

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

IN RE: APPLICATION OF GARY JONES

NO. 901

DECISION

I. BACKGROUND

A public hearing was held on September 16, 2020 with regard to the application of Gary Jones. The application requested a variance from the West Norriton Township Zoning Ordinance to install a stand-by generator on the property outside of the building envelope and 2 feet from the rear property line. 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, the neighbor most directly affected by the proposed structure offered comment in support of the application at 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 September 16, 2020 after public discussion, and this Decision follows as a result of that vote.

II. FINDINGS OF FACT

1. The Applicant is Gary Jones, the legal owner of the property in question which is located at 19 Oxford Circle, 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
- A-3 Photos

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

- B-1 Proof of Publication

4. Section 27-502.5 of the Zoning Ordinance requires a 25 foot rear yard setback.

5. The variance requested would permit the placement of a generator on an existing pad 2 feet from the rear property line.

6. The Applicant presented evidence and testimony supporting the granting of the variance 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 variance in that:

(A) There are unique physical circumstances related to the applicant's use of the proposed generator, and conditions related to the existing structures on the property, which create an unnecessary hardship.

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

- (C) Such unnecessary hardship has not been created by the Applicant.
- (D) The variance 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 variance requested is the minimum variance to afford relief.

8. Since the pad already exists in its current location, the relief granted to place the generator on the pad is a minimal request.

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 variance 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 variance in that:

(A) There are unique physical circumstances related to the applicant's use of the proposed generator, and conditions related to the existing structures on the property, which create an unnecessary hardship.

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

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

(D) The variance 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 variance requested is the minimum variance to afford relief.

5. Since the pad already exists in its current location, the relief granted to place the generator on the pad is a minimal request.

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 GARY JONES

NO. 901

ORDER

AND NOW, this **24** day of **SEPT.**, 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:**

A variance from Section 27-502.5 of the Zoning Ordinance so as to permit a generator to be placed on the existing concrete pad located 2 feet off of the rear property line.

- (2) The approvals granted herein apply only to the proposed use and structure, and shall not apply to any other uses or structures.
- (3) 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.
- (4) 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 other setback requirements.
- (5) 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

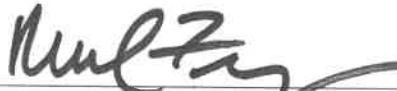
EDWARD LINCUL, VICE CHAIR OF THE BOARD

CRYSTAL Y. MILLER, SECRETARY OF THE BOARD

JOAN P. GRAY, ALTERNATE MEMBER OF THE BOARD

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

9/24/20



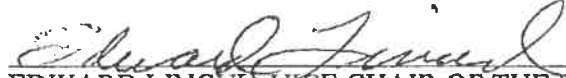
MICHAEL E. FUREY, ESQUIRE
SOLICITOR FOR THE WEST NORRITON
TOWNSHIP ZONING HEARING BOARD

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



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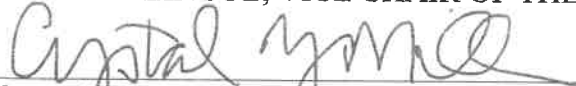
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BEFORE THE ZONING HEARING BOARD OF WEST NORRITON TOWNSHIP,
MONTGOMERY COUNTY, PENNSYLVANIA

IN RE: APPLICATION OF ROBERT WAGNER

NO. 902

DECISION

I. BACKGROUND

A public hearing was held on September 16, 2020 with regard to the application of Robert Wagner. The application requested variances from the West Norriton Township Zoning Ordinance to build a single-family residence on an undersized 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 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, however, one neighboring property owner, Manrico Troncelliti, Esq. entered appearance as a party, but indicated that he was not opposed to the granting of relief. 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 September 16, 2020 after public discussion, and this Decision follows as a result of that vote.

II. FINDINGS OF FACT

1. The Applicant is Robert Wagner, the equitable owner pursuant to an Agreement of Sale with the legal owner of the property, Meixner Family, LLC, located at Parcel No. 63-00-09502-00-2, Block 32, Unit 12, Williams Way, 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 Agreement of Sale
- A-4 Plan
- A-5 Tax Map
- A-6 Title Report

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

- B-1 Proof of Publication

4. The variances requested would permit construction of a single-family house, a use permitted by right, 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 or frontage 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 lot is not owned by any adjoining property owner and exists as a separate tax parcel, and therefore the hardship is self-evident.

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 in its current size and cannot be made larger.

(D) Not only are there a number of nonconforming lots in the neighborhood, but the neighborhood is predominately comprised of lots of similar, if not identical dimensions as the subject lot, and therefore, 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 or frontage 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 in its current size and cannot be made larger.
- (D) Not only are there a number of nonconforming lots in the neighborhood, but the neighborhood is predominately comprised of lots of similar, if not identical dimensions as the subject lot, and therefore, 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 ROBERT WAGNER

NO. 902

ORDER

AND NOW, this 24th day of SEPT., 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**:
 - (A) A variance from Section 27-1402.1 to permit construction of the house on an undersized lot.
 - (B) A variance from Section 27-402.1 to permit construction of the house on a lot measuring 15,000 square feet with a lot width of 75 feet, rather than the 30,000 square feet and a lot width of 150 feet required.
- (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 plant landscaping along the sides and rear of the property to the satisfaction of the Township.
- (3) The approvals granted herein apply only to the proposed use and shall not apply to any other uses or structures.
- (4) The Applicant shall submit all plans and apply for all permits as required.
- (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.
- (7) 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.

WEST NORRITON TOWNSHIP ZONING HEARING BOARD


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JOAN P. GRAY, ALTERNATE MEMBER OF THE BOARD

A copy of this Decision was mailed
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9/24/20


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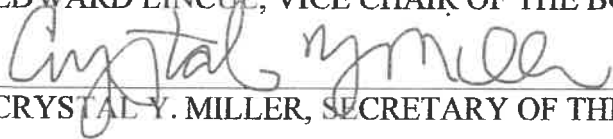
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