

**OPINION OF THE ZONING HEARING BOARD
OF HAMPDEN TOWNSHIP**

CUMBERLAND COUNTY, PENNSYLVANIA

APPLICANT: **Trevor R. Brown and Laura A. Szabo**

LOCATION OF PROPERTY: **1921 Monterey Drive
Mechanicsburg, PA, Hampden Township
Cumberland County, PA
Tax Parcel No. 10-14-0842-111**

OWNER: **Trevor R. Brown and Laura A. Szabo**

DOCKET NUMBER: **25-01**

HAMPDEN TOWNSHIP ZONING HEARING BOARD

In the matter of: 1921 Monterey Drive, Mechanicsburg, Pennsylvania

Appeal No. 25-01

This case comes before the Hampden Township Zoning Hearing Board upon the Application of Trevor R. Brown and Laura A. Szabo (herein the “Applicants”) requesting a variance from Chapter 27, Part 7, Section 1708(2) of the Code of Ordinances of the Township of Hampden (herein the “Zoning Ordinance”) pursuant to Section 2201.D of the Zoning Ordinance.

After notice duly given as required by the provisions of the Zoning Ordinance, a hearing was held before the Hampden Township Zoning Hearing Board (hereinafter the “Board”) at the Township building at 209 South Sporting Hill Road, Mechanicsburg, Pennsylvania at 6:30 p.m. on Wednesday, January 15, 2025. In accordance with the provisions of the Zoning Ordinance, notice of the hearing was given to the Applicant, the Zoning Officer, to all persons requesting notice, and public notice was given in the manner prescribed by the Municipalities Planning Code, the Zoning Ordinance, and the rules of the Board.

The record of this case consists of the original Application 25-01, together with the record of the proceedings.

FINDINGS OF FACT

The Board makes the following findings of fact:

1. The Applicants are Trevor R. Brown and Laura A. Szabo, residing at 1721 Monterey Drive, Mechanicsburg, PA 17050.
2. The subject property is 1721 Monterey Drive, Mechanicsburg, Hampden Township, Cumberland County, Pennsylvania (the “Property”).

3. The Applicants are the fee simple owners of the Property.

4. The Property is located in the Residential-Country (R-C) Zoning District.

5. The Applicants propose to install a five-foot tall aluminum fence within the required front yard along Spruce Run Lane, outside of the Township's right-of-way along Spruce Run Lane.

6. Section 1708(2) of the Zoning Ordinance requires fences and walls located in the required front yard for a main building shall not exceed four feet in height.

7. Applicants were represented by Anna Knych, Esquire, from Walters & Galloway.

8. The Property is located at the corner of Red Spruce Lane and Monterey Drive, with the residence facing Monterey Drive and a side yard that is adjacent to Red Spruce Lane, thus the side yard along Red Spruce Lane is also considered a front yard under the Township's Ordinances.

9. Having two front yards requires front yard setbacks and regulations to extend into two sides of the Property.

10. Although the Applicants originally sought a variance from Section 1708(2) to allow a fence to be constructed in the front yard that is along Red Spruce Lane that would be 6-feet tall, as opposed to the 4 foot maximum permitted height, the Applicants reduced this request to a fence that is 5-feet tall after discussions with the Homeowners' Association.

11. Although the Applicants originally proposed to construct a fence that would extend 72-feet from the side of the residence into the front yard along Red Spruce Lane, the Applicants reduced this request by 20-feet after discussions with the Homeowners' Association.

12. The Homeowners' Association is also requiring appropriate shrubs or trees to be planted along the fence that runs along Red Spruce Lane, such as Holly bushes and pine trees to provide year-round green coverage of the fence.

13. The Property slopes away from the side of the house and down toward Red Spruce Lane.

14. Applicants are requesting the increased height of the fence to help prevent their children and dogs from being able to jump over a 4-foot fence, with the assistance of the topography of the yard that is adjacent to Red Spruce Lane.

