

BEFORE THE ZONING HEARING BOARD
OF THE TOWNSHIP OF COLERAIN

IN RE:

APPLICATION OF EZRA MARTIN

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Case No. 2023-04

DECISION

I. FINDINGS OF FACT.

1. Applicant is Ezra Martin, 175 Frysville Road, Ephrata, Pennsylvania 17522 (“Applicant”).
 2. The property which is the subject of this application is 862 Kirkwood Pike, Colerain Township, Lancaster County, Pennsylvania (the “Property”).
 3. Jerome Rhoads is the record owner of the Property (“Landowner”).
 4. Applicant is a consultant retained by Landowner to assist in the development process.
 5. The Property is located in the Agricultural District as shown on the Official Zoning Map of the Township of Colerain.
 6. Notice of the hearing scheduled on the within application was duly advertised and posted in accordance with the provisions of the Pennsylvania Municipalities Planning Code (“MPC”) and the Zoning Ordinance of Colerain Township, 2011, as amended (the “Zoning Ordinance”).
 7. A public hearing was held before the Zoning Hearing Board of the Township of Colerain (the “Board”) on the application on March 1, 2023.
 8. Applicant and Landowner Jerome Rhoads appeared personally at the hearing.
 9. The Property is a lot containing approximately one acre.
 10. The Property is developed with a single family detached dwelling (the “Dwelling”).
- Exhibit A-1
11. Applicant desires to expand the Dwelling as shown on Exhibit A-2 at the hearing.
 12. Applicant proposes to convert the existing attached garage into living space and add an addition measuring 24 feet in width and 48 feet in depth, 1,152 square feet (the “Addition”).
 13. The Dwelling is currently located 43 feet from the side property line.
 14. The Addition will be located 19 feet from the side property line.
 15. The Addition will contain a two-car garage at the front and space in the back which could

be used for living area.

16. The Addition will be one story and exterior finishes will be compatible with the Dwelling.

17. No person appeared in opposition to the application.

II. CONCLUSIONS OF LAW

1. Within the Agricultural District, the side yard setback for a dwelling unit is 20 feet. Zoning Ordinance §5.01.06.D.1.

2. An applicant for a variance bears the burden of proving that unnecessary hardship will result if the variance is not granted and that the grant of the proposed variance will not be contrary to the public interest. *Valley View Civic Association v. Zoning Board of Adjustment*, 501 Pa. 550, 462 A.2d 637 (1983); *Dunn v. Middletown Township Zoning Hearing Board*, 143 A.3d 494 (Pa. Cmwlth. 2016).

3. Variances are granted on a case by case basis and only when the applicant presents evidence meeting the standards for the granting of the requested variance. *Fairview Township v. Fairview Township Zoning Hearing Board*, 233 A.3d 958 (Pa. Cmwlth. 2020) (en banc); *Pietropaolo v. Zoning Hearing Board of Lower Merion Township*, 979 A.2d 969 (Pa. Cmwlth. 2009).

4. The de minimis doctrine “is a narrow exception to the heavy burden involved in seeking a variance.” *Dunn v. Middletown Township Zoning Hearing Board*, 143 A.3d 494, 506 (Pa. Cmwlth. 2016). The de minimis variance doctrine “applies *only* where: (1) a minor deviation from the dimensional requirements of a zoning ordinance is sought, and (2) rigid compliance with the zoning ordinance is not necessary to protect the public policy concerns inherent in the ordinance.” *Id.*

5. Conditions must be attached to the granting of this variance in order to preserve and protect the surrounding neighborhood and implement the purposes of the MPC and the Zoning Ordinance.

III. ADJUDICATION

Based upon the foregoing findings of fact and conclusions of law, the Zoning Hearing Board of the Township of Colerain hereby grants the application of Ezra Martin on behalf of Jerome Rhoads for a setback variance from Section 5.01.06.D.1. of the Zoning Ordinance to enable the construction of an addition to the existing dwelling at 862 Kirkwood Pike, Kirkwood, Pennsylvania, with a side yard setback of 19 feet. This variance is subject to the following conditions which the Board deems necessary to protect the surrounding neighborhood and promote the purposes of the Zoning Ordinance and the MPC.

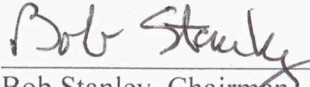
1. Applicant shall obtain all other permits and approvals for the construction of the Addition.

2. Applicant shall at all times comply with and adhere to the representations contained in his application and the evidence presented to the Board at the hearing on March 1, 2023.

3. Any violation of the conditions contained in this Decision shall be considered a violation of the Zoning Ordinance and shall be subject to the penalties and remedies in the MPC.

4. The foregoing conditions shall be binding upon the Applicant, the Landowner, and their respective personal representatives, heirs and assigns.


ZONING HEARING BOARD OF THE
TOWNSHIP OF COLERAIN



Bob Stanley, Chairman



Tammy Rineer, Vice Chairman



Douglas Eddy

Dated and filed April 5, 2023, after hearing held on March 1, 2023.

The undersigned certifies that a copy of this Decision was served upon all parties on or prior to April 6, 2023.

