IN RE: APPLICATION OF 675 SWEDESFORD ROAD, LLC
BEFORE THE ZONING HEARING BOARD OF TREDYFFRIN TOWNSHIP, CHESTER COUNTY, PENNSYLVANIA APPEAL NO. 15-19

DECISION

The Zoning Hearing Board of Tredyffrin Township (the "Board"), after proper advertisement, met on Thursday, August 22, 2019, to hear evidence on the Application of 675 Swedesford Road, LLC (the "Applicant") for a variance from Section 208-103.F(6) of the Zoning Ordinance of Tredyffrin Township (the "Code") to permit a parapet screening wall for the parking garage to be 42 inches where 60 inches is required at the property located at 675 East Swedesford Road, being Tax Parcel No. 43-6F-13 (the "Property"). The Applicant was represented by Debra Shulske, Esquire. Robert J. Dwyer and John Bakaysa, R.A., testified on behalf of the Application.

Present at the hearing were Chairperson Daniel McLaughlin, and Members Neill Kling, Tara LaFiura, 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.

The record was closed at the conclusion of the August 22, 2019 hearing and the hearing was continued to September 26, 2019 for the purpose of rendering this decision.

I. Findings of Fact

1. The following exhibits were admitted as evidence at the hearing:
   
   Exhibit B-1 Application with attachments;
   
   Exhibit B-2 Proof of Publication of the notice in the Daily Local News;
   
   Exhibit B-3 Affidavit of Posting of the notice on the Property;
   
   Exhibit B-4 Affidavit of Mailing of notice to the required properties;

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Exhibit A-1  Zoning Hearing Board Application;
Exhibit A-2  Property Deed;
Exhibit A-3  C.V. of John Bakaysa, R.A.;
Exhibit A-4  Rendered Site Plan prepared by Nave Newell dated May 31, 2019;
Exhibit A-5  Architectural Parking Garage Rendering and garage sewer wall
details prepared by D2 Group, LLC;
Exhibit A-6  Preliminary Land Development approval letter dated May 22,
2019; and

The Code and Zoning Map are incorporated herein by reference.

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

3. The Property is located at 675 East Swedesford Road, Tax Parcel No. 43-6F-13.
   (Exh. B-1).

4. The Property is located in the O Office and TCO Trout Creek Stormwater
   Overlay Zoning Districts. (Exh. B-1).

5. The Applicant is the owner of the Property. (Exh. A-2).

6. The Applicant intends to construct an office building and associated
   improvements, including a parking structure on the Property. (N.T. 8-9; Exhs. A-6, A-7).

7. The Property is currently vacant except for a small utility building owned by
   Verizon. (N.T. 9).

8. The Property is approximately 10 acres. (N.T. 8).
9. Section 208-103.F(6) of the Code requires a parapet screening wall for the parking garage to be 60 inches and the Applicant proposes a 42 inch parapet screening wall.

10. In order to comply with the Code, the Applicant would have to obtain a custom-made barrier, which would be costly. (N.T. 12-13).

11. Forty-two (42) inches is compliant with the building codes. (N.T. 13-14, 19).

12. Forty-two (42) inches is industry standard. (N.T. 14, 19).

13. A 42 inch wall would block the headlights of most intended users of the parking structure. (N.T. 18-19).

14. A 60 inch wall would be appropriate to block headlights for a tractor trailer, which is not the intended user for the parking garage. (N.T. 13).

15. A 60 inch wall may potentially block the views of people entering and exiting the garage. (N.T. 13).

16. The wall would not be weakened if it was decreased in size. (N.T. 22).

17. The parking structure has been designed to align with the grade of the site. (N.T. 18).

18. The parking structure is buried into the site due to the topography so that it is directly adjacent to on-grade parking. (N.T. 18).

19. The Applicant has received preliminary and final land development approval. (Exhs. A-6, A-7).

20. The Township’s Planning Commission recommended approval of the variance. (Exh. A-6).

21. John Bakaysa was accepted as an expert in commercial architecture.

22. No one sought party status.
23. No one offered public comment.

24. The proposed relief will not alter the character of the neighborhood.

25. Granting the proposed relief 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 Applicants seek a variance to permit a parking structure parapet wall to be 42 inches rather than the required 60 inches. Forty-two inches is the industry standard and what is required by the building codes. Forty-two inches is sufficient to block the headlights of the intended users of the garage. There is also a concern that a compliant parapet wall may make it more difficult for people entering and exiting the garage to see clearly pedestrians and other vehicles. 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. John Bakaysa was admitted as an expert in commercial architecture.

4. The Applicant has established entitlement to a variance from Section 208-103.F(6) to permit a 42 inch parapet wall for the parking garage provided the Applicant complies with the conditions set forth in the Order.

The Board, therefore, enters the following:

**ORDER**

AND NOW, this 26th day of September, 2019, upon consideration of the Application of 675 Swedesford Road, LLC for relief to construct a 42 inch parapet wall on the property located at 675 East Swedesford Road, being Tax Parcel No. 43-6F-13, in the O Office District of the Township, IT IS HEREBY ORDERED that the requested variance from Section 208-103.F(6) to permit a 42 inch parapet wall shall be GRANTED, subject to the following conditions:

1. The proposed project shall be consistent with the testimony and evidence presented to the Board.

2. The Applicant shall comply with all other Township ordinances, rules, and regulations and all other federal, state and local laws and regulations.

**ZONING HEARING BOARD OF TREDYFFRIN TOWNSHIP**

[Signatures]

Daniel McLaughlin, Chairperson

Netti Kling

Tara LaFiura

Mark Sheppard