IN RE:
APPLICATION OF
TIMOTHY & JESSICA GALLAGHER

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

APPEAL NO. 2026-19

DECISION

The Zoning Hearing Board of Tredyffrin Township, Chester County, Pennsylvania (the "Board"), after proper advertisement, met on Thursday, July 23, 2026, to hear evidence on the application (the "Application") of Timothy and Jessica Gallagher (the "Applicant") for the property located at 400 Red Fox Road, Wayne, PA 19087 (UPI No. 43-11B-96) (the "Property") in the R-2 Residential Zoning District of Tredyffrin Township (the "Township"). The Applicant seeks dimensional variance relief from Section 208-26.D of the Tredyffrin Township Code of Ordinances (the "Code") to permit the construction of a front porch addition with a front yard setback of 32 feet where 35 feet is required.

Present at the hearing were Chairperson Daniel McLaughlin, Vice Chairperson Robyn Forbes Drucker, Member Bradford Murphy, and Alternate Members Edward Sweeney and Matthew Richards.[1] Also present at the hearing were Erin McPherson, Director of Planning and Zoning and Zoning Officer; and Amanda J. Sundquist, Esquire, Solicitor for the Board.

The Applicants were unrepresented. Mr. Gallagher testified on behalf of the Application. No one sought party status. No public comment was received.

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

[1] Mr. Sweeney and Mr. Richards to did not vote in this matter.

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 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 June 17, 2026;

Exhibit B-2 Proof of Publication of the notice in the *Daily Local News* on July 9, 2026 and July 16, 2026;

Exhibit B-3 Affidavit of Mailing Notice to the neighboring property owners on July 14, 2026; and

Exhibit B-4 Affidavit of Posting, dated July 14, 2026.

Applicants' Exhibits:

Exhibit A-1 Exhibit packet (5 sheets).

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

5. The Property is located at 400 Red Fox Road, Wayne, PA 19087 (UPI No. 43-11B-96).

6. The Property is located in the R-2 Residential Zoning District.

7. The Applicants own the Property.

8. The Property is bordered by residences on all sides.

9. The Property has frontage on Red Fox Road and Robinwood Road and is a corner lot.

10. The perceived front yard of the Property is Red Fox Road

11. Currently existing on the Property is a single-family dwelling, driveway, patio walkways.

12. The Applicants are in the process of updating the existing home, including its exterior which is from the 1960s.

13. The Applicants propose to replace the existing front porch on the Property.

14. The existing porch projects four feet from the front of the existing home.

15. The existing front porch has a front yard setback of 33-feet.

16. Code Section 208-26.D requires a front yard setback of 35-feet.

17. As a result, the existing porch is nonconforming in regard to front yard setback.

18. The Applicants propose to replace the existing porch with a new porch.

19. The new porch is proposed to project five feet from the front of the existing home.

20. As a result, the new porch is proposed to have a front yard setback of 32-feet, and therefore, requires dimensional variance relief.

21. The proposed porch will have pillars and an A-frame.

22. The proposed porch will be similar to front porches on adjacent properties.

23. No one appeared to seek party status.

24. No one appeared to provide public comment.

25. Granting the requested dimensional variance will not alter the essential character of the neighborhood or be injurious to the neighborhood or otherwise be detrimental the public welfare.

26. 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, 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 replace an existing nonconforming front porch. The proposed replacement porch is proposed to project one foot further into the front yard setback. The increase to the nonconformity is de minimis. The propose porch is similar to existing porches in the vicinity of the Property and will be in keeping with the neighborhood. Given the foregoing, the Board finds that the Applicants have met their burden of proof for the requested dimensional variance.

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 established entitlement to the requested dimensional variance from Code Section 208-26.D to permit the replacement porch to have a 32-foot front yard setback where 35-feet is required.

The Board, therefore, enters the following:

ORDER

AND NOW, this 27th day of August, 2026, confirming its oral decision of July 23, 2026, upon consideration of the Application of Timothy and Jessica Gallagher for the Property located at 400 Red Fox Road, Wayne, PA (UPI No. 43-11B-96), IT IS HEREBY ORDERED that the following relief is GRANTED: a dimensional variance from Code Section 208-26.D to permit the replacement porch to have a 32-foot front yard setback where 35-feet is required.

ZONING HEARING BOARD OF TREDYFFRIN TOWNSHIP

DANIEL MCLAUGHLIN, Chairperson

ROBYN FORBES DRUCKER, Vice Chairperson

BRADFORD MURPHY, Member

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."