

**IN RE:  
APPLICATION OF  
ALLAN BROWN, JR**

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

**APPEAL NO. 15-25**

**DECISION**

The Zoning Hearing Board of Tredyffrin Township, Chester County, Pennsylvania (the “Board”), after proper advertisement, met on Thursday, May 22, 2025, to hear evidence on the application (the “Application”) of Allan Brown, Jr. (the “Applicant”) for the property located at 927 Mount Pleasant Avenue, Wayne, PA 19087 (UPI No. 43-11D-36) (the “Property”) in the R-4 Residential Zoning District of Tredyffrin Township (the “Township”). The Applicant seeks a special exception under Section 208-33.D(6) of the Tredyffrin Township Code of Ordinances (the “Code”) to permit a student home in a single-family dwelling; and a dimensional variance from Code Section 208-122.1A(3) to permit the proposed student home to be located less than the required distance from another student home.

Present at the hearing were Chairman Daniel McLaughlin and Vice Chairperson 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 & Zoning Officer for the Township; and Amanda J. Sundquist, Esquire, Solicitor for the Board.

The Applicant was unrepresented and testified on behalf of the Application. The Township was granted party status without objection, and was represented by Patrick McKenna, Esquire. Ms. McPherson testified on behalf of the Township. Shawn Jackson, 1000 Mount Pleasant Avenue; Christine Johnson, 986 Mount Pleasant Avenue; Jackie Byrd, 922 Mount Pleasant

---

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

Avenue; and Venita Banks-Lane, 945 Mount Pleasant Avenue, were granted party status without objection. Public comment was taken.

At the conclusion of the hearing, the Board took the Application under advisement until its June 26, 2025 meeting. At the June 26, 2025 meeting, by a \_\_\_\_ to \_\_\_\_ vote, the Board denied 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 Applicant presented testimony 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 25, 2025;
- Exhibit B-2 Applicant's continuance request dated March 25, 2025;
- Exhibit B-3 Proof of Publication of the notice in the *Daily Local News* on May 8, 2025, and May 15, 2025;
- Exhibit B-4 Affidavit of Mailing Notice to the neighboring property owners on May 8, 2025; and
- Exhibit B-5 Affidavit of Posting dated May 12, 2025.

#### **Township's Exhibits:**

- Exhibit T-1: Notice of Violation dated March 4, 2025; and
- Exhibit T-2: Student Rental Map.

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

5. The Property is located at 927 Mount Pleasant Avenue, Tredyffrin Township, Chester County, Wayne, PA 19087 (UPI No. 43-11D-36).

6. The Property is located in the Township's R-4 Residential Zoning District.

7. The Property is generally rectangular in shape.

8. The Property is bound to the west by Mount Pleasant Avenue with residential properties across the street, to the east by a park, to the north by residential properties and to the south by a commercial property.

9. Currently located on the Property is a single-family detached dwelling

10. The Property contains a single-family dwelling, a walkway and a shed.

11. The Applicant owns the Property.

12. The Applicant resides in Washington, D.C.

13. The Applicant acquired the Property in February 2024, upon his father's death.

14. The Applicant thereafter engaged a property manager to rent and manage the Property.

15. While the property manager and Applicant received approximately 20 applicants to rent the home as a single-family dwelling, the Applicant did not prefer these renters for various reasons, including having pets or too large of a family.

16. The Applicant acknowledged that he would be able to rent the Property to a family or other tenants.

17. Instead, the property manager and the Applicant rented the Property to three Villanova University students.

18. The Applicant was not aware student rentals required additional permission and relied upon the property manager to make that determination.

19. In January 2025, the Township received a complaint about the use of the Property as a student home.

20. Thereafter, on March 4, 2025 the Applicant received a Notice of Violation advising him that his use of the Property as a student home as in violation of the Code.

21. The Applicant did not appeal the Notice of Violation.

22. Two Villanova University students currently reside in the Property.

23. The Applicant is in the middle of a two-year lease with the remaining two students, with the lease to expire in August 2026.

