

BEFORE THE ZONING HEARING BOARD
OF SMITHFIELD TOWNSHIP
MONROE COUNTY, PENNSYLVANIA

**IN RE: APPLICATION OF SMITHFIELD SEWER AUTHORITY FOR
VARIANCES FROM THE PROVISIONS OF THE ZONING ORDINANCE TO
PERMIT CONSTRUCTION OF A PARKING AREA WITHIN THE FRONT LOT
LINE PARKING SETBACK AND TO REDUCE THE REQUIRED LANDSCAPE
BUFFER**

DECISION

By application submitted on November 22, 2024, Smithfield Sewer Authority (the “Sewer Authority”) requested variances from (i) Section 27-403.1(M) of the Zoning Ordinance to permit the construction of a parking area within the 50-foot front lot line parking setback and (ii) Section 27-502.7(C) of the Zoning Ordinance to reduce the required 25-foot landscaped parking buffer to 10 feet. The requested variances were made in connection with the land development plan for a new Sewer Authority office on the property located at 115 Twin Falls Road, East Stroudsburg, Pennsylvania 18301 (PIN 16732200379394) (the “Property”). The Property is owned by Smithfield Sewer Authority and is located in the ED Economic Development District of the Township.

The Zoning Hearing Board (the “Board”) held a public hearing on January 7, 2025. The Board heard the testimony of Sal Caizzo, Project Engineer from Hanover Engineering; and Russ Albert, Chairman of the Sewer Authority.

The following exhibits were received into evidence at the hearing:

ZHB Exhibit 1 – Application to the Zoning Hearing Board
ZHB Exhibit 2 – Proof of Publication
ZHB Exhibit 3 – Affidavit of Posting

Mr. Caizzo described the project, which relates to the Sewer Authority's renovation of a property that will serve as the Sewer Authority's new office. The existing improvements on the Property are a single-family home and a garage. The improvements are in disrepair and will require substantial renovations. The two requested variances are necessary in connection with the renovation and operation of the Property as an office for the Sewer Authority. Given the topography of the Property and other challenges existing thereon, including riparian buffers, stormwater requirements and existing woodlands, the proposed location of the parking area was the only place on the property that it could be reasonably situated. The proposed location is necessary to provide safe and direct access to the building and is the minimum relief necessary. The need for the variance from the 25-foot landscaped parking buffer was required for similar reasons, with the area available for the buffer related to the location of the parking area. Given the conditions and limitations on the Property, the buffer would need to be reduced to 10 feet.

Mr. Caizzo noted that PennDOT previously condemned a portion of the right-of-way along the Property's frontage. Prior to the condemnation, there would have been no need for the variances, as the improvements could be made within the front lot line setback and there would have been sufficient space to comply with the 25-foot landscaped parking buffer. There are no existing or projected activities within the area condemned by PennDOT that would impact the Sewer Authority's operation of its new office.

Mr. Albert testified concerning the need for the new office for the Sewer Authority. Among the benefits from the new office would be more space for the Sewer Authority, a larger area to show drawings, greater public access, increased storage and

additional space available for the Township created by moving the Sewer Authority's operations from the Township building. The proposed location of the parking area is on a flat area of the Property and most of the remainder of the Property is not useable for the parking area.

While available for Board questions, the Zoning Officer did not offer any testimony concerning the application.

Having considered the evidence presented, the Board hereby issues the following Decision:

FINDINGS OF FACT

1. Applicant is Smithfield Sewer Authority, which owns the property located at 115 Twin Falls Road in East Stroudsburg, Pennsylvania (PIN 16732200379394) (the "Property").
2. The Property is located in the ED Economic Development District of the Township.
3. The Sewer Authority submitted an Application for Public Hearing to Smithfield Township seeking certain variances in connection with the construction of a parking area. [ZHB Exhibit 1]
4. A public hearing was held on January 7, 2025.
5. Notice of the hearing was given by publication in *The Pocono Record* on December 16, 2024 and December 23, 2024. [ZHB Exhibit 2]
6. Notice of the hearing was duly posted on the Property. [ZHB Exhibit 3]
7. The Sewer Authority purchased the Property to serve as its office and for associated storage.

