

BEFORE THE ZONING HEARING BOARD OF WEST NORRITON TOWNSHIP,
MONTGOMERY COUNTY, PENNSYLVANIA

IN RE: APPLICATION OF ANTHONY BRANCA

NO. 899

DECISION

I. BACKGROUND

A public hearing was held on June 18, 2020 with regard to the application of Anthony Branca. The application requested variances from the West Norriton Township Zoning Ordinance to build a house on an undersized vacant lot. Notices of the public hearing were published in accordance with law, advertised in a newspaper of general circulation, and posted on the property. In accordance with such notices, and as permitted under Act 15 of 2020, a hearing was conducted by telecommunication device. West Norriton Township Manager, Jason Bobst, and Zoning Officer Thomas Heisner, participated in the hearing on behalf of the Township.

At the commencement of the proceedings, a request was made that anyone who wished to enter appearance as a party to the proceedings should step forward and identify himself/herself in order to participate as a party. The record reflects that no one chose to enter appearance as a party in opposition to the application in this regard, but a number of members of the public posed questions and offered comment. Witnesses were duly sworn or affirmed and notes of testimony for the hearing were taken and are hereby made a part of this record. Final vote with regard to the application was taken at the public meeting on June 18, 2020 after public discussion, and this Decision follows as a result of that vote.

II. FINDINGS OF FACT

1. The Applicant is Anthony Branca, the legal owner of the property in question which is located at 48 Potts Avenue, West Norriton Township, Montgomery County, Pennsylvania.

2. The Zoning applicable to this parcel of ground is R-1 Residential Zoning District.

3. The following Exhibits were marked and duly admitted into evidence:

- A-1 Application
- A-2 Site Plan
- A-3 Tax Map
- A-4 Aerial Photo
- A-5 Neighbor Support Petition
- A-6 Neighborhood Map

The Board marked and duly admitted into evidence the following Board Exhibits:

- B-1 Proof of Publication

4. The variances requested would permit construction of a house and garage on a vacant undersized lot.

5. Section 27-1402.1 of the Zoning Ordinance permits construction of house on an existing lawful nonconforming lot, provided all setbacks are met.

6. In order to qualify for an interpretation that the parcel constitutes an existing lawful nonconforming lot, the Applicant must prove by documentary evidence, such as a chain of title, and supporting testimony that the lot was held in single and separate ownership as of August 8, 1952; otherwise the Applicant requires relief from the lot area and lot width requirements of the applicable zoning district, as well.

7. The Applicant did not establish that the property was held in single and separate ownership as of August 8, 1952, and the proposal does not comply with the area, frontage or setback requirements of the applicable zoning district, and therefore, variance relief is required.

8. The Applicant presented competent, compelling and uncontroverted evidence and testimony supporting the granting of the variances requested based on a hardship analysis.

9. The members of the public who participated in the meeting were mostly concerned with storm water issues, and, as a result, it was indicated at the meeting that the Township Engineer will review the storm water issues raised.

10. Upon review of the standards for Zoning Hearing Board action as set forth in Section 1804 of the West Norriton Township Zoning Ordinance, and Section 910.2 of the Pennsylvania Municipalities Planning Code, the Board determines it appropriate to grant the variances in that:

(A) There are unique physical circumstances or conditions, due to the existing nonconforming size of the lot, and other physical conditions peculiar to the particular property, which conditions create an unnecessary hardship.

(B) Because of such nonconformities and physical conditions, there is no possibility that the property can be developed in strict conformity with the provisions of the Zoning Ordinance, and the authorization of the variances is therefore necessary to enable the reasonable use of the property.

(C) Such unnecessary hardship has not been created by the Applicant, as the lot exists as a nonconforming lot.

(D) Since there are a number of nonconforming lots in the neighborhood, the variances will not alter the essential character of the neighborhood or district in which the property is located, nor substantially or permanently impair the appropriate use or development of adjacent property, nor be detrimental to the public welfare.

(E) The variances requested are the minimum variances to afford relief.

III. CONCLUSIONS OF LAW

1. The Zoning Hearing Board has jurisdiction over the subject matter of the application. The parcel in question is located in West Norriton Township, Montgomery County, Pennsylvania. The Applicant and the subject matter are properly before the Board and the Applicant has standing to submit the application.

2. The hearing notices were duly published and posted in accordance with law.

3. In order to qualify for an interpretation that the parcel constitutes an existing lawful nonconforming lot, the Applicant must prove by documentary evidence, such as a chain of title, and supporting testimony that the lot was held in single and separate ownership as of August 8, 1952; otherwise the Applicant requires relief from the lot area and lot width requirements of the applicable zoning district, as well.

4. The Applicant did not establish that the property was held in single and separate ownership as of August 8, 1952, and the proposal does not comply with the area, frontage or setback requirements of the applicable zoning district, and therefore, variance relief is required.

5. The Applicant presented competent, compelling and uncontroverted evidence and testimony supporting the granting of the variances requested based on a hardship analysis as a matter of law.

6. Upon review of the standards for Zoning Hearing Board action as set forth in Section 1804 of the West Norriton Township Zoning Ordinance, and Section 910.2 of the Pennsylvania Municipalities Planning Code, the Board determines it appropriate as a matter of law to grant the variances in that:

(A) There are unique physical circumstances or conditions, due to the existing nonconforming size of the lot, and other physical conditions peculiar to the particular property, which conditions create an unnecessary hardship.

(B) Because of such nonconformities and physical conditions, there is no possibility that the property can be developed in strict conformity with the provisions of the Zoning Ordinance, and the authorization of the variances is therefore necessary to enable the reasonable use of the property.

