

BEFORE THE DERRY TOWNSHIP ZONING HEARING BOARD

IN THE MATTER OF: : NO. 2024 - 17
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Rachael Dugan :
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 : PREMISES LOCATION:
 : 216 Sawleaf Circle
 : Hershey, Derry Township, PA

MEMORANDUM, FINDINGS, OPINION AND ORDER

This is the application of Rachael Dugan, with regard to the property she owns with her husband, Jared Dugan, located at 216 Sawleaf Circle, Hershey, Derry Township. A hearing on this matter was held on July 17, 2024, after proper advertising. At that time, the applicant appeared, was sworn, and testified at the hearing.

The application indicates that the subject property is located in the R-1 zoning district. The property is improved with a single-family residence with a one-on-one personal training home occupation, and the applicant proposes to continue that use. The application seeks a variance to relocate the personal training from the applicant’s basement to the attached garage.

The applicant has operated DBK Strength, LLC, a one-on-one personal training business, from her basement since May 2023. The space in the basement is approximately 225 square feet. These sessions range from 40 minutes to 60 minutes. To access the basement, clients have to use the basement stairs, which can be difficult for clients with mobility issues. In addition, the limited floor space and 7’2” ceilings limit the overhead exercise selection. Instead, the applicant proposes to relocate the business to her two car, attached garage, which is 652 square feet and has 9’9” ceilings. The applicant testified this location was more ideal as it avoided mobility issues and

would allow her to offer a full range of exercises to her clients. No construction is necessary to relocate the business. She will use rubber mats on the floor to limit any noise. The applicant testified that the garage is well lit and has electricity. While the garage is insulated, it is not climate controlled. Therefore, if the relief is approved, the applicant intends to purchase a window air conditioner and garage heater. She would have the garage doors closed when the air conditioner and heater were running, but there may be times when the weather is nice that she may leave the garage doors open.

She testified that she has sufficient parking in the driveway for her clients. The clients, to date, who have used the basement, have parked in the driveway without any problems. Therefore, she argued that the relocation to the garage would not impact traffic. The applicant acknowledged that she did play music during the sessions, but it was not loud because she has to be able to give instruction to her clients. According to the applicant, she offers group sessions at the community center and will continue to do so. Her home sessions will be one-on-one only.

Kelly Hefner-Means, 257 Hemlock Court, testified at the hearing of this matter. She is a client of the applicant. She confirmed there was sufficient off-street parking at the property. She also confirmed that the music played during the sessions was at a low volume to allow for instruction and conversation. She testified that the garage location would be more convenient.

Neal Walmer, 230 Sawleaf Circle, testified at the hearing of this matter. He and his wife, Lynn, have lived in Hershey for over 50 years, and they built one of the first homes in the neighborhood. They liked the idea of living on a cul-de-sac because it would be quieter with less traffic. Now that they are retired, they are at home more often. Until they received the notice of

this variance request, Mr. Walmer and his wife did not know that the applicant was operating the personal training home occupation from her basement. Mr. and Mrs. Walmer's property is immediately adjacent to the applicant's garage. Their driveway runs parallel to the applicant's driveway, and Mr. Walmer testified that the driveways are approximately 25 feet apart at the closest point. Similarly, according to Mr. Walmer, the garages face each other and are approximately 80 to 100 feet apart. After the applicant confirmed the garage doors may be open during the training sessions, Mr. Walmer testified that he and his wife strongly opposed the request for relief because the training sessions may be exposed to the public, including them. In addition, he was concerned that the training sessions may become group sessions or creep out of the garage into the driveway or yard. Moreover, Mr. Walmer expressed concern about the impact this home occupation would have on the property values.

The Ordinance requires that "not more than 25% of the floor area of the dwelling unit shall be devoted to each home occupation use." *See* Derry Township Zoning Ordinance, §225-419.B.6. The Zoning Board may grant a variance provided that all of the following findings are made where relevant:

1. There are unique physical circumstances or conditions of the lot in question, and due to these conditions, an unnecessary hardship results to the property owner;
2. That because of the physical circumstances, there is no possibility that the property can be developed in strict conformity with the provisions of the Zoning Ordinance, and that the authorization of the variance is necessary to enable the reasonable use of the property;

3. The unnecessary hardship has not been created by the applicant;
4. The variance will not alter the essential character of the neighborhood or otherwise impair the appropriate use or development of adjacent property or be detrimental to the public welfare; and
5. That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least modification possible of the regulation at issue.

In this matter, the Board finds that the applicant is entitled to the requested relief. Initially, the Board finds that the property's uniqueness is not relevant in this matter because the personal training home occupation is permitted. The Board finds the applicant's testimony to be credible regarding the advantages of using the garage rather than the basement for the personal training home occupation. The Board finds that the proposed relief will not have a detrimental impact on any other property in the area or the public welfare. There is sufficient parking for one-on-one personal training. Most significantly, by Mr. Walmer's own testimony, he and his wife did not even realize the applicant was operating a home occupation at the property prior to receiving notice of this variance request. The Board finds that the proposed relief will not alter the essential character of the neighborhood. Finally, the Board finds that this represents the minimum relief necessary.

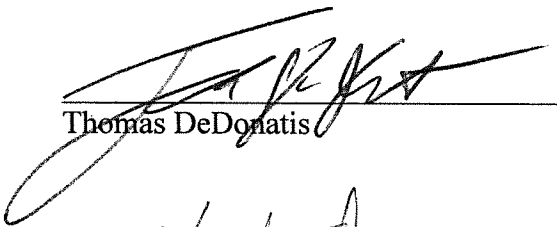
In granting any variance, the Zoning Hearing Board may attach such reasonable conditions and safeguards as it deems necessary to implement the purposes of the Pennsylvania Municipalities Planning Code, and the Ordinance. *Ordinance*, §225-1007.9.B. Based on the Board's findings and conclusions, the Board adopts the following:

ORDER

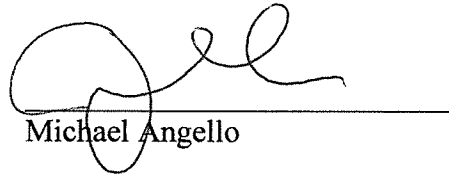
AND NOW, this 21st day of August, 2024:

1. The applicant's request for a variance from §225-419.B.6 regarding the relocation of the one-on-one personal training home occupation from the basement to the garage is GRANTED.

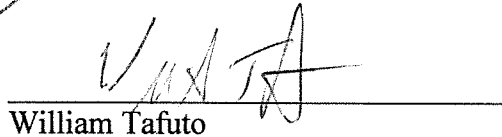
2. Any violation of any condition imposed herein shall be a violation of the Township Zoning Ordinance and shall be enforced as provided in the Ordinance.



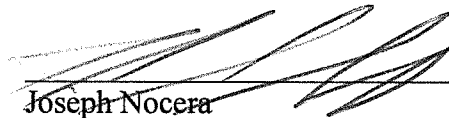
Thomas DeDonatis



Michael Angello



William Tafuto



Joseph Nocera