

**IN RE:
APPLICATION OF
MARILYN, GUSTAV &
ROBERT HAAK**

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

APPEAL NO. 11-25

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 Marilyn, Gustav and Robert Haak (the “Applicants”) for the property located at 900 W. Valley Road, Suite 600, Wayne, PA 19087 (UPI No. 43-5-3616) (the “Property”) in the LI Limited Industrial Zoning District of Tredyffrin Township (the “Township”). The Applicants seek a use variance from Section 208-40 of the Tredyffrin Township Code of Ordinances (the “Code”) to permit a medical office use.

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 George Broseman, Esquire. Robert Haak testified on behalf of the Application. No one sought party status or provided public comment.

At the conclusion of the hearing, by a 3 to 0 vote, the Board granted the requested relief. The Applicants waived the time period for issuance of this written decision under the Municipalities Planning Code (“MPC”).

I. Findings of Fact

1. The foregoing recitals are incorporated herein as if fully set forth.

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

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 March 1, 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 Zoning Application;

Exhibit A-2 Deed to Property;

Exhibit A-3 Overall diagram of West Valley Business Center;

Exhibit A-4 Aerial image of West Valley Business Center and surrounding area;

Exhibit A-5 Photographs (5);

Exhibit A-6 Listing information for the space (3);

Exhibit A-7 Listing of other health care providers in the West Valley Business Center or nearby in the same zoning district;

Exhibit A-8 Parking counts;

Exhibit A-9 PeaceTree Counseling information; and

Exhibit A-10 Proposed floor plan.

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

5. The Property is located at 900 West Valley Road, Suite 600, Wayne, PA 19087 (UPI No. 43-5-3616).
6. The Property is located within the West Valley Business Center.
7. The West Valley Business Park is bound to the east by West Valley Road; to the south by railroad tracks; and by the Southeast Regional Post Office to the north.
8. The West Valley Business Park consists of a series of one-story office buildings.
9. There are significant amounts of parking scattered through the West Valley Business Center.
10. The Property is located in the southeastern portion of the West Valley Business Center.
11. The Property is located in the Township's LI Limited Industrial Zoning District.
12. Gustav and Marilyn Haak own the Property.
13. Robert Haak is the prior owner of the Property.
14. The Property is an office condominium unit.
15. The Property is currently vacant and has been vacant for several years.
16. The Property was previously utilized as an office space.
17. The Property is approximately 3,000 square feet.
18. The Applicants have an agreement to lease the Property as an office for a psychological therapy and counseling office.
19. The proposed tenant is PeaceTree Counseling and Consulting.
20. The LI Limited Industrial Zoning District does not provide for a "medical office" use. Code Section 208-40.

21. The “medical office” use is provided for in other Township zoning districts. Code Section 208-40.

22. “Medical office” is an undefined term in the Code. Code Section 208-6.

23. An “office” use is provided for in the LI Limited Industrial Zoning District.

24. Code Section 208-6 defines an “office” as:

A room or group of rooms used for conducting the affairs of a business, profession, service, industry or government and generally furnished with desks, tables, files and communication equipment.

25. As a result, the Applicants require a use variance to permit the medical office use.

26. The proposed medical office will operate from 9 a.m. into the evening, Monday through Saturday.

27. There will be ten offices in the Property.

28. The maximum number of practitioners for the use is proposed to be ten; however, all ten practitioners would not always be at the office at the same time.

29. Not all patients will come to the office, as many therapy sessions will take place virtually.

30. Similarly, some practitioners may practice from home some days and see patients virtually.

31. There are 41 parking spaces in a lot immediately adjacent to the Property.

32. On a typical day, 20% of the parking spaces in the lot immediately adjacent to the Property are occupied.

33. In addition, there is an overflow parking lot available.

34. Other medical offices exist in the West Valley Business Center.

35. In particular, Mr. Haak operates an optometry office in the unit next door to the Property, for which he received a certificate of occupancy from the Township.

36. The Zoning Officer opined that an optometry office would be considered a medical office.

37. Resonate Counseling is also located in the West Valley Business Center.

38. Main Line Vision was also located in the West Valley Business Center.

39. In addition, Cornerstone Therapy is located across the street from the West Valley Business Center in the same zoning district.

40. No one appeared to seek party status.

41. No one appeared to offer public comment.

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

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

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 Applicants seek to lease the Property to PeaceTree Counseling & Consulting in order to operate a medical office. A medical office is not an use permitted in the LI Limited Industrial Zoning District. However, a similar “office” use, which permits professional offices, is permitted in the zoning district. In addition, there are other similar medical office uses in the West Valley Business Center, and in nearby areas located in the same zoning district. The proposed variance will not alter the essential character of the neighborhood. There is ample parking in the lot immediately adjacent to the Property, as well as an overflow parking lot, for patients. There will be no more than ten therapists operating in the office at any one time, and some therapists will treat patients virtually. The proposed use will not substantially impair neighboring properties, or otherwise detract from the public welfare. The Property has previously been used as an office and has been vacant for several years. The requested variance is the minimal relief necessary.

Given the foregoing, the Board finds the Applicants have met their burden for a use variance to permit the proposed medical office as described in the hearing and the exhibits.

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 use variance from Code Section 208-40 to permit a medical office use on the Property as described in the hearing and exhibits.

The Board, therefore, enters the following:

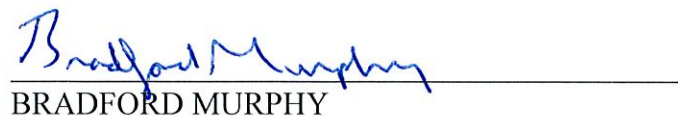
ORDER

AND NOW, this 24th day of April, 2025, confirming the March 27, 2025 oral decision of the Board, upon consideration of the Application of Gustav, Marilyn and Robert Haak for the Property located at 900 W. Valley Road, Suite 600, Wayne, PA 19087 (UPI No. 43-5-3616), IT IS HEREBY ORDERED that the following relief is GRANTED:

ZONING HEARING BOARD OF TREDYFFERIN 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."