(C) Such unnecessary hardship has not been created by the Applicant, as the lot exists as a nonconforming lot.

(D) Since there are a number of nonconforming lots in the neighborhood, the variances will not alter the essential character of the neighborhood or district in which the property is located, nor substantially or permanently impair the appropriate use or development of adjacent property, nor be detrimental to the public welfare.

(E) The variances requested are the minimum variances to afford relief.

IV. OPINION

Upon consideration of the above Findings of Fact and Conclusions of Law, the Board determines that the application should be granted as set forth hereinafter in the Order.

BEFORE THE ZONING HEARING BOARD OF WEST NORRITON TOWNSHIP
MONTGOMERY COUNTY, PENNSYLVANIA

IN RE: APPLICATION OF ANTHONY BRANCA

NO. 899

ORDER

AND NOW, this 16th day of JULY, 2020, upon consideration of the above

Findings of Fact and Conclusions of Law, the Board hereby ORDERS that:

- (1) The following relief is **GRANTED** from the West Norriton Township Zoning Ordinance:
 - (A) A variance from Section 27-1402.1 to permit construction of the house on an undersized lot without complying with the applicable side yard setbacks.
 - (B) A variance from Section 27-402.1 to permit construction of the house on a lot measuring 12,500 square feet with a lot width of 50 feet, rather than the 30,000 square feet and a lot width of 150 feet required.
 - (C) A variance from Section 27-402.4(A), to permit a side yard of 8 feet, rather than the 12 feet required, and an aggregate side yard of 20 feet, rather than the 30 feet required.
- (2) The Applicant's request for an interpretation under Section 27-1402.1 is not required due to the relief granted above.
- (3) The Applicant shall comply with the requirements of the Township Engineer with respect to the installation of storm water controls in conjunction with proposed construction.
- (4) The approvals granted herein apply only to the proposed use and shall not apply to any other uses or structures.
- (5) The Applicant shall submit all plans and apply for all permits as required.
- (6) The Applicant shall comply with all requirements of West Norriton Township, including, all building codes, fire codes and all other zoning ordinance provisions.
- (7) All use and development permitted by this Decision shall conform to the exhibits and testimony presented by the Applicant, unless inconsistent with any specific conditions imposed by this Board, in which case these specific conditions shall take precedence.

WEST NORRITON TOWNSHIP ZONING HEARING BOARD



ALBERT ZONE, CHAIR OF THE BOARD

EDWARD LINCUL, VICE CHAIR OF THE BOARD

CRYSTAL Y. MILLER, SECRETARY OF THE BOARD

A copy of this Decision was mailed
to the parties this date:

7/16/20



MICHAEL E. FUREY, ESQUIRE
SOLICITOR FOR THE WEST NORRITON
TOWNSHIP ZONING HEARING BOARD

THIS DECISION AND ORDER OF THE BOARD IS FINAL AND ANY APPEAL OF IT MUST BE FILED WITH THE COURT OF COMMON PLEAS OF MONTGOMERY COUNTY WITHIN THIRTY (30) DAYS FOLLOWING THE COPY MAILING DATE.

THE BOARD RESERVES THE RIGHT TO SUPPLEMENT THESE FINDINGS OF FACT AND CONCLUSIONS OF LAW IN THE EVENT OF AN APPEAL.

WEST NORRITON TOWNSHIP ZONING HEARING BOARD

ALBERT ZONE, CHAIR OF THE BOARD


EDWARD LINCUL, VICE CHAIR OF THE BOARD

CRYSTAL Y. MILLER, SECRETARY OF THE BOARD

A copy of this Decision was mailed
to the parties this date:

MICHAEL E. FUREY, ESQUIRE
SOLICITOR FOR THE WEST NORRITON
TOWNSHIP ZONING HEARING BOARD

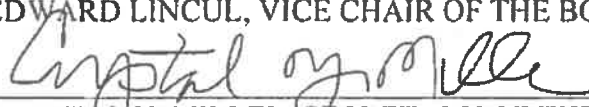
THIS DECISION AND ORDER OF THE BOARD IS FINAL AND ANY APPEAL OF IT MUST BE FILED WITH THE COURT OF COMMON PLEAS OF MONTGOMERY COUNTY WITHIN THIRTY (30) DAYS FOLLOWING THE COPY MAILING DATE.

THE BOARD RESERVES THE RIGHT TO SUPPLEMENT THESE FINDINGS OF FACT AND CONCLUSIONS OF LAW IN THE EVENT OF AN APPEAL.

WEST NORRITON TOWNSHIP ZONING HEARING BOARD

ALBERT ZONE, CHAIR OF THE BOARD

EDWARD LINCUL, VICE CHAIR OF THE BOARD


CRYSTAL Y. MILLER, SECRETARY OF THE BOARD

A copy of this Decision was mailed
to the parties this date:

MICHAEL E. FUREY, ESQUIRE
SOLICITOR FOR THE WEST NORRITON
TOWNSHIP ZONING HEARING BOARD

THIS DECISION AND ORDER OF THE BOARD IS FINAL AND ANY APPEAL OF IT MUST BE FILED WITH THE COURT OF COMMON PLEAS OF MONTGOMERY COUNTY WITHIN THIRTY (30) DAYS FOLLOWING THE COPY MAILING DATE.

THE BOARD RESERVES THE RIGHT TO SUPPLEMENT THESE FINDINGS OF FACT AND CONCLUSIONS OF LAW IN THE EVENT OF AN APPEAL.