IN RE: APPLICATION OF PETER ARNDT & ALINA BOISSAY
BEFORE THE ZONING HEARING BOARD OF TREDFRIN TOWNSHIP, CHESTER COUNTY, PENNSYLVANIA

APPEAL NO. 18-19

DECISION

The Zoning Hearing Board of Tredyffrin Township (the “Board”), after proper advertisement, met on Thursday, October 24, 2019 to hear evidence on the Application of Peter Arndt and Alina Boissay (the "Applicants") for a variance for the property located at 1202 Old Lancaster Road, being Tax Parcel No. 43-10K-9.1 (the “Property”). The requested variance is from Section 208-22.C of the Zoning Chapter of the Tredyffrin Township Code of Ordinances (the “Code”) to permit 38% impervious coverage where 30% is the maximum which is permitted. The Applicants represented themselves. Peter Arndt and Dominic DiCisare testified on behalf of the Application.

Present at the hearing were Chairperson Daniel McLaughlin and Members Neill Kling and Julianne Peck. 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.

At the conclusion of the hearing, the Board took the matter under advisement until its November 20, 2019 meeting, where it rendered the herein Decision and Order.

I. Findings of Fact

1. The following exhibits were admitted as evidence at the hearing:

   Exhibit B-1 Application with attachments;

1 The Applicants also had sought a variance from Section 208-22.B to permit a 23 foot side yard. However, the Applicants withdrew the second variance request at the hearing, so only the request for a variance from Section 208-22.C was considered by the Board.
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.  

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 Property is located at 1202 Old Lancaster Road, Tax Parcel No. 43-10K-9.1. (Exh. B-1).  

4. The Applicants and owners of the Property are Peter Arndt and Alina Boissay. (Exh. B-1).  

5. The Property is approximately 0.5 acres.  

6. The Property is located in the R-1 Zoning District.  

7. The Property is currently improved with an existing single-family home, a driveway and a deck. (Exh. B-1).  

8. The Applicants propose to construct an 11 feet by 33 feet swimming pool on the Property. (Exh. B-1).  

9. The proposed pool is a small pool by industry standards.  

10. The proposed pool would be constructed in the side yard.  

11. The proposed pool would not encroach into the side yard setback.  

12. The proposed pool would require the removal of the existing deck stairs which would be relocated on the Property.  

13. The proposed pool would be enclosed by a fence as required by the relevant ordinances and codes.
14. The Property has approximately 4,000 square feet of slopes, which are excluded from the net lot area calculation.

15. The Property is a flag lot.

16. The approximately 4,000 square feet “flag” portion of the Property is excluded from the net lot area calculation due to its narrow width.

17. The Property has a very long driveway as it must be located in the flag portion of the lot.

18. The Zoning Ordinance permits impervious coverage of 30%.

19. In 2010 the Applicants received a variance to permit 48% impervious coverage to permit the existing driveway.

20. The driveway was constructed.

21. Since the driveway was constructed, the Applicants have taken steps to reduce the impervious coverage on the Property, such as:
   a. Reduced the deck size by approximately one-half;
   b. Removed stone surfaces;
   c. Leveled certain steep slopes; and
   d. Received an approved storm water management and grading permit for a 90 square foot infiltration bed.

22. If approval for the proposed pool is received, the impervious coverage on the Property will be 38%, which is 10% less than then previously approved by this Board.

23. No one offered public comment.

24. No one appeared to oppose the Application.

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 is a flag shaped lot with substantial slopes. The Board appreciates the Applicants’ effort to reduce the impervious coverage on the Property from 48% to 38%, such that the requested variance relief is the minimum necessary. 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 Applicant has established entitlement to the requested variance relief.

The Board, therefore, enters the following:
ORDER

AND NOW, this 20th day of November, 2019, upon consideration of the Application of Peter Arndt and Alina Boissay for a variance from §208-122.D to permit 38% impervious coverage for a proposed swimming pool on the property located at 1202 Old Lancaster Road, being Tax Parcel No. 43-10K-9.1, in the R-1 Residence District of the Township, IT IS HEREBY ORDERED that the relief requested shall be GRANTED.

ZONING HEARING BOARD OF
TREDYFFRIN TOWNSHIP

DANIEL McLAUGHLIN, Chairperson

NEILL KLING

JULIANNE PECK