

RE: DEBORAH ALLEN, : ZONING HEARING BOARD OF
Applicant : THE BOROUGH OF CARLISLE
: :
: CASE NO. 19-03
: :
Request for Variances : **Date of Decision:**

DECISION OF ZONING HEARING BOARD

I. Procedural Background.

Applicant, Deborah Allen, is the owner of real property located at 66 Wilson Street in the Borough of Carlisle. The property is located in the Borough's R-5 Traditional Residential Zoning District.

On February 12, 2019, the Applicant submitted to the Borough of Carlisle Zoning Hearing Board ("Board") a request for variances. By correspondence dated February 19, 2019, from Ben Chamberlin, AIA, the Applicant's son and representative, the Applicant confirmed that certain amendments were made to the relief requested in the Applicant's Notice of Appeal. The Applicant requested numerous variances from the Borough of Carlisle's Zoning Ordinance ("Zoning Ordinance") Article VII, Section 255-47, as follows:

1. Section 255-47.A. – Variance from the minimum lot area of 7,000 square feet for a proposed lot size of 4,197 square feet;
2. Section 255-47.C. – Variance from the minimum lot width of 45 feet for a proposed lot width of 40 feet;
3. Section 255-47.B. – Variance from the required minimum front yard setback of 20 feet to 12 feet for the proposed home;

4. Section 255-47.B. – Variance from the required minimum front yard setback of 20 feet to 3 feet for the existing home;
5. Section 255-47.F. – Variance from the minimum rear yard setback of 30 feet to 25 feet for the proposed home;
6. Section 255-47.G. – Variance from the minimum side yard setback of 8 feet to 5 feet for the principal new building;
7. Section 255-47.G. – Variance from the minimum side yard setback of 8 feet to 3 feet for the principal existing home;
8. Section 255-47.G. – Variance from the minimum side yard setback of 5 feet to 3 feet for an accessory building;
9. Section 255-47-D. – Variance from the maximum building coverage of 35% to 44% for the principal existing home; and
10. Section 255-47.E. – Variance from the maximum total impervious coverage of 50% to 65% for the principal existing home.

The Applicant also requested relief from Zoning Ordinance Article XXIV, Section 255-200.D.12(b)(5) for the minimum setback to an alley right-of-way of 8 feet to 4 feet. The Applicant proposes to subdivide her property into two separate lots on two separate deeds, and construct a home on the unimproved lot.

After proper advertisement and notice, a public hearing was held on March 7, 2019 in the Carlisle Borough Municipal Building, 53 W. South Street, Carlisle, Pennsylvania, at which Hearing Board Members Stephanie Chertok, Vincent Champion, John R. Martin and Alternate

Board Member Joel Hicks were present.¹ Solicitor Jennifer B. Hipp was present on behalf of the Board. The hearing was stenographically recorded.

II. Findings of Fact.

The Applicant testified in support of her Application. She noted that her son, Ben Chamberlin, is an architect in the Carlisle area. The Applicant's dream is to live in a house designed by her son.

The Applicant purchased her property in August, 2018. Her Deed, which she submitted with her Application, depicts that the property consists of two adjacent lots, same being Lots Numbers 258 and 259 on the Plan of Mooreland Land Company, and is improved with a dwelling house and garage, known as 66 Wilson Street. The Applicant testified that her home is approximately 90 years old. Mike Skelly, Planning, Zoning and Codes Manager, Borough, testified that the Applicant would require a subdivision in order to achieve her desired plan.

Ben Chamberlin, AIA, testified in support of the Application. Mr. Chamberlin noted that the Applicant could not build a home on the vacant lot that complies with the Zoning Ordinance due to the lot's size. He noted his opinion that the property cannot be developed in strict conformity with the Zoning Ordinance because the lot width and lot size are both non-conforming. Mr. Chamberlin testified that the Applicant would be able to add on to the existing home by extending an addition into the unimproved lot.

Douglas Heineman, 130 Wilson Street, testified in opposition to the Application. Mr. Heineman is a licensed realtor and appraiser. In his opinion, if the Applicant's variance requests are granted, the character of the neighborhood would be adversely affected. In addition, Mr. Heineman is concerned that the impervious coverage will adversely affect storm water issues and

¹ Zoning Hearing Board member Christopher Fowler recused himself from this case due to a conflict of interest.

concerns. Finally, Mr. Heineman noted that, in his opinion, there is no true hardship in this case that would justify granting the Applicant's requested variances.

III. Conclusions of Law

The Municipalities Planning Code ("MPC") and the Borough of Carlisle Zoning Ordinance set forth certain standards and criteria that the Board must consider in reviewing any request for a variance. See 53 P.S. § 10910.2 and Ordinance Article XXVIII, Section 255-250.B.

First, the Board must determine if there are any 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. See id. at Section 10910.2(a)(1) and Section 255-250.B(1)(a). The Board determines that the Applicant failed to present any evidence demonstrating that there are unique physical circumstances or conditions related to the subject property that create an unnecessary hardship such that the property could not be developed in strict conformity with the Zoning Ordinance. Notably, the Board relied upon Ben Chamberlin's testimony that the Applicant could construct an addition to her existing home that would extend into the vacant lot portion in compliance with the Zoning Ordinance. The Board, thus, determines that the property could be developed in strict conformity with the provisions of the Zoning Ordinance. See id. at Section 10910.2(a)(2) and Section 255-250.B(1)(b).

The Board notes that based upon of the testimony of Mr. Heineman, the proposed use of the property would alter the essential character of the neighborhood. See id. at Section 10910.2(a)(4) and Section 255-250-B(1)(d).

After reviewing the standards and criteria set forth in the MPC and the Zoning Ordinance, and based upon the testimony and evidence presented, the Board determines that Applicant has not satisfied those criteria necessary for the grant of the requested variances.

IV. Order and Decision of the Board

It is hereby ordered and decided as follows:

- A. The Board finds that the Applicant has not met those criteria necessary for the grant of the requested variances pursuant to Zoning Ordinance Article VII, Sections 255-47.A., B., C., D., E., F., and G., and Article XXIV, Section 255-200.D.12(b)(5).
- B. The Board decides by unanimous vote that the variances pursuant to Zoning Ordinance Article VII, Sections 255-47.A., B., C., D., E., F., and G., and Article XXIV, Section 255-200.D.12(b)(5) are hereby DENIED.

Borough of Carlisle Zoning Hearing Board

By: Stephanie E. Chertok
Stephanie Chertok, Chairman
Date: 6/14/12

Any person aggrieved by this decision of the Zoning Hearing Board may appeal to the Court of Common Pleas of Cumberland County. The appeal must be taken within thirty (30) days of the date of this Decision.