

**IN RE:  
APPLICATION OF  
JAMES AND LAUREN HIGH**

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

**APPEAL NO. 10-25**

**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 James and Lauren High (the “Applicants”) for the property located at 425 Old Eagle School Road, Wayne, PA 19087 (UPI No. 43-11C-256) (the “Property”) in the R-1 Residential Zoning District of Tredyffrin Township (the “Township”). The Applicants seek the following dimensional variances: (1) from Section 208-22.D of the Tredyffrin Township Code of Ordinances (the “Code”) to permit a 16.9-foot front-yard setback where 40-feet is required; and (2) from Section 208-22.F to permit a 23.1-foot rear-yard setback where 25-feet is required for additions to the existing home.

Present at the hearing were Chairman Daniel McLaughlin, Vice Chairman Robyn Forbes Drucker, Member Bradford Murphy, and Alternate Member Edward Sweeney.<sup>1</sup> 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 Daniel Lyons, Esquire. Mr. High, and Christopher C. Yohn, P.E., the Applicants’ engineer, testified on behalf of the Application. No one sought party status or provided public comment.

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<sup>1</sup> Mr. Sweeney participated in the hearing, but did not vote on the matter.

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 2 to 1 vote, the Board granted the requested relief subject to conditions as set forth in the herein Decision and Order.

**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 28, 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 March 10, 2025; and
- Exhibit B-4 Affidavit of Posting dated March 10, 2025.

**Applicants' Exhibits:**

- Exhibit A-1 Aerial Photographs;
- Exhibit A-2 Zoning/Site Plan, dated January 14, 2025;
- Exhibit A-3 Letter dated January 28, 2025 from the Township Zoning Officer; and
- Exhibit A-4 Site Plan, dated December 16, 1963.

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

5. The Property is located at 425 Old Eagle School Road, Wayne, PA 19087 (UPI No. 43-11C-256).
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 long and narrow.
9. The Property is bound to the south by a driveway; and on all other sides by residential properties.
10. The Property is a landlocked parcel which gains its access through a shared driveway easement to Old Eagle School Road
11. The Property contains a single-family dwelling, walkways, a driveway, deck and shed.
12. The existing home on the Property was built in 1963.
13. At the time the existing home was built, the front yard of the Property was located to the south and the rear yard was located to the north.
14. Sometime between 1963 and the present, the way lot lines are determined for landlocked parcels was changed in the Code.
15. As a result, the front yard of the Property is now located to the west and the rear yard of the Property is now located to the east.
16. Code Section 208-22.D requires a minimum front-yard setback of 40 feet.
17. At its closest point, the existing home has a 16.9-foot front-yard setback.
18. Therefore, the existing home is nonconforming in regard to front-yard setback, as a portion of the existing home is located in the front yard.
19. The Applicants propose to remove a porch, wooden deck and walkways.

20. The Applicants propose to construct several small building additions, a slightly larger deck, a driveway addition, walls and walkways on the Property.

21. Three of the proposed additions require dimensional variance relief.

22. First, the Applicant proposes to construct a covered porch on the front of the house.

23. The proposed covered porch is located entirely within the front-yard setback of the Property; however, it is set back more than the 16.9-feet the existing home is set back.

24. The location for the covered porch was selected as it is the location of the existing front door of the home.

25. The Applicants propose to construct a covered deck on the rear of the home.

26. A portion of the covered deck addition is located within the front-yard setback; however, it is also set back more than 16.9-feet.

27. Code Section 208-22.F requires a rear-yard setback of 25 feet.

28. The Applicants propose an addition on the rear of the existing home.

29. At its closest point, the addition will have a 23.1-foot setback.

30. As a result, the Applicants require a *de minimis* dimensional variance to permit this building addition.

31. Other residential properties in the vicinity of the Property have similarly sized or larger homes than that which is proposed by the Applicants.

32. The Property has mature vegetation, which shields it from view from surrounding streets.

33. The proposed addition will be constructed of the same material as the rest of the home.

34. The Applicants intend to remove the existing stucco on the home and replace it within siding.

35. Mr. Yohn was admitted as an expert in civil engineering.

36. No one appeared to seek party status.

37. No one appeared to offer public comment.

38. The Applicants represented that they spoke with the neighbors who share the driveway easement with them, as well as, other neighbors in the vicinity of the Property regarding the proposed additions.

39. The Applicants represented that all neighbors were positive about the proposed additions.

40. 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.

41. 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 several additions to an existing home, three of which implicate dimensional variance relief. The existing home is located on a long, narrow, and landlocked property. Due to ordinance changes since its original construction, the existing home is nonconforming with a 16.9-foot front-yard setback where 40 feet is now required. Because the Applicants now seek to construct two additions to the portion of the home which also encroach into the front-yard setback, the Applicants must seek dimensional variance relief to permit the exiting 16.9-foot front-yard setback to remain. In particular, the Applicants seek to construct a covered front porch and a covered deck. Neither addition encroaches further into the front-yard setback than the existing home. The Applicants also propose to construct a rear addition, which encroaches 1.9-feet into the 25-foot rear-yard setback. The Property has mature vegetation which screens it from view from the surrounding streets. The Applicants nearby neighbors do not object to the additions, and the surrounding homes are similar to or larger in size than the existing home

with the proposed additions. Granting the requested variances 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 met 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. The Applicants have established entitlement to the requested dimensional variance from Code Section 208-22.D to permit a 16.9-foot front-yard setback for the existing home to remain.
5. The Applicants have established entitlement to the requested *de minimis* dimensional variance from Code Section 208-22.F to permit a 23.1 rear-yard setback for the proposed addition.

The Board, therefore, enters the following:

### **ORDER**

AND NOW, this 24<sup>th</sup> day of April, 2025, upon consideration of the Application of James and Lauren High for the Property located at 425 Old Eagle School Road, Wayne PA 19087 (UPI No. 43-11C-256), IT IS HEREBY ORDERED that the following relief is GRANTED:

1. A dimensional variance from Code Section 208-22.D to permit the existing home to retain its existing 16.9-foot front-yard setback and the two building addition to be located within the required 40-foot front yard setback.
2. A *de minimis* dimensional variance from Code Section 208-22.F to permit an addition to the existing home to have 23.1-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  
TREDYFEERIN TOWNSHIP**



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DANIEL MCLAUGHLIN



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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."