardo with regard to the property he owns with his wife, Jodie Nardo, located at 207 Cedar Avenue, Hershey, Derry Township. A hearing on this matter was held on May 15, 2024, 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 Hershey Mixed Use zoning district. The property is improved with a single-family residence with a foundation for an attached garage, and the applicant proposes to continue that use. The application seeks a variance to construct the garage on the existing foundation.

In August 2022, the applicant expanded his existing two car garage to a three car garage. At that time, the foundation for the expansion was installed. According to the Ordinance in effect at that time, all of the improvements were in compliance with the zoning regulations. Because the Ordinance has recently been amended, the foundation is now located in the setback. As a result, the property is now nonconforming. In order to do any development, including constructing the garage walls for the expanded garage, a variance is required. The expanded garage will match the house and existing garage. It will be 23 feet in height. No living space will be available in the

garage. Because the garage is attached to the house through a breezeway porch, a variance is required. If the garage was detached, a variance would not be necessary.

The Ordinance prohibits the expansion of an existing nonconforming structure by more than 75% of the vertical height of the existing encroachment. *See* Derry Township Zoning Ordinance, §225-602. 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 approval of the foundation prior to the Ordinance change that now makes the existing foundation

nonconforming. 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:

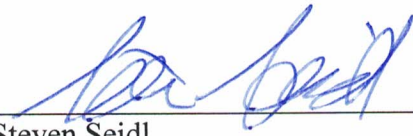
ORDER

AND NOW, this 18th day of June, 2024:


1. The applicant's request for a variance from §402.602, regarding the expansion of an existing nonconforming structure is GRANTED. The applicant may construct the proposed garage to 23 feet in height.
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.

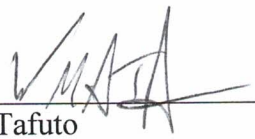
4. Any violation of any condition imposed herein shall be a violation of the Township Zoning Ordinance and shall be enforced as provided in the Ordinance.



Steven Seidl



Michael Angello



William Tafuto

Joseph Nocera