8. The Property has an existing single-family home and garage.
9. The Sewer Authority proposes to construct the parking lot within the 50-foot front lot line parking setback and requests to reduce the required 25-foot landscaped parking buffer to 10 feet.
10. The Property is unique in its size, shape and topography, presenting severe challenges to development.
11. The requested variances seek to allow for the reasonable development and use of the Property while minimizing any impact on the neighboring properties and the public.
12. The use of the Property will not alter the character of the neighborhood, nor will it have been detrimental to the adjoining properties or the public welfare.
13. The requested variance relief required to construct the parking area and associated improvements represent the minimum variance relief necessary.

DISCUSSION

The Board finds that the Sewer Authority established its entitlement to variance relief. In order to establish entitlement to a variance, an applicant must prove that the provisions of the Zoning Ordinance inflict unnecessary hardship upon them. The factors that must be established in order for a variance to be granted are:

- (1) That there are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property and that the unnecessary hardship is due to such conditions and not the circumstances or conditions generally created by the provisions of the zoning ordinance in the neighborhood or district in which the property is located.
- (2) That because of such physical circumstances or conditions,

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 a variance is therefore necessary to enable the reasonable use of the property.

(3) That such unnecessary hardship has not been created by the appellant.

(4) That the variance, if authorized, 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.

(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 in issue.

53 P.S. §10910.2; *see also* Smithfield Township Zoning Ordinance Section 27-803.

The Sewer Authority presented sufficient evidence to support its requests for variances to enable the construction of the parking area and associated improvements on the Property. The Property's unique shape, size and topography, along with existing wetlands and forested areas, present clear obstacles to its reasonable development. Moreover, the condemnation of a portion of the Property by PennDOT has exacerbated some of the issues. These challenges are unique to the Property and were not created by the Sewer Authority. The Board believes that the Sewer Authority's proposed variance relief is reasonable, will not alter the essential character of the neighborhood, and will have not impair the use or development of the adjoining properties, nor will it be detrimental to the public welfare. The proposed plan represents the minimum variance relief necessary to support the development of the Property consistent with the plan presented.

CONCLUSION OF LAW

1. The Sewer Authority established entitlement to the requested variance relief with respect to the construction of the proposed parking area within the front lot line parking setback and a reduction in the required landscaped parking buffer to 10 feet.

ORDER OF THE ZONING HEARING BOARD

The Zoning Hearing Board hereby grants the following variances consistent with the Variance Plan dated November 14, 2024 submitted by Hanover Engineering (Applicant Exhibit 1):

1. Variance from Section 27-403.1(M): Construction of a parking area within the 50-foot front lot line parking setback is permitted, consistent with the submitted plan.

2. Variance from Section 27-502.7(C): Landscaped parking buffer is reduced to 10 feet.

Order by the undersigned, the members of the Zoning Hearing Board of Smithfield Township as of this 13th day of February, 2025.

SMITHFIELD TOWNSHIP
ZONING HEARING BOARD

By: Lucas M. Fuller
Lucas Fuller, Chairperson

By: Guy Miller
Guy Miller

By: Marianne Cannell
Marianne Cannell

ATTEST:



Julia Heilakka, Secretary



DATE OF WRITTEN NOTIFICATION: February 13, 2025

**THIS CONSTITUTES THE FINAL WRITTEN DECISION OF THE BOARD.
ANY AGGRIEVED PARTY MAY APPEAL THIS DECISION TO THE COURT
OF COMMON PLEAS OF MONROE COUNTY NO LATER THAN THIRTY (30)
DAYS FROM THE DATE OF THIS WRITTEN NOTIFICATION. THE BOARD
RESERVES THE RIGHT TO SUPPLEMENT THIS DECISION AS NECESSARY.**