

**LOWER ALLEN  
ZONING HEARING BOARD**

IN THE MATTER OF:      2014 Highland Circle  
                                 Zone: Single Family Established Residential (R-1)  
                                 Applicant: Stephen Matusheski  
                                 Application No. 2024-06

REQUEST FOR:            **DIMENSIONAL VARIANCE FOR ZONING RELIEF FROM  
NUMBER OF ACCESSORY STRUCTURES ON A LOT  
USED FOR RESIDENTIAL PURPOSES**

BEFORE:                   Moran, Chair  
                                 Bonneville, Vice Chair  
                                 Migala, Participating Alternate

**DECISION**

Applicant filed an application for a dimensional variance for zoning relief to install a third storage shed on his property, which exceeds the number of accessory structures permitted on a lot used for residential purposes. The property is located in the Single Family Established Residential (R-1) Zoning District. The Lower Allen Township Zoning Code (Zoning Code) limits the number of accessory structures to two (2) per lot. Section 220-150(C) The Board considered and decided Applicant’s variance request at the August 15, 2024 meeting.

**EXHIBITS**

- B-1 Certificate of Service of public notice and written notice of hearing on variance application
- B-2 Application for variance with attached narrative, photos, plans for location of storage shed and quote for proposed shed.

**FINDINGS OF FACT**

1. On or about July 19, 2024, Stephen Matusheski (Applicant) applied for zoning relief in the form of a dimensional variance to install a third storage shed on his property located

at 2014 Highland Circle, Camp Hill, Pennsylvania (property), which exceeds the number of accessory structures permitted on a lot.

2. A hearing on the application took place on August 15, 2024.

3. Public notice of the hearing on the application was published in the Patriot News on July 30, 2024, and August 6, 2024. Notice of the hearing was posted at the Lower Allen Township Municipal Building and on Township's website on August 1, 2024, and placed on Applicant's property on August 1, 2024.

4. Notice of the hearing was mailed to Applicant and adjoining property owners on August 2, 2024.

5. No objections as to the method and timing of notice and advertising were raised.

6. No objections as to any of the exhibits submitted into the record at the hearing were raised.

7. The property is located in the Single Family Established Residential (R-1) Zoning District.

8. The Applicant has standing to pursue the zoning relief requested as he is the owner of the property.

9. Testimony at the hearing was taken from Applicant, Stephen Matusheski, and Lauren Casselberry, a neighbor of Applicant.

10. Applicant purchased the property in October 2023, and moved into the house on the property in February 2024.

11. The property features a one story single family dwelling with no basement and two sheds/storage structures in the rear yard separated by a macadam or concrete pad.

12. The two sheds together are approximately 360 square feet.

13. There is no garage on the property.
14. The rear yard lot line of the property borders a wooded area which leads to railroad tracks.
15. Applicant has one of the larger backyards in Highland Estates.
16. Applicant proposes to install a 10 ft. X 12 ft. storage shed (accessory structure) on the macadam pad between the two existing sheds on the property.
17. The additional storage shed would not interfere with any neighbors reasonable use of their property.
18. The proposal would not adversely impact the character of the existing neighborhood.
19. One neighbor appeared at the hearing, Lauren Casselberry, and testified that she, nor any other neighbor she spoke with about the proposal, was opposed to the additional shed or its location on the property<sup>1</sup>.
20. No one appeared at the hearing to testify in opposition to the application for the variance.

#### **CONCLUSIONS OF LAW**

1. The Lower Allen Township Zoning Hearing Board has jurisdiction to hear the above-captioned application pursuant to 53 P.S. Section 10909.1(a)(5). (The Municipalities Planning Code).
2. Proper notice of the hearing was given to the public and to all interested parties.
3. Exhibits B-1 and B-2 were properly admitted into evidence.

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<sup>1</sup> Ms. Casselberry resides at 2008 Highland Circle.

4. Applicant has sustained his burden of proof for a variance to install a third storage shed (accessory structure) in the rear yard of his property located in the Single Family Established Residential (R-1) Zoning District in accordance with the attached discussion and decision.

### **DISCUSSION**

The property is located in the R-1 Zoning District which is regulated by Article 4 of Chapter 220 – Lower Allen Township Zoning Code (Zoning Code). The Use Standards of the Zoning Code supplement the regulations applicable to the districts of the Township. Chapter 220 Article 18. Applicant is proposing to install a third storage shed on the property. The Ordinance limits the number of storage sheds on a property used for residential purposes to two (2) per lot. Section 220-150(c) Accordingly, Applicant seeks a dimensional variance for zoning relief in order to install a the third storage shed on his property.

