

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

IN RE: APPLICATION OF HARRY J. FALCO, III

NO. 900

**DECISION**

**I. BACKGROUND**

A public hearing was held on July 22, 2020 with regard to the application of Harry J. Falco, III. The application requested variances from the West Norriton Township Zoning Ordinance to remove an existing garage and shed, and build a new garage. 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 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, and, in fact, no members of the public posed any questions and offered comment at or prior to the hearing. 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 July 22, 2020 after public discussion, and this Decision follows as a result of that vote.

## II. FINDINGS OF FACT

1. The Applicant is Harry J. Falco, III, the legal owner of the property in question which is located at 24 N. Whitehall Road, West Norriton Township, Montgomery County, Pennsylvania.

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

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

A-1 Application

A-2 Site Plan and Garage Plans

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

B-1 Proof of Publication

4. Section 27-301.7.A of the Zoning Ordinance limits the square footage of the garage to the square footage of the first floor of the residence on the property, and not to exceed 14 feet in height.

5. The variances requested would permit construction of a new garage measuring 1,152 square feet and 19 feet in height on the property.

6. The Applicant presented evidence and testimony supporting the granting of the variances requested based on a hardship analysis.

7. 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 related to the applicant's use of the proposed structure, and conditions related to the existing structures measuring 1,028 square feet on the property being removed, which create an unnecessary hardship.

(B) The authorization of the variances is necessary to enable the reasonable use of the property.

(C) Such unnecessary hardship has not been created by the Applicant.

(D) 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.

8. Since the Applicant would be entitled to construct a garage measuring 1,102 square feet (the size of the first floor of the dwelling on the property as determined by the Zoning Officer), the variance to permit 1,152 square feet (a 50 square foot variance) represents a de minimis 4.5% variance.

### **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. The Applicant presented evidence and testimony supporting the granting of the variances requested based on a hardship analysis as a matter of law.

4. 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 related to the applicant's use of the proposed structure, and conditions related to the existing structures measuring 1,028 square feet on the property being removed, which create an unnecessary hardship.

(B) The authorization of the variances is necessary to enable the reasonable use of the property.

(C) Such unnecessary hardship has not been created by the Applicant.

(D) 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.

5. Since the Applicant would be entitled to construct a garage measuring 1,102 square feet (the size of the first floor of the dwelling on the property as determined by the Zoning Officer), the variance to permit 1,152 square feet (a 50 square foot variance) represents a de minimis 4.5% variance, as a matter of law.

#### **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 HARRY J. FALCO, III

NO. 900

**ORDER**

AND NOW, this 26<sup>TH</sup> day of AUG., 2020, upon consideration of the above

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

- (1) The following relief from the West Norriton Township Zoning Ordinance is **GRANTED:**

Variances from Section 27-301.7.A of the Zoning Ordinance to permit construction of a private garage measuring 1,152 square feet with a height of 19 feet.

- (2) The Applicant shall comply with the requirements of the Township Engineer with respect to the installation of storm water controls in conjunction with the proposed construction, and shall remove the existing shed and garage as noted at the hearing.
- (3) The use of the garage shall comply with the definition of a residential private garage, and the approvals granted herein apply only to the proposed use and shall not apply to any other uses or structures.
- (4) The relief granted herein shall expire within one (1) year of the date of this Order, and the Applicant shall submit all plans and apply for and obtain all permits as required within one (1) year of the date of this Order.
- (5) The Applicant shall comply with all requirements of West Norriton Township, including all building codes, fire codes and all other zoning ordinance provisions, including all setback requirements.
- (6) 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

JOAN GRAY, ALTERNATE MEMBER OF THE BOARD

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

AUG. 26, 2020

  
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

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ALBERT ZONE, CHAIR OF THE BOARD



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EDWARD LINCUL, VICE CHAIR OF THE BOARD

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CRYSTAL Y. MILLER, SECRETARY OF THE BOARD

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JOAN GRAY, ALTERNATE MEMBER OF THE BOARD

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