

IN RE: : BEFORE THE ZONING HEARING BOARD  
: OF EAST HANOVER TOWNSHIP  
APPLICATION FOR VARIANCES OF :  
AMY AND ROLAND LORBACH : HEARING: January 20, 2016  
: :  
No. 2015.03 : DECISION: January 20, 2016  
: :  
: WRITTEN DECISION MAILED:  
: March 4, 2016  
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**DECISION OF THE ZONING HEARING BOARD**

The Zoning Hearing Board of East Hanover Township, Dauphin County, Pennsylvania, conducted an initial properly advertised and properly posted public hearing on January 20, 2016, commencing at approximately 7:00 p.m., upon the Application for Variance of Amy L. and Roland J. Lorbach, with respect to the property which was the subject of the hearing, to wit: 1862 Blue Heron Lane, East Hanover Township, Palmyra, PA, 17078.

Notice of the hearing was published in *The Patriot News* on January 5, 2016, and January 12, 2016, in accordance with the requirements of the Pennsylvania Municipalities Planning Code and the East Hanover Township Zoning Ordinance. Additionally, in compliance with Section 603.1.1 of the Zoning Ordinance, written notice of the hearing was conspicuously posted on January 6, 2016, on and about the tract of land which is the subject of the hearing. Jackie Wilbern, the East Hanover Township Zoning Officer, was present at the hearing and confirmed that the property had been posted with the hearing notice. Furthermore, Ms. Wilbern also confirmed that she had provided written and mailed notices on January 5, 2016, of the hearing to those property owners adjacent to the subject property as identified with the Application for Variance.

All members of the Zoning Hearing Board were present throughout the hearing. Property owner, Roland J. Lorbach joined in this Application for Variance initially filed by his wife, Amy

L. Lorbach, and participated in the hearing individually together with their contractor, Eric Allebach of The Greenskeeper – Beautiful Lawns by Eric, Inc. Jackie Wilbern, the Zoning Officer, for East Hanover Township provided background at the hearing pertaining to the property. All witnesses offering testimony in the course of the hearing were duly sworn.

### **FINDINGS**

The request for variances submitted by the Applicants includes a copy of a site drawing of the subject property. This site drawing details the location of Applicants' home, rear yard setbacks with respect to location of the steps and patio constructed on the property in addition to other lot details. The Application further includes a narrative, a portion of the Dauphin County Tax Map identifying the subject property and adjoining properties, and East Hanover Township Enforcement Notice dated October 23, 2015. Roland J. Lorbach and Amy L. Lorbach are the owners of the subject property also being known as Tax Parcel No. 25-016-168, which is located in a Residential Medium Density ("RMD") Zone under Section 202 of the Zoning Ordinance.

Mr. and Mrs. Lorbach purchased their two story single-family home at or about September, 2013. The home was originally constructed about August 2011 in accordance with the design and style then selected by the prior owners and/or builder. The dwelling is centrally located on the property. The northwest corner of Applicants' rear patio adjoining the home is set back a distance of twenty-four (24) feet from the rear property line. The original patio was constructed of impervious concrete pavers and has a total area of three hundred sixty-five (365) square feet.

Applicants' single-family home has a total impervious lot coverage area of 2,200 square feet inclusive of a two car garage and open frame front porch. Applicants' existing paved driveway has an additional area of 515 square feet. The total area of impervious coverage on Applicants' property, including the paved driveway, home and porch is approximately 3,110

square feet. This represents twenty-three (23) percent of Applicants' entire lot which has a total area of 13,307 square feet.

Previously, attached to the rear of and parallel to Applicants' dwelling was a wood frame deck stepping down to several landing areas having dimensions of approximately four (4) feet by twelve (12) feet which provided access to the rear yard patio. This original deck area had fallen into substantial disrepair, became warped, encountered split timbers and dislodged screws.

Applicants replaced this deck with a precast concrete block and steps being four (4) feet wide, on seven (7) inch risers and having twelve (12) inch steps extending a distance of three (3) feet to the south of Applicants' rear kitchen door. Applicants also replaced the deck in the area adjoining the home with impervious concrete pavers of the same material as the original patio, and also extended the entire patio area an additional thirty (30) square feet to the south. The total area of the extended patio, original patio and rear steps is three hundred ninety-five (395) square feet.

The northwestern corner of the patio remains set back a distance of twenty-four (24) feet at its closest point from the western rear yard property line. The roof line of the house has not been extended over the steps and patio area, nor is this area enclosed.