24. The Applicant may want to rent to an additional third student tenant.

25. Pursuant to Code Section 208-33.D(6), a student home is permitted by special exception in the R-4 Zoning District.

26. As a result, the Applicant seeks a special exception to permit the student home to remain on the Property.

27. A student home must meet the criteria of Code Section 208-121.1.A.

28. The student home criteria were added to the Code around 2010 to address the oversaturation of the Mount Pleasant neighborhood with student homes.

29. The Applicant was amenable to limiting the student home to three student tenants.

30. The single-family detached dwelling on the Property has a floor area of at least 1,000 square feet.

31. The dwelling complies with the area and bulk requirements of the Code.

32. The Property has a 10-foot buffer along the side and rear lot lines.

33. Code Section 208-121.1.A(3) states:

A student home shall not be located closer than the distance equal to 20 times the required minimum lot width for the type of dwelling

used for the student home in the applicable zoning district where the student home is proposed to be located from another student home located on another lot. The distance between the two student homes shall be measured by the shortest distance between the two lots where the student homes are located.

34. The required minimum lot width for a single-family detached dwelling in the R-4 Zoning District is 60 feet.

35. As a result, the required separation distance is 1,200 square feet.

36. There are eight student homes within 1,200 feet of the Property.

37. Many of the student homes in the Mount Pleasant neighborhood are existing legal nonconformities that existed at the time the student home ordinance was adopted.

38. The closest student home is located at 984 Upper Gulph Road, which is approximately 145 feet from the Property.

39. The second closest student home is located at 957 Mount Pleasant Avenue, which is approximately 217 feet from the Property.

40. As a result, the Applicant requires a variance from Code Section 208-121.1A(3) to meet this requirement of the Code.

41. The Township, Shawn Jackson, 1000 Mount Pleasant Avenue; Christine Johnson, 986 Mount Pleasant Avenue; Jackie Byrd, 922 Mount Pleasant Avenue; and Venita Banks-Lane, 945 Mount Pleasant Avenue, were granted party status without objection.

42. The Township presented evidence and testimony in opposition to the requested dimensional variance.

43. Ms. Jackson and Ms. Johnson presented testimony in opposition to the Application.

44. Ms. Banks-Lane presented a closing statement in opposition to the Application.

45. Janec Burton, 945-65 Henry Avenue, offered public comment in opposition to the Application and spoke regarding the negative impact students homes in Mount Pleasant neighborhood have had on the quality of life of residents.

46. Dorothea Davis, 942 Henry Avenue, offered public comment in opposition to the Application and spoke regarding the negative impacts of student homes in the Mount Pleasant neighborhood have had in regard to unacceptable behaviors by students, as well as littering and noise.

47. Barbara Byrd, 1001 Mount Pleasant Avenue, offered public comment in opposition to the Application and spoke regarding the negative impact of student homes in the Mount Pleasant neighborhood and the impact of absentee landlords, parties, littering, and other destructive behaviors.

48. Shanel Baylor, 1000 Mount Pleasant Avenue, offered public comment in opposition to the Application and spoke regarding the negative impact of student homes in the Mount Pleasant neighborhood.

49. The Applicant did not meet all of the criteria for a special exception.

50. Granting the requested variance will alter the essential character of the neighborhood and be injurious to the neighborhood or otherwise detrimental to the public health, safety, and welfare of the community.

51. Granting the requested variance will substantially or permanently impair the use or development of adjacent properties.

## **II. Discussion**

The Applicant seeks a special exception under Code Section 208-33.D(6) to permit a student home at the Property. A “special exception” is neither special nor an exception to the

Ordinance. Rather, a special exception is a use the municipality has determined is appropriate for a particular zoning district, provided that it meets the standards set forth in the applicable zoning code. See 53 P.S. § 10912.1; Mark West Liberty Midstream & Res., LLC v. Cecil Twp. Zoning Hearing Bd., 102 A.3d 549, 553 (Pa. Commw. Ct. 2014).

