

**IN RE:
APPLICATION OF
ROBERT ATCHINSON**

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

APPEAL NO. 16-25

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 Robert Atchinson (the “Applicant”) for the property located at 5 Lizbeth Lane, Berwyn, PA 19312 (UPI No. 43-10F-114) (the “Property”) in the R-2 Residential Zoning District of Tredyffrin Township (the “Township”). The Applicant seeks a dimensional variance from Section 208-26.E of the Tredyffrin Township Code of Ordinances (the “Code”) to permit an aggregate side-yard setback of 38.8 feet where a minimum of 40 feet is otherwise required to construct an addition.

Present at the hearing were Chairman Daniel McLaughlin and Vice Chairperson 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 & 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. No one sought party status or offered public comment

At the conclusion of the hearing, by a 3 to 0 vote, the Board granted the requested relief as set forth in the herein Decision and Order. The Applicant waived the time period under the Municipalities Planning Code (“MPC”) for delivery of the herein written Decision and Order.

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

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 Proof of Publication of the notice in the *Daily Local News* on May 8, 2025, and May 15, 2025;
- Exhibit B-3 Affidavit of Mailing Notice to the neighboring property owners on May 8, 2025; and
- Exhibit B-4 Affidavit of Posting dated May 12, 2025.

Applicant's Exhibits:

- Exhibit A-1 Handmarked plan.

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

5. The Applicant owns the Property.
6. The Property is located at 5 Lizbeth Lane, Berwyn, PA 19312 (UPI No. 43-10F-114).
7. The Property is located in the Township's R-2 Residential Zoning District.
8. The Property is generally rectangular in shape.
9. The Property is bound to the north by Lizbeth Lane, to the east and west by residential properties, and to the south by school district property.

10. Currently located on the Property is a single-family detached dwelling, driveway, shed, deck, and walkways.

11. Code Section 208-26.E requires two side yards “not less than 40 feet in aggregate width and neither less than 15 feet in width.”

12. The existing eastern side yard is 14 feet and the existing western side yard is 24.8 feet, for an aggregate side-yard setback of 38.8 feet.

13. As a result, the existing home is nonconforming as to side-yard setback.

14. The Applicant proposes to add two additions to the existing home, one on the front of the home and the other the rear of the home, both adjacent to the existing garage.

15. The two additions will maintain the existing 24.8-foot, side-yard setback to the western side yard, as well as the existing aggregate side-yard setback of 38.8 feet.

16. The Applicant therefore requests and requires a dimensional variance to Code Section 208-26.E to construct the proposed additions.

17. The Applicant requires the addition in order to fit a full-sized vehicle in the garage, as well as to permit access from the garage to the house.

18. No one sought party status.

19. No one offered public comment.

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

21. Granting the requested dimensional 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 Applicant seeks to construct two additions to the existing garage in order to permit the existing garage to house a full-sized vehicle. The existing home is nonconforming as to the western side-yard setback as well as the aggregate side-yard setback. The proposed addition will not increase the nonconformity that currently exists on the Property – in other words, the

nonconformity will stay the same. Moreover, the requested dimensional variance is *de minimis* in scope. As a result, the Board finds the Applicant has meet his burden 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. The Applicant has establish entitlement to the requested dimensional variance from Code Section 208-26.E to permit an aggregate side-yard setback of 38.8 feet.

The Board, therefore, enters the following:

ORDER

AND NOW, this 26th day of June, 2025, confirming the Board's oral decision of May 22, 2025, upon consideration of the Application of Robert Atchinson for the Property located at 5 Lizbeth Lane, Berwyn, PA 19312 (UPI No. 43-10F-114) for a dimensional variance from Code Section 208-26.E to permit an aggregate side-yard setback of 38.8 feet, IT IS HEREBY ORDERED that the requested 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."