IN RE:

APPLICATION OF

COLMAR HOTELS LLC

BEFORE THE ZONING HEARING BOARD

OF TREDYFFRIN TOWNSHIP,

CHESTER COUNTY, PENNSYLVANIA

ZHB 2026-18

DECISION

Colmar Hotels LLC (the "Applicant") filed an application with the Tredyffrin Township Zoning Hearing Board (the "Board") seeking variance relief from Sections 208-119.C and D (Fences, walls and security gates) of the Tredyffrin Township Zoning Ordinance (the "Ordinance") to permit the construction of a new eight-foot-high fence in a front yard of the subject property located at 888 Chesterbrook Boulevard, Tredyffrin Township, Chester County, Pennsylvania (UPI No. 43-5-26.9), in the C-2 Commercial District of the Township (the "Property"), and any other relief that may be deemed necessary by the Board (the "Application").

The Board met, after proper advertisement, on June 25, 2026, to hear the application. Present at the hearing were Chairman Daniel F. McLaughlin, Vice Chair Robyn Forbes Drucker, Member Bradford Murphy, and Alternate Member Ed Sweeney.[1] Robert C. Jefferson, Esquire, appeared as the Board's Assistant Solicitor. Erin McPherson, Director of Planning and Zoning & Zoning Officer, appeared on behalf of the Township. The Applicant was represented by Nicholas J. Caniglia, Esquire. The sole witness to testify on behalf of the Application was the General Manager of the Embassy Suites Hotel, Albert Williams. No one appeared of record to request party status or to offer public comment.

At the conclusion of the hearing, by a 3 to 0 unanimous vote, the Board approved the requested relief. Further, the Applicant waived the requirement of the Pennsylvania Municipalities

[1] Alternate Member Ed Sweeney participated in the hearing but not the official vote of the Board.

Planning Code that written notice of the Board's decision be provided within 24 hours of the hearing.

After receiving the evidence presented on behalf of the Applicant and having reviewed the same, the Board makes the following:

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 had a full and complete opportunity to present evidence and testimony to the Board.

4. During the course of the hearing, the Board marked and admitted the following Board exhibits into evidence:

Exhibit B-1: Zoning Application, with supporting documentation;

Exhibit B-2: Proof of Publication (with Legal Notice appearing in the *Daily Local News* on June 10, 2026 and June 17, 2026);

Exhibit B-3: Affidavit of Mailing Notice to neighboring property owners on June 9, 2026; and

Exhibit B-4: Affidavit of Posting on June 11, 2026.

5. The Applicant owns the Property, which is located at 888 Chesterbrook Boulevard, Tredyffrin Township, Chester County, Pennsylvania (UPI No. 43-5-26.9).

6. The Property is located in the C-2 Commercial Zoning District of the Township.

7. The Property is located at the intersection of Chesterbrook Boulevard and U.S. Route 202.

8. The Property contains frontage along both Chesterbrook Boulevard and southbound U.S. Route 202.

9. Thus, the Property is a corner lot.[2]

10. Because the Property is a corner lot, it has two front yards: the U.S. Route 202 front yard and the Chesterbrook Boulevard front yard.

11. The Property has a unique shape and measures approximately 11.3 gross acres in area.

12. The Property is currently improved with an Embassy Suites Hotel building, parking area, drive aisles, satellite dishes, utility equipment, wooden fence, and other attendant improvements.

13. The satellite dishes, utility equipment, and wooden fence are located on the Property within the U.S. Route 202 front yard.

14. Although the satellite dishes, utility equipment, and wooden fence are located within the U.S. Route 202 front yard, those improvements are situated in the perceived rear yard the hotel building.

15. The wooden fence enclosing the satellite dishes and utility equipment is in poor condition and needs to be replaced.

16. The existing wooden fence measures between approximately six feet and ten feet in height.

17. Ordinance Sections 208-119.C and D (fences, walls and security gates) of the Ordinance provide, in relevant part, that:

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[2] Ordinance Section 208-6 (Definitions; word usage) of the Ordinance defines "lot, corner" as "[a] lot or parcel of land abutting upon two or more streets at their intersection or upon two parts of the same street forming an interior angle of less than 135°."

Fences, walls and security gates shall be permitted within required yard areas in accordance with the following: . . .

C. In all districts, an open or solid fence or a wall of not more than four feet in height may be erected within the required front, side or rear yards. The height of a fence shall be measured from the top of the highest point of the fence panel to the bottom of the fence panel, allowing the fence panel to be no more than three inches above the mean level of the ground surrounding the fence panel, and provided that the height of the supporting fence post, including finials, shall not exceed eight inches above the maximum permitted height.

D. In all districts, an open or solid fence or wall of not more than six feet in height may be erected within the required side or rear yards, but not within the required front yard.

