

**IN RE:
APPLICATION OF
DANIEL & KERRY REED**

**BEFORE THE ZONING HEARING BOARD
OF TREDYFFRIN TOWNSHIP,
CHESTER COUNTY, PENNSYLVANIA**

APPEAL NO. 07-19

DECISION

The Zoning Hearing Board of Tredyffrin Township (the "Board"), after proper advertisement, met on Thursday, February 28, 2019 to hear evidence on the Application of Daniel & Kerry Reed (collectively, the "Applicants") for a variance for the property located at 207 Hillcrest Road, Wayne PA, 19087, being Tax Parcel No.43-11F-72 (the "Property"). The requested variance is from §208-26.D of the Zoning Chapter of the Tredyffrin Township Code of Ordinances (the "Code") to permit a proposed addition to encroach fourteen (14) feet into the front yard setback. The Applicants were represented by James J. Greenfield, Esquire. Ms. Reed testified on behalf of the Application.

Present at the hearing were Chairperson Daniel McLaughlin and Members Tara LaFiura, Neill Kling, and Mark Sheppard. Also present at the hearing were Michael Pilotti, Senior Building, Code & Fire Official, and Amanda J. Sundquist, Esquire, Solicitor for the Board. No one sought party status or offered public comment to the Board.

The Board rendered its decision at the conclusion of the February 28, 2019 hearing and the Applicants waived the Municipalities Planning Code ("MPC") time period for delivery of a written decision.

I. Findings of Fact

1. The following exhibits were admitted as evidence at the hearing:
Exhibit B-1 Application dated February 4, 2019 with attachments;

- Exhibit B-2 Proof of Publication of the notice in the Daily Local News on February 6, 2019 and February 13, 2019;
- Exhibit B-3 Affidavit of Posting of the notice on the Property;
- Exhibit B-4 Affidavit of Mailing of notice to the required properties;
- Exhibit A-1 Proposed Site Plan C-1, Progress Set February 4, 2019;
- Exhibit A-2 Tredyffrin Township Zoning Hearing Board Appeal #48-04, Decision and Order;
- Exhibit A-3 Photograph of a nearby property with a similar addition;
- Exhibit A-4 Photograph of the Property from Hillcrest;
- Exhibit A-5 Photograph of the front of the Property;
- Exhibit A-6 Photograph of the existing garage;
- Exhibit A-7 Photograph of the rear of the existing home;
- Exhibit A-8 Proposed elevation; and
- Exhibit A-9 Five (5) letters from neighboring property owners.

The Code and Zoning Map are incorporated herein by reference.

2. The hearing was duly convened, and the Applicants presented evidence in support of the Application.

3. The Applicants and owners of the Property are Daniel and Kerry Reed. Exh. B-1.

4. The Property is located at 207 Hillcrest Road, Wayne PA, 19087, being Tax Parcel No. 43-11F-72. N.T. at 7; Exh. B-1.

5. The Property is located at the intersection of Hillcrest and Homestead Roads. N.T. at 7; Exh. A-1.

6. The Property is located in the R-2 Residence Zoning District. N.T. at 7; Exh. B-1.

7. The Property is a nonconforming lot with a gross lot area of 17,106 square feet and a net lot area of 12,644 square feet. N.T. at 7; Exh. A-1.

8. The existing single-family home is nonconforming as to front yard setback on Homestead Road, as it encroaches one (1) foot into the front yard setback. N.T. at 7.

9. The Property is currently improved with an existing single-family home, driveway, one-car garage, shed, and patio. Exh. A-1.

10. The Applicants propose to add a 405 square foot addition to the existing home. Exh. A-1.

11. The proposed addition is to be located on the South side of the Property along Homestead Road. N.T. at 11; Exh. A-1.

12. The proposed addition will increase the existing garage's width by fourteen (14) feet and its depth by four (4) feet. Exhs. B-1, A-1.

13. The proposed addition will result in a two-car garage with second story living space. N.T. at 7, 11; Exhs. B-1, A-1.

14. The Property has two front yards, one on Hillcrest Road and one on Homestead Road. Exh. A-1.

15. The front door of the existing single-family dwelling on the Property faces Hillcrest Road. N.T. at 7; Exh. A-1.

16. While it would appear that the South side of the Property facing Homestead Road is a side yard, it is actually a front yard; therefore, the proposed addition would result in a fourteen (14) foot encroachment into the front yard setback. N.T. at 7.

17. If the South side of the Property were considered to be a side yard, the proposed addition would be compliant with the Code. N.T. at 8.

18. There are slopes in both front yards of the Property. N.T. at 8.
19. If the proposed addition were built in the rear of the existing home, the Applicants would be required to construct a considerable driveway, remove an existing tree, and impact the grading of an existing hill. N.T. at 20,
20. The tree directly to the right of the existing garage is not proposed to be removed. N.T. at 15, 18.
21. The proposed addition will be consistent with the current frame structure and brick façade of the existing single-family home. Exh. B-1.
22. No one appeared to oppose the Application.
23. The Applicants submitted five (5) letters from nearby neighbors supporting the Application. Exh. A-9.
24. Bo Tarlecky appeared to offer comment on the Application, and expressed general concerns regarding stormwater runoff.
25. The proposed variance will not alter the character of the neighborhood.
26. Granting the proposed variance will not be injurious to the neighborhood or otherwise detrimental to the public health, safety and welfare of the community.

II. Discussion

Section 208-150 of the Code empowers the Board to grant variances from the terms of the Code. The Municipalities Planning Code and existing case decisions provide that variances from a zoning ordinance may be granted owing to any physical circumstance or condition of the property which causes unnecessary hardship, and which hardship is not self-created. In addition, applicants for a dimensional variance need not be held to the same strict standards imposed on

applicants for a use variance. Hertzberg v. Zoning Board of Adjustment of the City of Pittsburgh, 721 A.2d 43 (Pa. 1998).

The Property here is constrained by the designation of two front yards. But for the corner lot location, the proposed addition would be in compliance with the Code. Locating the proposed addition in another location on the Property would result increased impervious coverage and tree removal. The immediate neighbors to the Property are in support of the Application. Granting the proposed variance will not be injurious to the neighborhood or otherwise detrimental to the public health, safety and welfare of the community.

III. Conclusions of Law

1. The hearing was duly advertised, all required notices were given, and the hearing was duly convened.
2. The Board has jurisdiction over this matter.
3. The Applicants have established entitlement to the requested variance relief, provided the Applicants comply with the conditions set forth in the Order.

The Board, therefore, enters the following:

ORDER

AND NOW, this 28th day of March, 2019, confirming its oral decision on February 28, 2019, upon consideration of the Application of Daniel and Kerry Reed for a variance from §208-26.D of the Zoning Chapter of the Tredyffrin Township Code of Ordinances to permit a proposed addition to have a front yard setback on Homestead Road of twenty (20) feet rather than the required thirty five (35) feet for the property located at 207 Hillcrest Road, Wayne PA, 19087, being Tax Parcel No.43-11F-72, in the R-2 Residence District of the Township, IT IS HEREBY ORDERED that the relief requested shall be GRANTED, subject to the conditions that

the proposed use shall be conducted in substantial conformity with the evidence and testimony presented to the Board and the Applicants shall comply with all other federal and state statutes and regulations and Township ordinances and regulations.

ZONING HEARING BOARD OF
TREDYFFRIN TOWNSHIP


DANIEL McLAUGHLIN, Chairperson


TARA LaFIURA


NEILL KLING


MARK SHEPPARD