

**TOWNSHIP OF PINE ZONING HEARING BOARD**

APPLICANTS:	David and Kristen Speidolsbach
LOCATION:	300 Pinyon Drive
ZONING CLASSIFICATION:	S-1 with a PRD overlay
SUBJECT:	Application for variance from § 84-13 (G.3.b.3)
APPEARANCE FOR APPLICANTS:	David Myers Koertney A. Zoelle
APPEARANCE FOR TOWNSHIP:	Gary Gushard, Esq.; John Swinderman, Code Enforcement Officer
DATE OF HEARING:	February 28, 2018

**FORMAL NOTICE OF DECISION**

You are hereby notified, pursuant to the Decision reached at the hearing conducted on February 28, 2018, of the following:

1. The Applicants are David and Kristen Speidolsbach. They were represented at the hearing by David Myers and Koertney A. Zoelle of J. Francis Company, LLC, their design-build contractor.
2. In or about 2013, Applicants bought the lot at 300 Pinyon Drive and had a house constructed thereon. At the time they had their house built, the Applicants elected to have a house with a two car garage, although an option for a 2.5 car garage was investigated by them but determined by them to be financially impracticable.
3. Applicants seek to construct an accessory structure on their lot in the form of a standalone, two car garage. Standing on Pinyon Drive and looking at the front of the Applicant's house, the two car garage would be situated on the left side of the lot.

4. Applicants seek a variance from the Code mandated 10' side yard setback requirement in the form of a 3.8' variance which would run the length of the as planned garage, which is approximately 30'.

5. Applicants state that the detached two car garage is needed because their daughter will soon be driving and they will become a three car family and then, thereafter, their son will be driving and they will become a four car family.

6. The property immediately adjacent to the lot which would be most directly affected by the variance, if granted, is open space owned by the Pine Crest Manor Home Owner's Association ("HOA"), of which Applicants are a member. Applicants presented evidence that the HOA approved their proposed exterior alterations to home or land areas.

7. Applicants' representative acknowledged at the hearing that the Applicants could build a two car garage on their lot without the requested variance if the width of the garage was slightly reduced and if the location of the garage on the Applicants' lot was moved slightly, out of the setback area, from the location set forth on Applicants' development plan.

8. Notice was given to the adjacent property owners of the requests for variances and no objections were received or presented to this Board.

9. Pine Township Code § 2-31 authorizes this Zoning Hearing Board to hear requests for variances from the Pine Township Zoning Code. The standards for the grant of a variance are set forth in § 10910.2 of the Municipality Planning Code ("MPC") which provides as follows:

**§ 10910.2. Zoning hearing board's functions; variances**

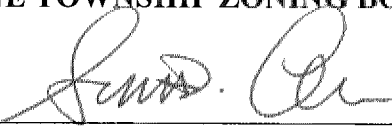
- (a) The board shall hear requests for variances where it is alleged that the provisions of the zoning ordinance inflict unnecessary hardship upon the applicant. The board may by rule prescribe the form of application .and may require preliminary

application to the zoning officer. The 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 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 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.
- (b) In granting any variance, the board may attach such reasonable conditions and safeguards as it may deem necessary to implement the purposes of his act and the zoning ordinance.

10. Based on the evidence presented, the Applicants failed to meet their burden of proof to warrant the grant of the requested variance as determined by a majority vote of this Board.

**PINE TOWNSHIP ZONING BOARD**

By:   
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Scott D. Cessar, Chairperson: Deny variance  
Sandra K. Cikovic: Deny variance  
Lisa Earl: Abstained  
Jason C. Merante: Grant variance

Filed this 21<sup>st</sup> day of March, 2018.