

**IN RE:
APPLICATION OF
RYAN & LAURA GOLDENBERG**

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

APPEAL NO. 09-25

DECISION

The Zoning Hearing Board of Tredyffrin Township, Chester County, Pennsylvania (the “Board”), after proper advertisement, met on Thursday, March 27, 2025, to hear evidence on the application (the “Application”) of Ryan and Laura Goldenberg (the “Applicants”) for the property located at 740 Bair Road, Berwyn, PA 19312 (UPI No. 43-10G-37.2) (the “Property”) in the R-1 Residential Zoning District of Tredyffrin Township (the “Township”). The Applicants seek a dimensional variance from Section 208-22.F of the Tredyffrin Township Code of Ordinances (the “Code”) to permit a 19.2-foot rear-yard setback for an addition where a 25-foot rear-yard setback is otherwise permitted.

Present at the hearing were Chairman Daniel McLaughlin, Vice Chairman Robyn Forbes Drucker, Member Bradford Murphy, and Alternate Member Edward Sweeney.¹ Also present at the hearing were Erin McPherson, Director of Planning and Zoning and Zoning Officer for the Township; and Amanda J. Sundquist, Esquire, Solicitor for the Board.

The Applicants were represented by David Scaggs, Esquire. Ms. Goldenberg, Christopher C. Yohn, P.E., the Applicants’ engineer, and Melissa Reilly, the Applicants’ designer testified on behalf of the Application. No one sought party status or provided public comment.

At the conclusion of the hearing, the Board took the Application under advisement until its April 24, 2025 meeting. At the April 24, 2025 meeting, by a 3 to 0 vote, the Board granted the requested relief subject to conditions as set forth in the herein Decision and Order.

¹ Mr. Sweeney participated in the hearing, but did not vote on the matter.

I. Findings of Fact

1. The foregoing recitals are incorporated herein as if fully set forth.
2. The Board held a duly convened hearing and provided proper public notice of the same.
3. The Applicants presented testimony and documentary evidence in support of the Application.
4. The Board admitted the following exhibits as evidence at the hearing:

Board's Exhibits:

- Exhibit B-1 Zoning Application, with supporting documentation, dated February 12, 2025;
- Exhibit B-2 Proof of Publication of the notice in the *Daily Local News* on March 12, 2025, and March 19, 2025;
- Exhibit B-3 Affidavit of Mailing Notice to the neighboring property owners on February 10, 2025; and
- Exhibit B-4 Affidavit of Posting dated March 10, 2025.

Applicants' Exhibits:

- Exhibit A-1 Deed;
- Exhibit A-2 Zoning plan;
- Exhibit A-3 Design and elevation plans;
- Exhibit A-4 ChescoViews image; and
- Exhibit A-5 Correspondence from neighboring property owners.

The Code and Township Zoning Map are incorporated herein by reference.

5. The Property is located at 740 Bair Road, Berwyn, PA 19312 (UPI No. 43-10G-37.2).
6. The Applicants own and reside on the Property.

7. The Property is located in the Township's R-1 Residential Zoning District.
8. The Property is irregular in shape, with a reflex angle in the rear yard of the Property, as depicted on Exh. A-2.
9. The Property is bound to the west by Bair Road; and on all other sides by residential properties.
10. The Property contains a single-family dwelling, walkways, a driveway, and patio.
11. The dwelling is situated toward the southeast corner of the Property, resulting in a small and irregularly shaped rear yard.
12. The Applicants did not select the location of the existing dwelling on the Property.
13. The Applicants propose to remove the existing deteriorating patio and replace it with a similarly sized patio.
14. The Applicants propose to construct a 13 foot by 13 foot (169 sq. ft.) three-season screened-in porch in the small building addition to the rear of the existing home, as well as construct an expanded patio, walls, and walkways on the Property.
15. The existing home as a rear-yard setback at its closest point of 27.7 feet.
16. A corner of the proposed addition (32 sq. ft.) has a rear-yard setback at its closest point of 19.2 feet.
17. Code Section 208-22.F states: "Rear yard. There shall be a rear yard, the depth of which shall be at least 25 feet."
18. As a result, the Applicants require a dimensional variance to permit for a 5.8 foot encroachment into the rear yard.
19. The proposed addition cannot be located on the west side of the home due to the existing driveway.