An applicant for a special exception has the duty of presenting evidence and the burden of persuading the zoning hearing board that the proposed use satisfies the objective criteria of the applicable zoning code. See Bray v. Zoning Hearing Bd. of Adjustment, 410 A.2d 909, 910-11 (Pa. Commw. Ct. 1980). Once an applicant has met that burden, a presumption arises that the use is consistent with the health, safety and welfare of the community. See Manor Healthcare Corp. v. Lower Moreland Twp. Zoning Hearing Bd., 590 A.2d 65, 70 (Pa. Commw. Ct. 1991) (other citation omitted). Objectors then bear the burden of proving to a high degree of probability that a specific proposed use will impose detrimental impacts on public health, safety and welfare exceeding those ordinarily expected for the property use. See id. at 70-71.

Looking first the specific special exception criteria for the student housing in the Code found at Code Section 208-121.1.A, and as set forth in the above Findings of Fact, the Applicant has met the specific requirements of Code Subsections 208-121.1.A(1), (2), (4) and (5). However, the Applicant does not comply with the separation requirement found at Code Section 208-121.1A(3), as there are eight other student homes located within 1,200 feet of the Property. Therefore, in order to meet the specific special exception criteria, the Applicant must obtain a dimensional variance from Code Section 208-121.1.A(3).

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 208-149.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 Applicant identified no unique physical circumstances of the Property which create a hardship, or a physical hardship that is unique to this Property. Further, the variance is not the minimum relief necessary to permit for the use of the Property; indeed, there is already an existing single-family home on the Property. The Applicant additionally admitted that there was ample interest from families and individuals (i.e., not students) in renting this Property, and that the Applicant would have no issue renting the Property if he could not have student housing on the Property. Given the foregoing, the Board finds the Applicant has not met his burden for a



dimensional variance for separation distance. As the Applicant has not met his burden for the dimensional variance, he cannot meet all of the criteria found at Code Section 208-121.1A(3), and therefore, the requested special exception is denied.<sup>2</sup>

### **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 Township, Shawn Jackson, 1000 Mount Pleasant Avenue; Christine Johnson, 986 Mount Pleasant Avenue; Jackie Byrd, 922 Mount Pleasant Avenue; and Venita Banks-Lane, 945 Mount Pleasant Avenue, were granted party status without objection.

4. The Applicant has failed to establish entitlement to the requested dimensional variance from Code Section 208-122.1.A(3) to permit a student home to be less than the required distance to another student home.

5. The Applicant has failed to establish entitlement to the requested special exception under Code Section 208-33.D(6) to permit a student home on the Property.

The Board, therefore, enters the following:

### **ORDER**

AND NOW, this 26th day of June, 2025, upon consideration of the Application of Allan Brown, Jr. for the Property located at 927 Mount Pleasant Avenue, Wayne PA 19087 (UPI No. 43-11D-36) for a special exception under Code Section 208-33.D(6) for a student home and a dimensional variance from Code Section 208-122.1.A(3) to permit a student home to be less than

---

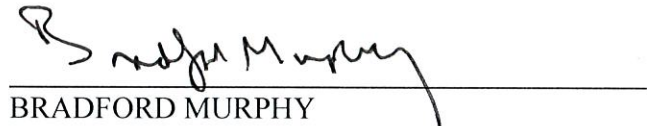
<sup>2</sup> Because the Applicant has failed to meet the specific criteria found at Code Section 208-121.1, the Board need not reach whether the Applicant has met the general criteria found at Code Section 208-149.A or whether the party protestants (had the burden shifted) met their burdens.

the required distance to another student home, IT IS HEREBY ORDERED that the requested relief is DENIED.

**ZONING HEARING BOARD OF  
TREDYFFRIN TOWNSHIP**

  
\_\_\_\_\_  
DANIEL MCLAUGHLIN, Chairman

  
\_\_\_\_\_  
ROBYN FORBES DRUCKER

  
\_\_\_\_\_  
BRADFORD MURPHY