18. The Applicant proposes to replace the existing wooden fence with a new fence.

19. The proposed fence will contain the following segments: an 80-foot segment, two 20-foot segments, a 10-foot gate segment, a 12-foot segment, an 8-foot segment, and a 32-foot segment.

20. The 8-foot and the 32-foot fence segments will measure eight feet in height.

21. The remaining segments of the fence will measure six feet in height.

22. As a result, the Applicant requires a dimensional variance to permit construction of a fence ranging from six feet to eight feet in height on the Property.

23. The proposed fence will be located in the same area of the U.S. Route 202 front yard as the existing fence.

24. As part of the fence replacement, the Applicant does not intend to remove any vegetative buffer located within the U.S. Route 202 front yard.

25. Further, the Applicant does not intend to install any additional satellite dishes or utility equipment in association with the installation of the new fence.

26. The Applicant requested the height variance because of the significant grade change within the U.S. Route 202 front yard and for security purposes.

27. During the course of the hearing, Zoning Officer McPherson confirmed that the only variance relief required for the fence was related to its height.

28. No one appeared seeking party status.

29. The proposed variance will not alter the character of the neighborhood.

30. Granting the proposed variance will not be injurious to the neighborhood or otherwise be detrimental to the public health, safety and welfare of the community.

DISCUSSION

A variance is a departure from the exact provisions of a zoning ordinance. *S. Broad St. Neighborhood Ass'n v. Zoning Bd. of Adjustment,* 208 A.3d 539, 547 (Pa. Cmwlth. 2019). In reviewing a request for dimensional variance relief, the Board is guided by general criteria for variance relief pursuant to Section 208-150.B (Standards for review of proposed special exception or variance) of the Ordinance, which provides, in relevant part, as follows:

> The Zoning Hearing Board may grant a variance, provided that the following findings are made where relevant in a given case:
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> 1) That there are unique physical circumstances or conditions, including irregularity, narrowness or shallowness of lot size or shape or exceptional topographical or other physical conditions peculiar to the particular property, and that the unnecessary hardship required by law is due to such conditions and not the circumstances or conditions generally created by the provisions of this chapter in the neighborhood or district in which the property is located.
> 2) That because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of this chapter and that the authorization of a variance is therefore necessary to enable the reasonable use of the property.
> 3) That such unnecessary hardship has not been created by the appellant.
> 4) That the variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, nor substantially or permanently impair the appropriate use or development of adjacent property, nor be detrimental to the public welfare.

5) That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least modification possible of the regulation in issue.

When seeking a dimensional variance within a permitted use, the owner is asking only for a reasonable adjustment of the zoning regulations in order to utilize the property in a manner consistent with the applicable regulations. *Hertzberg v. Zoning Bd. of Adjustment of City of Pittsburgh*, 721 A.2d 43, 47 (Pa. 1998). Thus, the grant of a dimensional variance is of lesser moment than the grant of a use variance, since the latter involves a proposal to use the property in a manner that is wholly outside the zoning regulation. *Id.*

The Applicant seeks a dimensional variance to permit the construction of a new fence to replace the existing dilapidated fence on the Property. The proposed fence will measure approximately six feet in height, except for two sections that will measure eight feet in height. The Board recognizes that the proposed fence will be located within a front yard, but it will be installed to the rear of the hotel building in what is perceived to be the rear yard of the Property. Further, the fence will be located between the rear of the building and southbound U.S. Route 202. The Board concludes that the variance will not alter the essential character of the neighborhood or district in which the Property is located, nor substantially or permanently impair the appropriate use or development of adjacent property, nor be detrimental to the public welfare. The Board further concludes that the variance represents the minimum variance that will afford relief and will represent the least modification possible of the regulation in issue.

For the foregoing reasons, the Board unanimously found that the Applicant met its burden for the requested variance relief from Sections 208-119.C and D of the Ordinance.

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 demonstrated that it is entitled to dimensional variance relief from Ordinance Sections 208-119.C and D (Fences, walls and security gates) to permit the proposed fence to be six to eight feet in height.

The Board, therefore, enters the following:

ORDER

AND NOW, this ____ day of July, 2026, confirming its oral decision of June 25, 2026, upon consideration of the Application of Colmar Hotels LLC requesting dimensional variance relief from Sections 208-119.C and D (Fences, walls and security gates) of the Ordinance to permit the construction of a new six-foot-high to eight-foot-high fence in the U.S. Route 202 front yard of the Property located at 888 Chesterbrook Boulevard, Tredyffrin Township, Chester County, Pennsylvania (UPI No. 43-5-26.9), in the C-2 Commercial District of the Township, IT IS HEREBY ORDERED that the application shall be GRANTED.

ZONING HEARING BOARD OF TREDYFFRIN TOWNSHIP

Daniel F. McLaughlin, Chairman

Robyn Forbes Drucker, Vice-Chair

Bradford Murphy, Member

Please be advised that Code Section 208-148 (Expiration of special exceptions and variances) 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."