

**FINDINGS AND RECOMMENDATION  
OFFICE OF PLANNING AND ZONING  
WESTTOWN TOWNSHIP, PENNSYLVANIA**

**APPLICANT:** Nathan & Cheryl Bump

**CASE NUMBER:** 2020-01

**HEARING DATE:** July 23, 2020

**PREPARED BY:** William Ethridge, AICP  
Director of Planning & Zoning

**REQUEST**

The applicant is seeking a variance to the side yard setback, to allow the construction of an accessory structure.

**LOCATION AND DESCRIPTION OF SITE**

1106 Cardinal Dr is a 1.1 acre property and is zoned R-1 Residential District. This property is a part of the Land Grant Farm neighborhood which is southeast of Westtown School, just north of where Chester and Delaware counties meet. Cardinal Dr is a minor residential street connecting local traffic to either SR926 or Shady Grove Way. The property is improved with a one-story principal dwelling, rear patio with pavilion, and macadam driveway. The property is along the west side of Cardinal Dr, 320' east of Robin Dr.

**PROPERTY BACKGROUND**

The applicant submitted a variance application in February 2020 to construct a two-story (17.67') detached accessory structure, 8.5' from the south side lot line. The first floor is intended to be a two-car garage with some work space, while the second floor is intended to be used as additional living space. The second floor will have a bathroom but no kitchen<sup>1</sup>.

The applicant's existing dwelling is an open concept one-story dwelling with no basement, and is 18' tall. According to Township Code, the side and rear yard setback for an accessory structure is no less than the height of the structure. Therefore the applicants are requesting a variance of 9.17' from the side yard setback.

**VARIANCE STANDARDS**

General standards for the granting of variances are contained with 170-2107(5) a-e of the Township Code and are attached to this report as Attachment A.

170-1502.F states:

*B. Arbors, garden sheds, private garages, private greenhouses, trellises, workshops, and similar accessory structures shall be permitted within side and rear yard areas provided they do not exceed the height, nor 50% of the footprint, of the principal structure. The side and rear yard setbacks for such structures*

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<sup>1</sup> The Township Code defines an Accessory Dwelling Unit as having three elements; a kitchen, a bathroom, and a bedroom. Absent any one of those elements and the space is not considered an ADU. This structure will have neither a kitchen nor a bedroom, therefore it is not considered an ADU.

*shall be no less than the height of the accessory structure, irrespective of the otherwise applicable yard requirement of the district. Any wheels attached to a mobile structure must be removed prior to the issuance of any permits. These standards do not apply to flexible developments.  
[Amended 6-3-2019 by Ord. No. 2019-01]*

## **FINDINGS**

The subject property exceeds the minimum lot size for an R-1 lot (1 acre and 150' of width required, 1.1 acres shown). It is a pie shaped lot, 240' wide at the street, shrinking to  $\pm 93'$  wide at the back, and  $\pm 285'$  deep. According to staff calculations, the average width of the lot may be less than required by code ( $\pm 147'$  shown, 150' required).

Based on the height of the proposed structure (17.67'), the Code requires it to be no closer than 17.67' from the side property line. The applicant would like to place the structure 8.5' from the side property line; therefore a variance of 9.17' is required.

## **RECOMMENDATION**

The lot is improved with a single-story residence which includes a side-facing two-car garage and a private septic system. There are no accessory structures. Similar homes in the neighborhood include accessory structures, though most are swimming pools and storage sheds. There is one similarly sited accessory building close to the side lot line, in the rear yard, two houses away at 1111 Cardinal Drive and appears in aerial photos as far back as 2008.

It is apparent from a review of the site plan that the siting of an accessory structure with vehicular access on this lot is restricted by a combination of factors including the shape and narrowness of the lot, the width of the principal dwelling, the placement of the principal dwelling, the location of the driveway, and the location of the septic field and its associated features.

It is the opinion of staff that an accessory structure capable of accommodating two cars can only fit on this lot in two locations; the proposed location, or in front of the home. In both scenarios a variance would be required, but only the proposed location would be in keeping with the existing character of the neighborhood. It is the opinion of staff that the proposed variance is not created by actions of the applicant, will not alter the essential character of the neighborhood, and represents the minimum variance necessary to afford relief.

The application received a favorable recommendation on a 5-2 vote from the Planning Commission.

Based upon the above findings, this Office recommends the Zoning Hearing Board **APPROVE** the applicant's request for a side yard setback variance of 9.17'.

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William Ethridge  
Director of Planning & Zoning

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Date

## Attachment A

*The following Code does not display images or complicated formatting. Codes should be viewed online. This tool is only meant for editing.*

### § 170-2107 **Variances.**

- A. The Board shall hear requests for variances where it is alleged that the provisions of this chapter inflict unnecessary hardship upon the applicant. The Board may, by rule, prescribe the form of application. The procedure shall be as follows:
- (1) A preliminary written application shall be filed with the Zoning Officer, who shall verify that the application is complete, and that the application is properly filed for a variance and not for a change to the Zoning Ordinance or Map concerning a use or district. If the latter is the case, the applicant shall be advised of the proper procedures, as stipulated by this chapter.
  - (2) Upon acceptance by the Zoning Officer that the application is complete, correct, and proper, a formal filing for consideration of the variance request shall be made by the Zoning Officer to the Zoning Hearing Board, together with the comments and recommendations of the Zoning Officer. Copies of the filing and comments shall be submitted to the Township Planning Commission and Board of Supervisors.
  - (3) A public hearing shall be properly advertised in accordance with the requirements established in § **170-2103** of this chapter.
  - (4) At least 30 days prior to the public hearing, the Planning Commission shall submit its written comments and recommendations on the application to the Zoning Hearing Board, or a written statement that it chooses to make no comments and recommendations. The Zoning Hearing Board shall not make a decision on the application until receipt of the Planning Commission's comments or its statement of no comment. When submitted, the comments of the Planning Commission shall be considered by the Board, but shall not be binding.
  - (5) Upon completion of the public hearing, the Board may grant a variance, provided that the procedures specified above are met and the following findings are made where relevant in a given case:
    - (a) 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;
    - (b) That because of such physical circumstances or conditions, there is no

possibility that the property can be developed in strict conformity with the area and bulk regulations or design standards of the Zoning Ordinance, and that the authorization of a variance is therefore necessary to enable the reasonable use of the property, but shall not allow a change in use to one not permitted by right in that district;

- (c) That such unnecessary hardship has not been created by the applicant;
  - (d) That the variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, not substantially or permanently impair the appropriate use or development of adjacent property, and not be detrimental to the public welfare; and
  - (e) 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 purpose of this chapter. The Board shall require that all other applicable land development regulations apply.