

IN THE MATTER OF : BEFORE THE LOWER ALLEN TOWNSHIP  
THE APPLICATION OF : ZONING HEARING BOARD  
DOUGLAS J. BARRY : CUMBERLAND COUNTY, PENNSYLVANIA  
: DOCKET NO. 2016-02  
:

**DECISION GRANTING VARIANCE**

The Applicants seek a variance to construct an accessory building which will encroach into the side and rear setback. A hearing was held before the Board on October 20, 2016.

**FINDINGS OF FACT**

1. Notice of the hearing was properly advertised, the subject property was posted, and all property owners required to be notified of the hearing were notified in accordance with the Codified Ordinances.

2. The Applicant is Douglas J. Barry, 840 Kiehl Drive, Lemoyne, PA 17043.

3. The Applicant is the owner of the subject property.

4. The subject property is located in a Mixed Use Neighborhood Zoning District, and used for parking for The Pizza Grille Restaurant at 3817 Gettysburg Road.

5. The subject property is located on the south side of Gettysburg Road and is bounded on the east by North St. Johns

Church Road. It is unimproved (except for macadam paving) and known as 3900 Gettysburg Road.

6. The Applicant proposes to construct an accessory building, 30 feet by 40 feet, in the northwest corner of the subject property, for storage of snow removal equipment.

7. The proposed building will encroach into the rear yard a distance varying between 7.5 and 10 feet, and will encroach into the western side yard a distance of 10 feet.

8. The proposed building will be consistent in appearance with the restaurant.

9. The proposed location was chosen because it will minimize loss of parking spaces and interference with traffic flow.

10. No one objected to the proposed relief.

#### **CONCLUSIONS OF LAW**

1. Under Sections 220-266 and 220-269(B)(5) and (C) of the Codified Ordinances, the Zoning Hearing Board has jurisdiction to hear and decide a request for a variance.

2. Under Section 220-150 (B)(2) of the Codified Ordinances, a structure accessory to a non-residential use shall not be located less than 15 feet from any lot line.

3. The limitation of use of the subject property to off-street parking, and the existing layout of parking spaces and internal access drives create an unnecessary hardship.

4. A variance is necessary to enable the construction of an accessory building.

5. The unnecessary hardship has not been created by the Applicant.

6. The requested relief will not alter the essential character of the district in which the subject property is located, nor substantially or permanently impair the appropriate use or development of adjacent property, nor be detrimental to the public welfare.

7. The requested variance represents the minimum variance to afford relief.

#### **DECISION**

Based upon the foregoing findings and conclusions, and in consideration of the testimony and evidence presented to the Board, it is the decision of the Board that the Applicant's request for a variance be and is hereby granted, subject to the following conditions:

1. The Applicant shall contact the Parks Department of the Township on an annual basis prior to the start of the snowfall season to coordinate snow removal for The Pizza Grille, and shall repair any damage to Township property resulting from snow removal activity;

2. There shall be no outside storage of snow removal equipment on the subject property or on the property of The Pizza Grille;

3. The Applicant shall maintain strict conformance with the testimony, plans and evidence presented to the Board.

LOWER ALLEN TOWNSHIP ZONING  
HEARING BOARD



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Solicitor

Date: 11-1-2016