

TOWNSHIP OF PINE ZONING HEARING BOARD

APPLICANTS: Theodore and Jacquelyn Demianczyk
LOCATION: 431 McKinney Road
ZONING CLASSIFICATION: Special Overlay District - Greenway
SUBJECT: Application for variances from § 84-21(C)(2) (front yard) and 84-13(F)(3)(b)[1] (side yard)
APPEARANCE FOR APPLICANTS: Theodore Demianczyk, IV, Jacquelyn Demianczyk
APPEARANCE FOR TOWNSHIP: Gary Gushard, Esq.; John Swinderman, Code Enforcement Officer
DATE OF HEARING: May 29, 2018

FORMAL NOTICE OF DECISION

You are hereby notified, pursuant to the Decision reached at the hearing conducted on May 29, 2018, of the following:

1. The Applicants are Theodore Demianczyk and Jacquelyn Demianczyk, owners of an existing house located at 431 McKinney Road.
2. Applicants seek three variances:
 - a) Front yard to build a patio roof enclosure from 84-21(C)(2) of 6 feet for a length of 42 feet;
 - b) Front yard to build a second story addition to the garage from 84-21(C)(2) of 15 feet for a length of 22 feet; and
 - c) Side yard to build a set of stairs to access the second story addition to the garage from 84-13(F)(3)(b)[1] of 4 feet for a length of 13 feet.

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

4. 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.

5. Based on the evidence presented, the Applicants met their burden of proof for variances (a) and (b) as set forth in paragraph 2. Applicants, however, failed to meet their burden for variance (c) as set forth in paragraph 2.

6. Variances (a) and (b), thus, are granted and variance (c) is denied. The construction of the variances permitted in (a) and (b) shall be in strict conformity with the plan which is part of Applicants' application and which is appended hereto at Exhibit A.

7. In the event the construction of variances permitted in (a) and (b) are not completed within one (1) year of the date of this Formal Notice of Decision, the variances are deemed to be rescinded and shall be null and void.

PINE TOWNSHIP ZONING BOARD

By: 

Scott D. Cessar, Chairperson
Michael Pfeifer
Sandra K. Cikovic
Lisa Earl
Jason C. Merante

Filed this 31st day of May, 2018.