### **VARIANCE**

In reviewing the application requesting the dimensional variance, the Zoning Hearing Board must take into account the criteria as set forth in Section 220-269 of the Township Zoning Ordinance which states the following;

#### **Section 220-269 Zoning Hearing Board**

##### **C. Variances.**

The Zoning Hearing Board shall hear requests for variances where it is alleged that the provisions of this chapter inflict unnecessary hardship upon the applicant. The Zoning Hearing Board may, by rule, prescribe the form of application and may require application to the Zoning Officer. The Zoning Hearing Board may grant a variance, provided that 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 this chapter in the 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 this chapter 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 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 represent the least modification possible of the regulation in issue. In granting any variance, the Zoning Hearing Board may attach such reasonable conditions and safeguards as it may deem necessary to implement the purposes of this chapter.

Applicant submitted a request for a dimensional variance to install a storage shed (accessory structure) that exceeds the maximum number allowable on a lot used for residential purposes. Common law distinguishes between a dimensional variance and a use variance. A use variance applicant requests to use the property in a manner prohibited by the zoning regulation. *Hertzberg v. Zoning Bd. of Adjustment*, 554 Pa. 249, 264, 721 A.2d 43, 47 (Pa. 1998). A dimensional variance allows for the reasonable adjustment of the zoning regulation in order to

utilize the property as desired. *Dunn v. Middletown Twp. Zoning Hearing Bd.*, 143 A.3d 494, 501 (Pa. Commw. 2016).

When considering a dimensional variance for purposes of determining unnecessary hardship, a Zoning Hearing Board is able to consider multiple factors not applicable to the use variance test, such as the financial hardship created by any work necessary to bring the property into strict compliance with the ordinance, the economic detriment to the applicant if the variance was denied, and the characteristics of the surrounding neighborhood. *Soc'y Created to Reduce Urban Blight v. Zoning Bd. of Adjustment*, 771 A.2d 874, 877 (Pa. Commw. 2001). Unreasonable economic burden may be considered in determining the presence of unnecessary hardship. *Yeager v. Zoning Hearing Bd. Of City of Allentown*, 779 A.2d 595, 598 (Pa. Cmwlth. 2001) In *Marshall v. City of Philadelphia*, 97 A.3d 323 (Pa. 2014), the Pennsylvania Supreme Court stated “This Court has repeatedly made clear that in establishing hardship, an applicant for a variance is not required to show that the property at issue is valueless without the variance or that the property cannot be used for any permitted purpose” *Id.* at 330 A dimensional variance therefore compels a slightly lowered standard from a use variance, but must still address the aforementioned factors, including the showing of an unnecessary hardship. *Tri-Cnty. Landfill, Inc. v. Pine Twp. Zoning Hearing Bd.*, 83 A.3d 488, 520 (Pa. Commw. 2014). The reason for treating a dimensional variance more leniently than a use variance is that the applicant is asking for nothing more than a reasonable adjustment of the zoning regulations for the purpose of utilizing the property in a manner consistent with the zoning regulation. *Hertzburg* at p. 264.

Applicant has proven that there are unique physical circumstances and conditions to the property that creates an unnecessary hardship in this case. Applicant has one of the larger lots, including a large rear yard, as compared to other properties in Highland Estates. In the rear yard,

he has two storage sheds that total approximately 360 sq. ft, that are separated by a macadam pad. The property does not have a garage. Applicant needs outdoor sheltered space for equipment to maintain and care for the large yard; including space for a riding lawn mower. The macadam pad was used for a storage structure previously, but the structure was removed. The macadam pad can be reused for an additional storage shed on the property.

The total area of the three storage sheds will be approximately 440-480 sq. ft, which is less than other storage structures in the nearby neighborhood. (See Attachments 3 & 4 of Ex. B-2). Also, the shed will be located in between the other two sheds in the rear yard of the property which borders a wooded area that leads to railroad tracks. Therefore, the size and location of the proposed shed (10 ft. X 12 ft.) will not interfere with any neighbors reasonable use of their property.

Applicant did not create the conditions or circumstances on the property. The proposed storage shed would not alter the essential character of the existing neighborhood. Finally, the variance requested is the minimum necessary to afford Applicant relief and allow for the reasonable use of his property as he is only installing a third storage shed on a macadam pad that already existed on the property from a prior storage structure.

Accordingly, we find that the Applicant has sustained his burden of proving entitlement to the variance requested to install a third storage shed on his property which is used for residential purposes.

### **ORDER**

Applicant is granted a dimensional variance for zoning relief from Zoning Code Section 220-150(c), which limits the number of storage sheds on a property used for residential purposes to two per lot. The variance granted authorizes Applicant to install a third storage shed in the rear

yard of his property in between the existing two sheds. The variance granted applies to the property located at 2014 Highland Circle, Camp Hill, PA.

(SIGNATURE PAGE TO FOLLOW)



**LOWER ALLEN TOWNSHIP ZONING HEARING BOARD**

Date: 9/20/24

By: Ann Moran  
Ann Moran, Chair