

**IN RE:
APPLICATION OF
JAMES AND NICOLE DARLEY**

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

APPEAL NO. 18-25

DECISION

The Zoning Hearing Board of Tredyffrin Township, Chester County, Pennsylvania (the “Board”), after proper advertisement, met on Thursday, June 26, 2025, to hear evidence on the application (the “Application”) of James and Nicole Darley (the “Applicants”) for the property located at 1485 Pulaski Lane, Wayne, PA 19087 (UPI No. 43-5D-81) (the “Property”) in the R-1 Residential Zoning District of Tredyffrin Township (the “Township”). The Applicants seek two dimensional variances from the following sections of the Tredyffrin Township Code of Ordinances (the “Code”) to permit the replacement of a detached barn/garage and shed with a new barn/garage and shed:

1. Section 208-111.A(1) to permit the detached barn/garage and shed to be located in the area between a principal building and any street line; and
2. Section 208-22.D to permit a minimum front-yard setback of 28 feet where a minimum of 40 feet is otherwise required.

Present at the hearing were Chairman Daniel McLaughlin, 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 Matthew N. Korenoski, Esquire, Solicitor for the Board.

The Applicants were not represented by counsel. Co-Applicant James Darley testified on behalf of the Application. No one sought party status. Public comment was provided by John O’Brien, 435 Redcoat Lane.

¹ While Mr. Sweeney attended the hearing, he did not vote.

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 Applicants waived the time period under the Municipalities Planning Code (“MPC”) for delivery of the herein written 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 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 May 27, 2025;
- Exhibit B-2 Proof of Publication of the notice in the *Daily Local News* on June 12, 2025, and June 19, 2025;
- Exhibit B-3 Affidavit of Mailing Notice to the neighboring property owners on June 11, 2025; and
- Exhibit B-4 Affidavit of Posting dated June 17, 2025.

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

5. The Applicants own and reside at the Property.
6. The Applicants have owned the Property for 10 years.
7. The Property is located at 1485 Pulaski Lane, Wayne, Tredyffrin Township, Chester County, PA 19087 (UPI No. 43-5D-81).
8. The Property is located in the Township's R-1 Residential Zoning District.
9. The Property is approximately 1.41 acres.
10. The Property is located at the end of a cul-de-sac.

11. The Property is an irregularly shaped, pie-shaped parcel.
12. The Property is bound to the west, east, and south by residential properties, and to the north by property owned by the Pennsylvania Turnpike Commission, which itself abuts the Pennsylvania Turnpike to the north.
13. The Property is improved with a single-family dwelling, driveway, a 12' x' 10' utility shed (the "Existing Shed"), and a 20' x 40' barn/garage (the "Existing Barn/Garage").
14. The dwelling and Existing Barn/Garage were built in approximately 1870.
15. The dwelling was in a state of disrepair when the Applicants purchased it.
16. The Applicants added an addition and improved upon the dwelling in the years since purchasing the Property.
17. The Existing Barn/Garage is located in the southeast portion of the Property, as shown on Exhibit B-1, Pages 3 and 6.
18. The Existing Barn/Garage is depicted in photographs on Exhibit B-1, Page 8.
19. In the R-1 Zoning District, Code Section 208-111.A(1) prohibits, *inter alia*, private garages and other accessory buildings and structures from being located "in the area extending the full width of the lot between the principal building and any street line."
20. The Existing Barn/Garage is currently located between a principal building (*i.e.*, the dwelling) and a street line (*i.e.*, Pulaski Lane).
21. The Existing Barn/Garage is therefore an existing nonconforming structure.
22. The Existing Barn/Garage is used for residential purposes, such as vehicle and equipment storage, and as a workshop.
23. The Existing Barn/Garage has a concrete slab floor, an open bay, and two horse stalls with a loft area above.

24. The Existing Barn/Garage is framed with wood board and batten siding.
25. The foundation of the Existing Barn/Garage consists of timber on grade.
26. The Existing Barn/Garage is not framed to modern standards in that the building's siding bears a sizable portion of the structural load.
27. A significant portion of the foundation and lower portions of the siding of the Existing Barn/Garage also began to rot prior to the Applicants' purchase of the Property, and the Applicants have attempted to maintain the Existing Barn/Garage by slowing the rot.
28. The Existing Barn/Garage is structurally compromised and has become a safety concern.
29. The Applicants represented that renovation of the Existing Barn/Garage to appropriately address the safety issues would be cost-prohibitive.
30. The Applicants therefore desire to demolish the Existing Barn/Garage and replace it with a new barn/garage that meets or exceeds design and construction standards, while also assimilating with the aesthetic of the Property and surrounding neighborhood (the "New Barn/Garage").
31. The New Barn/Garage will be a 1,138-square-foot structure framed in wood, with the exterior featuring fiber cement board and batten siding, in a color complimenting that of the residence, as roughly depicted in renderings on Exhibit B-1, Page 11.
32. The New Barn/Garage will be used for vehicle storage for two cars and for general storage.
33. The Existing Shed is located in the rear yard of the Property, along the northern boundary with the Turnpike Commission property, as shown on Exhibit B-1, pages 3 and 6.
34. The Existing Shed is currently encroaching on the Turnpike Commission property.

