

ZONING HEARING BOARD OF LOWER PROVIDENCE TOWNSHIP

APPLICATION NO.	Z-12-04	:	HEARING DATE:	July 26, 2012
		:		
		:		
APPLICATION OF:		:		
William E. Ronan		:		
		:		
PROPERTY:		:		
65 Washington Blvd.		:		
Lower Providence Township		:		
Eagleville, PA 19403		:		
Parcel No. 43-00-00169-00-4		:		

**OPINION, DECISION AND ORDER OF THE
LOWER PROVIDENCE TOWNSHIP ZONING HEARING BOARD**

The applicant, William E. Ronan (hereinafter "Applicant") filed an application requesting
~~a variance from the setback requirements of Section 143-33(A)(2)(b) of the Lower Providence~~
Township Zoning Ordinance in connection with the construction of an attached garage with a
breezeway. The application was properly advertised, and a public hearing was held before the
Lower Providence Township Zoning Hearing Board (the "Board") on July 26, 2012 at the Lower
Providence Township Building. All members of the Board were present. Also present were the
Solicitor, the Zoning/Code Enforcement Officer and the Court Reporter.

FINDINGS OF FACT

1. The Applicant is William E. Ronan.
2. The Applicant is the owner of the subject property located at 65 Washington
Blvd. Eagleville, PA 19403 (hereinafter the "Property"). The parcel number is 43-00-00169-00-
4.
3. The applicable zoning district is an R-1, residential district.
4. The Applicant was not represented by legal counsel.
5. The lot size is 21,600 square feet.

6. The present use of the Property is residential.

7. The following exhibits were marked at the hearing:

B-1 Appeal Application

B-2 Advertisement

B-3 Proof of Publication

8. The lot is nonconforming as it does not meet the minimum square footage requirement of 65,000 square feet.

9. The proposed garage would be set back forty (40) feet from the side property line and will be attached to the existing driveway.

10. The Property is currently the sole home in the neighborhood without a garage.

11. ~~The application for a variance was made to allow ease of access to accommodate the disability of Applicant.~~

12. There was no adverse public comment regarding this application.

13. There is an unnecessary hardship requiring the grant of a variance.

14. There are unique physical characteristics of the property which require the proposed dimensional variance.

15. The proposed garage will not alter the essential character of the neighborhood.

DISCUSSION and CONCLUSIONS OF LAW

1. The applicant has standing to appear before the Board regarding the requested relief.

2. Denial of the requested relief will impose an unnecessary hardship on the Applicant.

3. The hardship is not self-imposed, and is due to the unique physical

circumstances of the Property.

4. The requested relief is necessary to enable the Applicant's reasonable use of the Property, represents the minimum that will afford relief, and represents the least modification possible of the regulation at issue.

5. The proposed garage and breezeway will not alter the essential character of the neighborhood in which the Property is located.

The Applicant has requested a variance from the setback requirements of Section 143-33(A)(2)(b) of the Lower Providence Township Zoning Ordinance. The request seeks relief as to the dimensional requirements that require a fifty (50) foot setback on the side yard.

Differing standards apply to use and dimensional variances. Generally, a variance ~~requires the applicant to show that unnecessary hardship will result if a variance is denied, and~~ that the proposed use will not be contrary to public interest. Hertzberg v. Zoning Bd. Of Pittsburgh, 554 Pa. 249, 257, 721 A.2d 43, 47 (1998) (citing Allegheny West Civic Council, Inc. v. Zoning Bd. Of Adjustment of the City of Pittsburgh, 547 Pa. 163, 167, 689 A.2d 225, 227 (1997)). The quantum of proof required to establish unnecessary hardship in the case of a dimensional variance is, however, lesser than when a use variance is sought. Id. at 258-59.

Regardless of the type of variance sought, the reasons for granting a variance must be substantial, serious, and compelling. POA Company v. Findlay Township Zoning Hearing Board, 551 Pa. 689, 713 A.2d 70 (1998); Evans v. Zoning Hearing Board of the Borough of Spring City, 732 A.2d 686 (Pa. Commw. 1999); Sotencanos, Inc. v. Zoning Board of Adjustment of the City of Pittsburgh, 711 A.2d 549 (Pa. Commw. 1998). Pursuant to the Municipalities Planning Code the following must be found in order for the Board to grant the requested variance:

- (1) That there are unique 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 the zoning ordinance 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 the zoning 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 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. 53 P.S. § 10910.2.

The unique circumstances presented by Applicant, including non-conforming lot size, and disability require the grant of a variance from the side yard setback requirement of fifty (50) feet. The variance is appropriate because it is the size of the lot and the position of the existing home thereon which require a variance. Further, undue hardship would result from a denial of the variance. This hardship is not self-imposed but is rather the result of the physical characteristics of the lot. Also, the essential character of the neighborhood will not be changed with addition of this garage as the Property is the only home without such a structure. Finally, the proposed garage would have a forty (40) foot setback from the side property line. This mere

ten (10) foot difference represents the minimum variance that will afford the required relief.

Accordingly the Board finds that the application for a variance from the side yard setback requirements of Section 143-33(A)(2)(b) of the Lower Providence Township Zoning Ordinance is granted.

DECISION

The decision of the Lower Providence Township Zoning Hearing Board by a 5-0 vote is as follows:

The application for a variance from Section 143-33(A)(2)(b) of the Lower Providence Township Zoning Ordinance is granted.

Dated: September 7, 2012

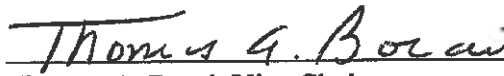
ORDER

The foregoing Findings, Discussion and Decision are hereby approved and ordered.

LOWER PROVIDENCE TOWNSHIP
ZONING HEARING BOARD



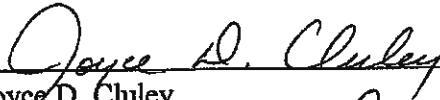
Nancy McFarland, Chairwoman



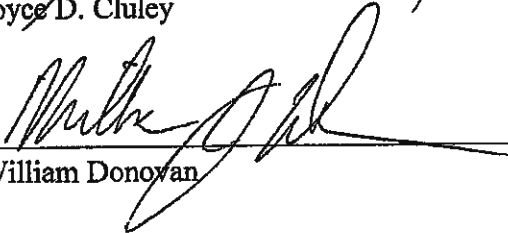
Thomas A. Borai, Vice Chairman



Eric Frey



Joyce D. Chuley



William Donovan

NOTE TO APPLICANT

There is a thirty (30) day period after the date of a decision for an aggrieved person to file an appeal in the Court of Common Pleas of Montgomery County to contest an approval or denial by the Zoning Hearing board. If the Applicant has been granted Zoning Hearing Board approval, the Applicant may take action on said approval during the thirty (30) day appeal period; however, the Applicant will do so at his or her own risk. If the Applicant received Zoning Hearing Board approval, the Applicant must secure all applicable permits from Lower Providence Township within one (1) year of the date of the approval or the decision granting approval.