The adjoining properties to the north and south of the subject property also consist of single-family residences. The terrain of Applicants' lot slopes to the west downward towards a ravine. Also to the west is a tree line beyond which is located a residential development. Located to the east and across Blue Heron Drive is a Bow Creek Community common area, some parking areas and single-family residences.

According to the testimony presented, the rear kitchen dining area of the home is constructed at least twenty-eight (28) inches above grade. There is only a single door access to the rear yard of the property through this kitchen dining area and rear of the home. Applicants'

lot is slightly sloped to the north and east which directs water runoff into a ten (10) foot wide drainage easement. The area where Applicants' patio and steps are located is the most level area of the lot located to the rear of the home. There are no other structures located on the property.

Applicants propose to increase lot coverage by three-tenths (0.3) percent which results in a total lot impervious surface coverage of twenty-three and three-tenths (23.3) percent and exceeds the maximum lot coverage allowed of twenty (20) percent by Section 202.5 Design Requirements of the Zoning Ordinance. Applicants' patio being set back a distance of only twenty-four (24) feet from the western property line also encroaches upon the current forty (40) foot setback requirements of Section 202.5 of the Zoning Ordinance. Therefore, variances shall be required.

### **DISCUSSION**

Prior to the adoption of the present East Hanover Township Zoning Ordinance on April 1, 2003, the general area of land where the Bow Creek Subdivision and the subject property are located was designated as a Residential/Agricultural Zone and required a rear yard setback of only twenty-five (25) feet. The preliminary plan for the Bow Creek Residential Development had been approved for future residential use by the Planning Commission and the Township Board of Supervisors prior to the adoption of the present Zoning Ordinance. As a result, the owner of the land and builder possessed the ability to construct the dwellings upon lots within the development which would be located no closer than twenty-five (25) feet to the rear property lines of each lot.

Furthermore, prior to adoption of the present East Hanover Township Zoning Ordinance a maximum lot coverage for impervious surfaces and structures of forty (40) percent was permitted within this Residential/Agricultural Zone. Therefore, the prior owner/developer and

builder possessed the ability to construct dwellings and impervious surfaces upon the lot within the Bow Creek Development cumulatively not to exceed a lot coverage of forty (40) percent.

Upon adoption of the present Zoning Ordinance, the zoning designation and use requirements for the subject property were modified to that of Residential Medium Density under Section 202 thereof. The design standards for the RMD Zone require that all single-family dwellings without both public sewer and water are subject to a maximum rear yard setback of forty (40) feet and a maximum lot coverage of twenty (20) percent. Mr. and Mrs. Lorbach's property is served by public sewer and private water the same as other dwellings within this residential development.

Prior to Applicants' acquisition of the home, upon examination of the evidence submitted at the hearing, the Board is persuaded that a patio and attached wooden deck had been constructed onto the rear of the home. The deck was narrow and extended the length of approximately twelve (12) feet in a series of stepdown landing areas. The Board is persuaded that the primary function of this deck was to allow access out of the home to the rear yard. The only access to the rear yard and patio is by means of the present rear steps through the extended kitchen dining areas as set forth on Applicants' site drawing.

The patio area encroached upon the ordinance forty (40) foot setback requirement by sixteen (16) feet and upon the subdivision setback requirement of approximately one (1) foot. The original steps and patio have resulted in a total impervious lot coverage together with the remainder of Applicants' home and driveway of twenty-three (23) percent exceeding current ordinance requirements by three-tenths (0.3) percent, but substantially did not exceed prior ordinance requirements approved for the subdivision of forty (40) percent, inclusive of all structures, walkways, driveways, decks and other impervious surfaces.

Under the circumstances presented, although Mr. and Mrs. Lorbach's home is situated on the central portion of the lot, it does appear that there is not enough rear yard area to accommodate an entire forty (40) foot setback requirement and patio as originally constructed. Applicants have only one means of ingress and egress to the rear of their home and that is the single door in the kitchen dining area. The only level area within Applicants' rear yard where a patio can be constructed is the current location adjoining the residence.

The physical condition of Applicants' lot is somewhat similar to those neighboring and adjoining properties within this community. Homes located to the north and south respectively, have attached decks, stairs, concrete slabs and/or patio areas. The patio and steps provide for a reasonable and functional use of the level area of this property.

The Board concludes that there does exist a hardship to the property owners due to the location, nature, and physical features peculiar to this property which limit the full and reasonable utilization of the property. The Board further concludes that Mr. and Mrs. Lorbach did not create this hardship or the pre-existing conditions with respect to the construction of the patio and deck.

