

10. The Applicant, Jason Stauffer, was the only witness, other than Mr. Tuscan, the Zoning Officer, who testified regarding the advertisement of the Application and the posting of the property.

11. The property in question is a lot improved with a single-family dwelling and an existing accessory building. The accessory building is in poor condition. The subject property is 14,760 square feet and is long and narrow, having a lot width of only 40 feet and a length of 370 feet.

12. The existing accessory structure is built on the western boundary of the property and, therefore, maintains a zero side yard setback.

13. Immediately adjoining the existing structure, on the property adjoining to the west, is a structure owned by Applicant's neighbor which also rests on the line. The two buildings are connected although they do not share a common structural wall.

14. Applicant wishes to replace his structure along the existing zero setback line on the western side. Applicant testified that his neighbor to the west intends to replace his building in the future with a new structure that would be set back from the lot line in accordance with the zoning ordinance.

15. Applicant submitted as part of his Application drawings for the proposed accessory structure.

16. Applicant's proposed accessory structure would have a footprint of 957 square feet.

17. The existing structure has a footprint of 448 square feet.

18. Applicant's proposed new structure would provide parking for two vehicles, as well as storage space for childrens' toys, mowers, gardening tools, and similar household items.

19. On the east side of the structure, Applicant proposes to erect a lean-to of 8 feet in depth. The purpose of the lean-to is to shelter Applicant's supply of firewood.

20. The zoning officer stated that, because the lean-to is not enclosed, it does not count against the side yard setback; therefore, Applicant's plan proposes a side yard setback of 11 feet on the east side.

21. Applicant proposes to have an upstairs area, which would be accessed via an interior stairway, which he would use as a personal woodworking shop. Applicant stated that he accepted as a condition of approval that the woodshop would be used only as a hobby and would not be used for commercial purposes. Applicant also agreed to accept as a condition of approval that sewer service would not be run to the accessory building and that there would be no interior water system for the building, although a hydrant would be run to the vicinity of the building to provide outdoor water supply.

22. Applicant testified that he had talked to his neighbors on both sides and that neither one had any objection. The Board notes that no one appeared to testify in opposition to the Application.

23. After closing testimony, the Board voted unanimously to grant the Application as presented, subject to the agreed-upon conditions.

B. CONCLUSIONS OF LAW

1. The property is located in the R-1 Residential District.
2. The property is a non-conforming lot, being narrower than would be allowed under the present zoning ordinance.
3. The existing structure constitutes a prior non-conforming structure in that the structure is built on the west property line.

4. In the R-1 District, accessory buildings must maintain a 3 foot side yard setback.
5. Accessory buildings are limited to a 600 square foot footprint.

C. DISCUSSION

Under Pennsylvania law, an applicant is entitled to variance relief if he can show that physical conditions unique to his property create a hardship by unreasonably restricting his use of the property. An applicant must show that his proposed variance will not constitute a danger to the community health, safety, and welfare. The applicant must show that the requested variance is the minimum variance necessary to afford relief. The variance must relate to the actual use of the property and not mere economic factors.

The Board finds that Applicant's request is justified under Pennsylvania variance law. Applicant is asking for a variance to permit 957 square feet when only 600 square feet is allowed. Although a variance request involving slightly more than 50% is not de minimis, it is not unreasonable, either. Applicant needs a minimum area to accommodate the two household vehicles, his personal property, and the interior stairway leading to the second floor for his hobby woodshop. Various alternative designs were discussed with the Applicant and the Board was satisfied that the relief requested is necessary to allow Applicant an accessory building of reasonable size for his needs.

The provision in the zoning ordinance limiting the size of accessory buildings to 600 square feet is not baseless. These limitations exist to discourage accessory residential or commercial uses that can arise in overly large accessory buildings. Applicant was willing to address these concerns by agreeing to conditions that his

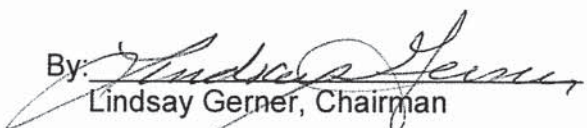
woodshop would not be used for any commercial purpose and that sewage and water would not be extended into the building. The Board finds that the record adequately addresses the zoning concerns about the size of the building.

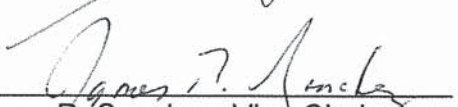
Regarding the placement of the building, Applicant needs no relief. The building is replacing a lawful prior non-conforming structure and the placement of the building on the west property line does not create any new dimensional non-conformity.

D. DECISION

And now this 22nd day of March, 2018, Applicant's request for a variance to erect an accessory building of 957 square feet is granted, subject to the agreed upon conditions that Applicant will not use the property for commercial use or sales of any woodworking products and that Applicant shall not extend sewer or water service into the accessory building.

THE MILLERSVILLE BOROUGH
ZONING HEARING BOARD

By: 
Lindsay Gerner, Chairman

By: 
James R. Sanchez, Vice-Chairman

By: 
Vickie Usciak, Member

By: 
David Fisher, Alternate

James A. Kirk, Jr., Member and Karen Eckert, Member, were not present and took no part in this Decision.