20. The proposed addition cannot be moved away from the rear yard into the side yard due to the existing chimney, electric meter, air conditioning unit, and generator in that area.

21. Other homes in the neighborhood have sun rooms.

22. Christopher Yohn, P.E., was admitted as an expert in civil engineering.

23. Melissa Reilly was admitted as an expert in landscaping and exterior design.

24. No one appeared to seek party status.

25. No one appeared to offer public comment.

26. The Applicants submitted letters of support for the Application from various neighbors.

27. Granting the requested variance will not alter the essential character of the neighborhood, be injurious to the neighborhood or otherwise detrimental to the public health, safety, and welfare of the community.

28. Granting the requested variance will not substantially or permanently impair the use or development of adjacent properties.

II. Discussion

Code Section 208-150 empowers the Board to grant variances from the terms of the Code. To be entitled to a variance, an applicant must meet the requirements of Section 910.2 of the MPC (53 P.S. § 10910.2) and Section 208-150.B of the Township Code, each of which contains the following standards for the grant of a variance:

1. unique physical circumstances peculiar to the subject property, which create an unnecessary hardship to the property;
2. such physical circumstances prevent development of the property in strict conformity with the provisions of the zoning ordinance;
3. the hardship is not self-created;

4. the variance, if authorized, will not alter the essential character of the neighborhood, substantially impair neighboring properties, or otherwise detract from the public welfare; and
5. the variance is the minimum to afford relief.

“The reasons for granting a variance must be substantial, serious and compelling,” and “[t]he party seeking the variance bears the burden of proving that (1) unnecessary hardship will result if the variance is denied, and (2) the proposed use will not be contrary to the public interest.” Valley View Civic Ass'n v. Zoning Bd. of Adjustment, 462 A.2d 637, 640 (Pa. 1983) (internal citations omitted; alteration added). The Pennsylvania Supreme Court in Hertzberg v. Zoning Bd. of Adjustment of City of Pittsburgh established a more “relaxed standard” when addressing the “unnecessary hardship” criterion in regard to dimensional variances. 721 A.2d 43, 47 (Pa. 1998).

The Applicants seek to construct a 13 foot by 13 foot addition to the existing home. At its closest point, the proposed addition encroaches 5.8 feet into the rear yard of the Property, which requires a dimensional variance. The Property is irregularly shaped with a reflex angle in the rear yard. In addition, the placement of the existing home toward the rear of the Property and on an angle exacerbates the impact of the reflex angle of the rear property line. The Applicants did not locate the home on the Property.

The Applicants provided support letters from their neighbors. Other homes in the community have similar additions. Granting the requested variance will not alter the essential character of the neighborhood, be injurious to the neighborhood or otherwise detrimental to the public health, safety, and welfare of the community. Further, granting the requested variance will not substantially or permanently impair the use or development of adjacent properties. As a result, the Applicants have meet their burden of proof for the requested dimensional variance relief.

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. Christopher Yohn, P.E., was admitted as an expert in civil engineering.
4. Melissa Reilly was admitted as an expert in landscaping and exterior design.
5. The Applicants have established entitlement to the requested dimensional variance from Code Section 208-22.F. to permit a 19.2-foot rear-yard setback.

The Board, therefore, enters the following:

ORDER

AND NOW, this 24th day of April, 2025, upon consideration of the Application of Ryan and Laura Goldenberg for the Property located at 740 Bair Road, Berwyn, PA 19312 (UPI No. 43-10G-37.2), IT IS HEREBY ORDERED that the following relief is GRANTED:

1. A dimensional variance from Code Section 208-22.F to permit the proposed sunroom addition to have a 19.2-foot rear-yard setback where 25 feet is required.


All granted relief is subject to the following conditions:

1. the proposed improvement shall be constructed in substantial conformity with the evidence and testimony presented to the Board;
2. the Applicants shall comply with all other rules, regulations, and ordinances of the Township, as well as all federal and state laws and regulations; and
3. the Applicants shall obtain all required permits and approvals.

**ZONING HEARING BOARD OF
TREDYFFRIN TOWNSHIP**


DANIEL MCLAUGHLIN


ROBYN FORBES DRUCKER


BRADFORD MURPHY

Please be advised that Code Section 208-148 states: "Unless otherwise specified by the Zoning Hearing Board, a special exception or variance shall expire if the applicant fails to obtain a building or occupancy permit within 12 months from the date of the decision of the Zoning Hearing Board."