The Board is persuaded that the property is subject to unique physical circumstances and conditions including some irregularity of lot size and shape. The lot is subject to existing slopes and the patio has been constructed upon the most level area within the rear yard minimizing its appearance to surrounding properties. The areas located to the west and north of Applicants' existing patio as well as to the south thereof and along the southern portion of Applicants' home are landscaped to provide a cohesive appearance typical of single-family residences within the community.

Applicants' original deck area had quickly fallen into substantial disrepair becoming a concern for safety. The Board is not unmindful of concerns for safety if a reasonable means of

ingress and egress through the rear of the home were not provided. Repair and replacement of this deck became necessary and Applicants had the work completed without obtaining a Township permit. Therefore, the Enforcement Notice (a copy of which is attached to Mr. and Mrs. Lorbach's Application for Variance) was necessarily issued.

Upon completion of the repairs to this area, Mr. and Mrs. Lorbach used the same materials as the original patio and extended it by an additional thirty (30) square feet to complement and complete both the existing structure and renewed access to the home.

The construction of a patio and its nominal increase under the circumstances presented is not an unusual addition for a home in a completely residential neighborhood and it is a use which promotes and enhances outdoor activities and overall use of the property. The Board is persuaded that the Applicants' rear yard patio and replaced steps do not alter the essential residential character of the neighborhood in which this property is located based upon the size, and location of these structures. Applicants have reduced the impact upon this and adjoining properties by the elimination of the original deck structure.

The Board further finds that it is because of the existing physical circumstances and conditions of the property, which pre-exist and create the hardship, that there is no possibility the property can be developed in strict conformity with the provisions of the Zoning Ordinance to enable the reasonable use of the property. The home is and can continue to be used for residential purposes for which it was intended and built. The rear yard remains functional for outdoor activities providing for seating and useful area by reason of the impervious materials. Since there is no other access to the yard, the ingress and egress from the home is accommodated through the nominal steps and patio landing area for purposes of ease of access and safety.

The Board finds that Applicants' increase in impervious coverage by the addition of thirty (30) square feet of patio area is *de minimis*. The overall lot coverage is increasing only

three-tenths (0.3) percent. The Board is persuaded that the increase in impervious coverage is *de minimis* and will be the minimum variances granted under the circumstances.

Furthermore, the Board finds that the variance to allow a twenty-four (24) foot rear yard setback is likewise *de minimis* in that this exceeds by only one (1) foot the previously allowed requirements as set forth above pertaining to a maximum rear yard setback of twenty-five (25) feet. The patio area adjoining Applicants' home is irregular in shape and only a portion of the northwestern most corner of this patio encroaches upon the twenty-five (25) foot setback. The rear yard setback accordingly increases from a northerly to a southerly direction. The Board is therefore persuaded that this *de minimis* variation in the rear yard setback will likewise be the minimum variance granted under the circumstances.

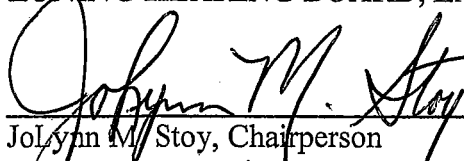
By reason of all the foregoing, the Board is persuaded that the proposed patio area to be increased by thirty (30) square feet to three hundred ninety-five (395) square feet and a rear yard setback being maintained at twenty-four (24) feet is warranted.

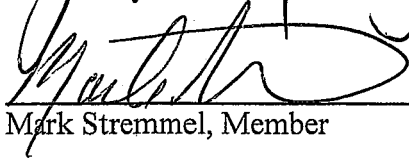
### **DECISION**

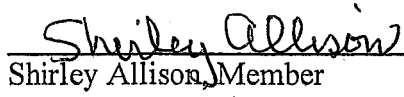
For the reasons previously set forth, the East Hanover Township Zoning Hearing Board does hereby GRANT Applicants' request for a variance as presented from the rear yard setback line of forty (40) feet and maximum lot coverage requirements of twenty (20) percent of Zoning Ordinance Section 202.5 in order to replace the existing wooden steps and a landing as well as modify the patio and to connect the steps to the rear of Applicants' home, all not to exceed a total lot coverage area of twenty-three and three-tenths (23.3) percent.



**ZONING HEARING BOARD, EAST HANOVER TOWNSHIP**

  
Jolynn M. Stoy, Chairperson

  
Mark Stremmel, Member

  
Shirley Allison, Member

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