35. The Applicants desire to demolish the Existing Shed and rebuild it as 12' x 10' lean-to shed attached to the far end of the barn (the "New Shed").

36. The Applicants desire to locate the New Barn/Garage and New Shed (together the "New Structures") in the same location as the Existing Barn/Garage, such that the New Structures will be located between the dwelling and Pulaski Lane.

37. The Applicants therefore require a dimensional variance from Code Section 208-111.A(1) to locate the New Structures to be located between a principal building and a street line.

38. The existing front-yard setback, as measured from the front of the Existing Barn/Garage, is 28 feet.

39. Code Section 208-22.D requires a minimum front-yard setback of 40 feet.

40. The existing front-yard setback is therefore an existing nonconformity.

41. Construction of the New Structures will maintain the same front line as the Existing Barn/Garage and likewise preserve the front-yard setback of 28 feet.

42. The Applicants therefore require a dimensional variance from Code Section 208-22.D to have a 28-foot front-yard setback where a minimum of 40 feet is otherwise required.

43. When the dwelling was originally constructed in the late 19th century, the original driveway entrance was on Thomas Road and ran parallel to what is now the Pennsylvania Turnpike. However, following subdivision of the Property in the 1960s, the street side of the Property, created by the establishment of Pulaski Lane, was changed to the southeast, which resulted in the New Barn/Garage being located between the dwelling and Pulaski Lane.

44. The New Structures cannot be placed to the west of the dwelling due to underground utilities and side-yard setback limitations.

45. The New Structures cannot be placed to the northwest of the dwelling due to an existing stormwater management system.

46. The New Structures cannot be placed to the northeast or east of the dwelling due to the existence of utilities in that location (electric, water, and sewer), as well as the need to construct a paved driveway and walkway to access the New Structures in that location, which would add roughly 1,980 square feet of additional impervious surface and not be reasonably accessible from the dwelling. Placement of the New Structures in this location would also detract from the aesthetic appeal of the original façade of the dwelling.

47. Mr. Darley testified that the New Barn/Garage would not be used for living space, nor would it have any heat, running water, a kitchen, or sleeping quarters.

48. The Applicants represented that the four neighbors most impacted by the New Structures have voiced support for the Application.

49. The Applicants further represented that two of the foregoing neighbors provided written letters of support for the Application.²

50. No one sought party status.

51. Public comment was provided by John O'Brien, 435 Redcoat Lane, in support of the Application.

52. The Board found the testimony of Mr. Darley to be credible.

53. Granting the requested dimensional variances 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.

² These letters were not introduced as exhibits.

54. Granting the requested dimensional variances 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 remove the Existing Barn/Garage and Existing Shed and replace them with the New Structures in substantially the same location as the Existing Barn/Garage. The

Property is heavily constrained by natural features that substantially limit placing the New Structures to the west, northwest, northeast, or east of the dwelling, resulting in the current location of the Existing Barn/Garage being the only practical location for the New Structures. The Applicants did not cause these hardships given that the Existing Barn/Garage was originally placed in the rear yard of the Property, but after subdivision of the Property in the 1960s (when the Applicants did not own the Property), the Existing Barn/Garage became situated in the front yard. Also, the demolition and replacement of the Existing Barn/Garage with the New Barn/Garage will eliminate a safety concern and bring the structure up to compliance with the latest applicable codes. Further, demolishing the Old Shed and rebuilding the New Shed on the site of the Existing Barn/Garage will remedy an encroachment of the Old Shed onto the Turnpike Commission property. The New Structures will also not increase the front-yard setback nonconformity. Moreover, the Applicants testified that the neighbors nearest to the Property support the Application, inclusive of John O'Brien, who provided public comment to that effect. As a result, the Board finds the Applicants have met their burden to obtain 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 Applicants have established entitlement to the requested dimensional variance from Code Section 208-111.A(1) to locate the New Structures between a principal building and a street line.

4. The Applicants have established entitlement to the requested dimensional variance from Code Section 208-22.D to have a 28-foot front-yard setback where a minimum of 40 feet is otherwise required.

The Board, therefore, enters the following:

ORDER

AND NOW, this 24th day of July, 2025, confirming the Board's oral decision of June 26, 2025, upon consideration of the Application of James and Nicole Darley, to permit construction of the New Structures on the Property located at 1485 Pulaski Lane, Wayne, PA 19087 (UPI No. 43-5D-81), for two dimensional variances from 1) Code Section 208-111.A(1) to locate the New Structures between a principal building and a street line; and 2) Code Section 208-22.D to have a front-yard setback of 28 feet, IT IS HEREBY ORDERED that the requested relief is GRANTED.

**ZONING HEARING BOARD OF
TREDYFFRIN TOWNSHIP**

DANIEL MCCLAUGHLIN, Chairman



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."