

MONROE TOWNSHIP ZONING HEARING BOARD

IN RE:	:	
	:	
Application of	:	APPEAL NO. 2022-03 ZHB
Charles D. Galaspy	:	
Premises: 1327 Church Street	:	
Carlisle, PA 17015	:	

DECISION

This case comes before the Monroe Township Zoning Hearing Board (“Board”) pursuant to the provisions of §604.4 of the Monroe Township Zoning Ordinance (hereinafter referred to as the “Ordinance”), the same being an application for two variances by Charles D. Galaspy (“Applicant”) from the provisions of §203.5 of the Ordinance, relating to the minimum rear yard setback requirements and maximum lot coverage requirements in the Village Zone. The variances are sought to permit the construction of a detached single-family residential dwelling, in apparent violation of the foregoing Section of the Monroe Township Zoning Ordinance.

Pursuant to notice duly given, as required by the provisions of the Ordinance, a hearing was held before the Board at the Monroe Township Municipal Offices, 1220 Boiling Springs Road, Mechanicsburg, Pennsylvania, on Tuesday, May 24, 2022, beginning at 6:00 p.m. The matter was heard by Rich Moore, Chair of the Board and by Paul Rast, Vice-Chair of the Board.

In accordance with the provisions of the Ordinance, notice of said hearing was given to the Applicant and to adjoining property owners. A Proof of Publication of public notice is also made a part of the Record.

Testimony at the hearing was offered by the Applicant’s spouse (Kim Galaspy), by the Applicant and by intervening adjoining property owner Heidi Regel. Testimony on behalf of the Township was offered in written form by Gregory R. Rogalski, the Township Zoning Officer. The

Application-related submissions filed by the Applicant were admitted into evidence as Board Exhibits, as was the written Memorandum submitted by Mr. Rogalski.

An Entry of Appearance as a party to the appeal was filed by Ms. Heidi Regel of 1329 Church Street, Carlisle, PA 17015. Ms. Regel testified as to her support of the requested relief. No objectors appeared at the hearing to register any opposition to the requested variances.

At the conclusion of the evidentiary hearing of May 24, 2022, the Board in open meeting conducted a formal discussion of the matter and took formal action.

The Record consists of the aforesaid Notice of Public Hearing, Proof of Publication, and letters of notification of neighboring property owners, together with the original Application and related submissions filed by the Applicant and by Mr. Rogalski. A transcript of the hearing was made and is also part of the Record of this matter.

FINDINGS OF FACT

After a review of the testimony and the documents included in the Record of this case, the Board makes the following Findings of Fact:

1. On April 11, 2022, Charles D. Galaspy (“Applicant”), the owner of the property located at 1327 Church Street, Carlisle, Cumberland County, Pennsylvania, filed a Zoning Hearing Board Application, seeking two variances that would allow for a new detached single-family dwelling to be constructed in the Village Zone. The Application included documents depicting the dimensions relating to the requested variances, which have been received into evidence.

2. Applicant sought a variance from the Ordinance’s requirement of a minimum rear yard setback of 50 feet, so that the new structure could be constructed within 10 feet of the property line. The Applicant also sought a variance from the Ordinance’s requirement of a maximum lot coverage of 25% of the available lot area, so that the new structure, together with other existing structures, would occupy approximately 38% of the available lot area.

3. The lot in question existed prior to the adoption of the Ordinance, is exceptionally small in comparison to nearby lots, and is substantially irregular in shape.

4. The Applicant lived in a residential structure on the same lot as a youth, which has since been removed and replaced with two mobile home structures, which have also been recently removed to make way for the construction of a new residence.

5. Because the construction of a reasonably-sized residential structure at the required setback line and within the maximum lot coverage specifications would be impossible, given the irregular dimensions and small size of the lot, the Applicant has asked for two variances to construct the structure on the lot, which is a family legacy property.

6. Ms. Regel, the adjoining property owner, does not object to the granting of the requested variance.

ADDITIONAL FINDINGS OF FACT
AND CONCLUSIONS OF LAW

When determining whether to grant a variance in any given case, this Board must take into consideration the provisions of the Ordinance setting forth the criteria for the granting of variances. Accordingly, this Board must be guided by the provisions of Section 604.4 of the Ordinance, which provides in pertinent part as follows:

604.4. Variances - The Zoning Hearing Board shall hear requests for variances where it is alleged that the provisions of this Ordinance inflict unnecessary hardship upon the applicant. The Zoning Hearing Board may, by rule, prescribe the form of application to the Zoning Officer. The Zoning Hearing Board may grant a variance, provided that all of the following findings are made where relevant in a given case:

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 is due to such conditions, and not the circumstances or conditions generally created by the provisions of this Ordinance in the neighborhood or zoning district in which the property is located;

2. That because of such physical circumstances or conditions, there is not a possibility that the property can be developed in strict conformity with the provisions of this Ordinance 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 applicant;
4. That the variance, if authorized, will not alter the essential character of the zone or neighborhood 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.

In the instant case, the Applicant has made a sufficient showing to satisfy each of the 5 above-enumerated criteria for the granting of the requested variances. The foregoing Findings of Fact demonstrate that the physical characteristics of the lot present tangible obstacles for the construction of the proposed structure within the minimum and maximum specifications set forth in the Ordinance. Given the dimensions of the property, the Applicant has no viable choice but to situate the structure within the required setback area and to construct a dwelling that exceeds the specified maximum lot coverage percentage.

Consequently, the Board specifically finds that the granting of the requested variances would promote the declared purposes of the Zone in which the property is situated.

Therefore, based on the foregoing discussion and analysis, the Board grants the Applicant's request for variances with respect to the construction of the proposed residential structure that will be situated on the property.

The Board also notes, and has so admonished the Applicant, that all other requirements of applicable Township Ordinances are to be complied with by the Applicant in the construction of the proposed structure and any other accessory facilities.

ALL MEMBERS CONCUR.

MONROE TOWNSHIP ZONING HEARING BOARD

By: *Philip J. Murren*
Philip J. Murren, Solicitor

Dated: May 31, 2022