

**APPLICATION OF BODINE PROPERTIES, LLC, NO 02-2024
BEFORE THE ZONING HEARING BOARD OF
CHARLESTOWN TOWNSHIP, CHESTER COUNTY, PENNSYLVANIA**

DECISION

The Application of Bodine Properties, LLC, hereinafter, “Applicant,” was heard by the Zoning Hearing Board of Charlestown Township on August 14, 2024. Applicant is the owner of tax parcel 35-07-0005, realty and improvements situated at 2081 Bodine Road, Charlestown Township, hereinafter, the “Subject Property”. Applicant requested a variance from §27-1608(1)(c)(1) of the Charlestown Township Zoning Ordinance, as amended, hereinafter the “Ordinance,” so that Applicant may construct a driveway, an accessory structure, closer than twenty feet of the required side yard setback to any property abutting Applicant’s property. Applicant presented testimonial and documentary evidence in support of Applicant’s requested zoning relief.

At the conclusion of Applicant’s case, the Zoning Hearing Board, by unanimous public vote, granted Applicant’s request for a variance. In accord with 53 P.S. §10908(9) the Zoning Hearing Board sets forth the following Findings of Fact and Conclusions of Law in support of its Decision.

FINDINGS OF FACT

1. Applicant purchased the Subject Property, by Deed, dated February 14, 2024, recorded at the Recorder of Deeds, at Book 11170, page 1140.
2. The gross area of the Subject Property is approximately 4.1 acres and said acreage is presently improved with a house, garage and a swimming pool.
3. The Subject Property is situated in a FR - Farm Residential zoning district, and is subject to the provisions of Article IV of the “Ordinance”.
4. Applicant’s representative, John M. Robinson, testified that Applicant intends to subdivide said property into two building lots.
5. Proposed Lot 1, with an area of 80,146 s/f (net) and improvements, described heretofore, and an existing driveway to Bodine Road, will remain.

6. Proposed Lot 2, with an area of 83,751 s/f (net) will be improved with a single-family dwelling and a turnaround area that connects said dwelling and turnaround area with a driveway (depicted as grey in color on Applicant's Proposed Plan, dated May 2, 2024) with approximate dimensions of a width of 9' and a length of 510' ending at Bodine Road.

7. Applicant's adjoining neighbor, William Struebing, whose address is 2095 Bodine Road, delivered to Applicant a notarized sworn statement, that was received by the Zoning Hearing Board that provided, in part, "said neighbor has no objection to Applicant's proposed variance application".

8. Applicant requests a variance to permit the grey colored driveway to be relocated within five feet of the property line should installation be required as a result of unforeseen installation difficulty.

9. Mr. Robinson informed the Zoning Hearing Board that Applicant would use best efforts to preserve approximately 22 of approximately 32 maple, black cherry, and poplar trees that grow near the proposed driveway, at places marked with x's on Applicant's Variance Plan, dated May 2, 2024.

10. A Notice of Public Hearing was read by the Chairman of the Zoning Hearing Board at the outset of the hearing which Notice was marked Exhibit B-1 and made part of the record. A proof of the *Daily Local New's* publication of said Notice was marked Exhibit B-2 and made part of the record, as were a Certification of Mailing said Notice by regular U.S. mail, postage prepaid, to approximately 14 adjoining landowners, (Exhibit B-3), and a proof of posting the Subject Property continuously to the date of hearing (Exhibit B-4).

11. No other person entered an appearance or presented any opposition to the Application prior to or at the hearing,

CONCLUSIONS OF LAW

12. A de minimis variance may be granted, even where the strict requirements for a variance have not been met, where the variance requested is minor and rigid compliance is not necessary to protect the public policy concerns of the

ordinance. Township of Middletown v. Zoning Hearing Board of Middletown, 682 A.2d 900, 901 (Pa. Cmwlth. 1996).

13. Applicant is granted a 5 feet variance from the property line pursuant to §27-1608.1.C.(1) of the Ordinance should installation of the grey shaded driveway be difficult as a result of unforeseen installation circumstances.

14. There is no general right to a de minimis variance and the decision whether to grant said variance is left to the discretion of the local zoning hearing board. Segal v. Zoning Hearing Board of Buckingham, 771 A.2d 90, 95 (Pa. Cmwlth. 2001).

15. Applicant's proposed construction will not alter the essential character of the FR District in which it is located nor will it substantially impair the appropriate use of adjacent property or be detrimental to public welfare.

16. The forgoing Findings of Fact and Conclusions of Law of the Zoning Hearing Board are made in support of the Zoning Hearing Board's unanimous decision made at the conclusion of public hearing held August 14, 2024, as confirmed in a letter, dated August 15, 2024.

17. Notice of Hearing was properly made in accordance with the Pennsylvania Municipalities Code and the provisions of the Charlestown Township Zoning Ordinance, as amended.

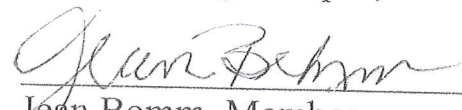
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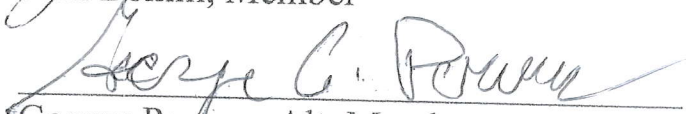
9/19/24
Date



Andrew Greg Nessor, Chairman



Jean Bomm, Member



George Powers, Alt. Member