

**ZONING HEARING BOARD OF LOWER PROVIDENCE TOWNSHIP**

**APPLICATION NO. Z-20-17**

**:**  
**:**

**ERIC KRIEG**

**4 CAMIEL LANE**

**Tax parcel 430001990001**

**:**

**HEARING DATE: October 29, 2020**

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

**INTRODUCTION AND BACKGROUND**

The applicant, Eric Krieg, seeks zoning relief in order to install a second shed on his property in the R-1 zoning district, at a setback greater than five feet. Applicant was informed by the Township zoning officer that since he already had one shed at a reduced setback, a second shed would have to meet the rear and side yard setbacks of 60 and 50 feet, respectively.

The application was properly advertised, and a public hearing was held before the Lower Providence Township Zoning Hearing Board (the "Board") on October 29, 2020 at 7:00 p.m. at the Lower Providence Township Building. Joseph E. Bresnan, Esquire served as conflict counsel to the Zoning Hearing Board. The Board and parties were present in the hearing room, while other citizens participated via the internet due to the pandemic.

Party status was granted to Kathleen Banski, 2043 Walnut Bottom Rd., Carlisle, PA (participating remotely), who owns a parcel in close proximity to the subject property. In the middle of the hearing, David C. Werthime, Esquire stated that he was representing Ms. Banski.

Board exhibits included:

B-1, a copy of the application

B-2, proof of publication and copy of legal notice

B-3, Proof of notification of owners within 500 feet

B-4, Proof of posting the property

Applicant exhibits were presented as a single slide presentation of the photos attached to his application: aerial views of his lot and the surrounding neighborhood; images and technical specs for the proposed shed; photos of the interior of the existing shed and its contents; deed to property.

Ms. Banski introduced 10 exhibits:

Banski 1: Deed conveying property to Applicant and wife

Banski 2: 2011 property deed

Banski 3: 1983 property deed

Banski 4: 1979 property deed

Banski 5: 1958 property deed

Banski 6: Banski deed to her property

Banski 7: 1959 deed to Banski property

Banski 8: 1956 map of neighborhood

Banski 9: Township zoning map

Banski 10: Screen capture from Recorder of Deeds search

### **FINDINGS OF FACT**

1. Applicant and his wife live in a ranch style home on an approximately 30,000 square foot lot zoned R-1. The neighborhood is commonly referred to as “The Fatlands”.
2. The Krieg family are fitness enthusiasts who have filled their shed and garage with various pieces of exercise, hiking and scouting equipment in addition to lawn care equipment. They desire to add a shed to clear the garage to make way for a car, following a hail storm in which a vehicle sustained substantial damage.
3. Secondly, the proposed location of the shed will create a visual buffer between their backyard and that of their immediate neighbor, which both see as positive.
4. The shed would be painted to match the home, would be made of high quality materials, and would be landscaped.
5. Six neighboring properties have more than one shed at a reduced setback.
6. Due to the layout of the ranch style residence, which has a larger footprint than a two story residence, there is only 87 feet of combined side yard on the property.
7. R-1 parcels today require 65,000 square feet with 50 foot side yards; Applicant’s property is not half that size, making the required side yards problematic.
8. Placing the shed deep enough into the lot to avoid the side yard problem creates difficulty with the rear yard setback and would block a view of the most attractive part of the property.

9. Applicant canvassed his neighborhood and with the exception of Ms. Banski, no neighbor within 500 feet objects to the shed.
10. Joseph Byron, 2 Camiel Lane, and Colleen Eckman, 5 Camiel Lane, both testified remotely and both supported the application.
11. Ms. Banski objects to the application on the basis of the impact that the impervious shed will have on stormwater flow in the neighborhood, which she sees as a significant problem.
12. Ms. Banski also objected to the shed on the basis of a deed restriction in the chain of title that prohibits additional structures.
13. The Board voted unanimously after the close of evidence to grant the requested relief. A letter was sent to Applicant and Ms. Banski the next day, summarizing the relief granted.

### **CONCLUSIONS OF LAW**

1. The Applicant has standing to appear before the Board regarding the requested relief.
2. The Board has jurisdiction over applications seeking variance relief.
3. The objecting party placed great emphasis upon an asserted deed restriction that prohibits Applicant from adding structures to his parcel. Deed restrictions are a private matter and are beyond the consideration of a zoning hearing board. *BR Associates v. Board of Commissioner of Upper St. Clair*, 136 A.3d 548 (Pa. Commw. 2016).
4. The objecting party argued with equal vigor that the additional stormwater runoff would be harmful to the community. Aside from the fact that the addition of the shed would be de minimis in terms of stormwater runoff, the determination that was appealed from was not that Applicant could only have one shed, but that only one shed could enjoy the benefit of a reduced setback.
5. Upon consideration of the evidence as a whole, the Board finds that the Applicant has demonstrated enough of a hardship to justify the use of a reduced setback for the second shed. An order follows.
6. The Board does not presently have a copy of the transcript. The Board reserves the right to supplement this decision with references to the record in the event of any appeal.

{ORDER FOLLOWS ON NEXT PAGE}

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**ORDER**

For the reasons set forth in the foregoing decision, the Order of the Lower Providence Township Zoning Hearing Board is as follows:

The application for a variance from Ordinance 143-32.A(k) is GRANTED and Applicant may install a second shed at a setback of 25 feet, at the location indicated during testimony.

**LOWER PROVIDENCE TOWNSHIP  
ZONING HEARING BOARD**

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Kathie A. Eskie, Chairwoman

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George J. Ozorowski, Vice Chairman

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Gail Hager

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Joseph Pucci

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Patricia Alzamora