15. Mr. Jon Powers, Director of Community Development, Assistant Zoning Officer, testified that the Township was neutral on the Application.

16. Mr. Powers requested that, should the Board grant the variance, that a condition be considered that would require the Applicants to submit a revised Zoning Permit Application, in accordance with a granted variance, that will include a revised site plan that shows the revised location of the proposed fence, as well as the intended location of the landscaping requirements of the HOA that will coincide with the installation of the proposed fence in the front yard of the Property, and outside of the Red Spruce Lane right-of-way.

CONCLUSIONS OF LAW

1. The matter is properly before the Hampden Township Zoning Hearing Board, proper notice having been given to all interested parties and the Board having jurisdiction to hear the appeal.

2. The party seeking a variance bears the burden of proof pursuant to the criteria set forth in the Zoning Ordinance and Manayunk Neighborhood Council v. Zoning Board, 815 A.2d 652, 656 (Pa. Cmwlth. 2002).

3. A less exacting standard applies for establishing unnecessary hardship for a dimensional variance, as opposed to a use variance. Thus, the Board “may consider multiple factors in determining whether the Applicants established unnecessary hardship for a dimensional

variance, including the cost of the strict compliance with the zoning ordinance, the economic hardship that will result from denial of a variance, and the characteristics and conditions of the surrounding neighborhood.” Society Created to Reduce Urban Blight (Scrub) v. Zoning Board of Adjustment Of The City Of Philadelphia, 862 A.2d 731,733 (Pa. Cmwlth. 2004).

DISCUSSION

The Property at 1921 Monterey Drive, Mechanicsburg, Hampden Township, Cumberland County, Pennsylvania, has been developed as a single-family, residential dwelling.

The Applicants would like to construct a fence in the front yard of the Property along Red Spruce Lane in excess of the maximum height permitted by Section 1708(2).

The unique features of the Property include the presence of two (2) front yards. The Property is unable to be used as a typical residence as expected in a development which would normally provide a usable backyard, with only one front yard. The problem is compounded by topography of the yard along Red Spruce Lane, which slopes down from the residence and toward Red Spruce Lane. The hardship was not caused by the Applicants. The variance will not alter the character of the neighborhood and is the minimal variance necessary to afford relief.

The neighboring properties around the Property in this development are such that the character of the neighborhood will not be affected by the increased height of the fence, and the Homeowners’ Association has worked with the Applicants to adjust the fence to coordinate with the neighborhood’s aesthetic character. The proposed fence is a type of fence that is similar to other fences that already exist in the neighborhood.

The Zoning Hearing Board determines that the Applicants have met their burden of proof in establishing the unnecessary hardship which is required for a variance from Section 1708(2) of the Zoning Ordinance.

DECISION

After discussion, on motion duly made by Christopher Nestor and seconded by Gary Myers, it is:

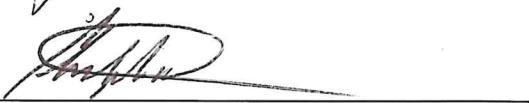
RESOLVED, that the Applicants' request for a variance from Section 1708.2, requesting relief from the maximum height for a fence located in the required front yard setback, is hereby approved, subject to the condition that the Applicants submit a revised Zoning Permit Application, providing for the installation of a five-foot tall aluminum fence, instead of six feet tall, and include a revised site plan that details the revised location of the fence as it will be installed within the required front yard along Spruce Run Lane, and the location of the shrubs or trees that are to be planted along the fence pursuant to the Pinehurst HOA's requirements, but also outside of the Township's right-of-way along Spruce Run Lane.

The Applicant shall further comply with all applicable township, state and federal rules, regulations, ordinances, and law.

(Motion carried unanimously.)

Hampden Township Zoning Hearing Board

By: 
Joseph G. Porter, Chair

By: 
Christopher Nestor, Vice-Chair

By: 
Gary Myers, Secretary

By: 
James S. Yapple, Jr.

Date Mailed 03/03/2025 By: 
absent
David R. Kraus