IN RE:
APPLICATION OF
BERWYN NAILS &
JARAMILLO HOME IMPROVEMENT

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

APPEAL NO. 20-19

DECISION

The Zoning Hearing Board of Tredyffrin Township (the “Board”), after proper advertisement, met on Wednesday November 20, 2019 to hear evidence on the Application of Berwyn Nails & Jaramillo Home Improvement (the "Applicants") for a variance and a special exception for the property located at 885 Lancaster Avenue, being Tax Parcel No. 43-10L-54 (the “Property”). The requested variance is from Section 208-62 of the Zoning Chapter of the Tredyffrin Township Code of Ordinances (the “Code”) to permit an in-line extension of the front of the building within the front yard setback and a special exception under Section 208-99.B(1) to permit an expansion of the existing nonconforming apartment use. The Applicants were represented by Brian L. Nagle, Esquire. John Nguyen and James Jarmillo testified on behalf of the Application.

Present at the hearing were Chairperson Daniel McLaughlin and Members Tara LaFiura, 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 or offered public comment.

At the conclusion of the hearing, the Board rendered the herein decision. The Applicants waived the time period for issuance of this written 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
Exhibit A-1  Application for Special Exception
Exhibit A-2  Deed for the Property
Exhibit A-3  Aerial
Exhibit A-4  Existing Conditions Plan
Exhibit A-5  Project Site Plan
Exhibit A-6  Email from M. Baumann and Planning Commission Minutes
Exhibit A-7  Street View Aerial

The Code and Zoning Map are incorporated herein by reference.

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

3.  The Property is located at 885 Lancaster Avenue, being Tax Parcel No. 43-10L-54.

4.  The Property is irregularly shaped.

5.  The Owner of the Property is John Nguyen.

6.  Mr. Nguyen has owned the Property for 17 years and currently resides on the Property in the apartment.

7.  Currently located on the Property is a two story building and a parking lot.

8.  The orientation of the existing building to the street is unusual.

9.  The first floor of the building is a nail salon.

10. The second floor of the building is a legally nonconforming apartment.
11. The Applicants propose a 2 story expansion of the existing building to the northwest (rear) of the existing building, which result in an increase to 2135 square feet from 1229 square feet.

12. Currently, the existing building has a zero foot front yard setback.

13. In order to improve the façade of the building, the Applicant requires a variance to permit an in-line expansion of the zero foot front yard setback; which is effectively an extension of less than 2 feet.

14. The in-line expansion will not only permit continuity between the existing building and proposed expansion, but also improve the bay window.

15. In order to expand the existing legally nonconforming apartment, the Applicants seek a special exception.

16. The existing apartment is a single unit and will remain a single unit.

17. As part of the expansion, the Applicants intend to update and modernize the nail salon.

18. The Applicants do not anticipate an increase in traffic as a result of the expansion.

19. There is ample parking on the Property.

20. No one offered public comment.

21. No one appeared to oppose the Application.

22. The proposed variance will not alter the character of the neighborhood.

23. 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 proposed in-line extension of the building façade into the zero foot front yard setback of less than 2 feet is a de minimis dimensional variance. It is necessary to permit the improvement to the façade and the bay window.

The Applicants also require a special exception under Section 208-99.B(1), as the existing apartment use is nonconforming. The Board finds that the Applicants meet the criteria for a special exception. The apartment will remain as a single unit and there is adequate parking on-site for a single apartment unit.

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 de minimis variance relief.

4. The Applicants have established entitlement to the requested special exception.

The Board, therefore, enters the following:
ORDER

AND NOW, this 18th day of December, 2019, confirming the Board’s written decision of November 20, 2019, upon consideration of the Application of Berwyn Nails/Jaramillo Home Improvement for a:

(1) variance from Section 208-62 of the Code to permit an in-line extension of the building façade into the zero foot front yard setback of less than 2 feet; and

(2) special exception under Section 208-99.B(1) of the Code to permit an expansion of the existing legally nonconforming apartment

at the property located at 885 Lancaster Avenue, being Tax Parcel No. 43-10L-54, in the C-1 Commercial District of the Township, IT IS HEREBY ORDERED that the relief requested shall be GRANTED.

ZONING HEARING BOARD OF TREDYFFRIN TOWNSHIP

DANIEL McLAUGHLIN, Chairperson

TARA LaFIURA

NEILL KLING

JULIANNE PECK