

**LOWER PAXTON TOWNSHIP  
ZONING HEARING BOARD**

Meeting of September 23, 2010

Members in Attendance

Jeffrey Staub, Chairman  
David Dowling  
Sara Jane Cate, Vice Chairperson

Also in Attendance

Dianne Moran, Planning & Zoning Officer  
James Turner, Solicitor

**Docket #1287**

Applicant: Albert Pinamonti

Address: 14 Judy Lane

Property: 14 Judy Lane

Interpretation: The minimum side yard setback in the R-2 District is 5', with a combined total of the two side yards a minimum of 15'.  
The applicant proposes a 4' setback and 17'3" on the other side.

Grounds: Section 307.A of the Lower Paxton Township Zoning Ordinance pertains to this application.

Fees Paid: August 23, 2010

Property Posted: September 14, 2010

Advertisement: Appeared in The Paxton Herald on September 8 & 15, 2010

The hearing began at 7:03 pm.

Mr. Staub stated it is customary for the Board to enter as exhibits the application and site plans. The applicant had no objection to its doing so.

The following were sworn in: Albert Pinamonti, 14 Judy Lane; and Dianne Moran, Planning & Zoning Officer.

Mr. Pinamonti stated that the sewer line to the house will be right in the way if the garage is built conforming to the setbacks. Mr. Pinamonti stated he does not want to reroute the sewer line. The garage will also be one foot bigger inside.

Mr. Staub asked if the request is to reduce the side yard from five feet to four feet. Mr. Pinamonti answered that is correct. He added that he has 17'3" on the other side, but it is a hill.

Mr. Staub stated he was unable to visit the site, but asked about the concrete pad. Mr. Pinamonti stated that there is an existing one-car garage attached to the split level house. The garage will be the full length of the house, about two cars deep. The driveway will not be extended the whole way to the street, it will be angled from the existing driveway to the proposed garage. Mr. Pinamonti stated that he does not want to remove the tree if he doesn't have to. He also wants to preserve as much grass area of the yard as possible.

Ms. Cate asked about the Tyvek covering the house and if there is work being done to the house right now. Mr. Pinamonti stated he had the house resided, but he did not want to put siding up only to remove it if they are granted permission to build the garage. The sewer clean out trap is in the area, and it will be inside the garage wall. He explained that the footer has to be three feet deep and 16 inches wide.

Mr. Dowling asked if the Township has any issue with a sewer line under the building. Mr. Pinamonti stated it is already under the back part of the house. Mr. Dowling asked if the sewer line is deep enough that the slab won't interfere with it. Mr. Pinamonti explained that the sewer line is down three feet, so the only thing that will interfere is the footer.

Mr. Pinamonti explained that the exterior will match the existing siding and brick, and there will be two new garage doors so they match. He explained the roof will be peaked front-to-back to match the house, he will have trusses made for this project.

Mr. Turner asked if the applicant has spoken to the neighbors and if they have any objection to the proposal. Mr. Pinamonti stated he talked to the neighbor on the side where the garage will be located and they have no problem with it, they prefer he do it the way it is proposed than to put a driveway back to the rear yard and put a garage back there. He noted he is trying to keep the area nice and not rip up too much of the yard. He spoke to the other neighbors too, and they have no problem with it either.

Mr. Dowling asked if there is a timeline proposed. Mr. Pinamonti stated they will not pour concrete if it gets too cold, so they may start working, and then wait until spring to complete it. The contractor will do the majority of the work and Mr. Pinamonti will do the rest. He explained that there are windows on that side of the house, and the work has to be done just so, so that the contractors do not interfere with the inside of the house.

The Township had no position on the application.

Mr. Staub called for comments from the audience. Mr. Ulysses Bell, 10 Judy Lane, was sworn in. Mr. Bell stated he has no objections but has some questions. He asked if the variance is granted if it will apply to the whole neighborhood or just this property. Mr. Turner stated it only pertains to this property. Mr. Bell asked about the rule for setbacks. Mr. Turner explained that the two side yards of a property must add up to 15 feet, and one of them may be a few as five feet. Mr. Bell asked if one neighbor has 5 feet between their house and property line, does the neighbor have to have 10 feet. Mr.

Turner explained that the 15 feet applies to the two sides of one house, not the two yards between the houses.

Mr. Dowling made a motion to grant the application as submitted. Ms. Cate seconded the motion. Mr. Staub called for a role call vote: Mr. Dowling-Aye; Ms. Cate-Aye; and Mr. Staub-Aye.

The hearing ended at 7:22 pm.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "MHiner", written in a cursive style.

Michelle Hiner  
Recording Secretary

IN RE: : BEFORE THE LOWER PAXTON  
: TOWNSHIP ZONING HEARING BOARD  
APPLICATION OF : DAUPHIN COUNTY, PENNSYLVANIA  
:  
ALBERT PINAMONTI : DOCKET NO. 1287

### **DECISION GRANTING VARIANCE**

The applicant seeks a variance from side yard setback requirements in connection with a proposed addition to his existing attached garage. A hearing on the application was held on September 23, 2010.

#### **Facts**

1. The applicant and owner of the property in question is Albert Pinamonti of 14 Judy Lane, Linglestown, Pennsylvania 17112.
2. The property in question consists of a rectangular parcel located on the north side of Judy Lane. The parcel is 70 feet wide and 130 feet deep and is zoned R-2 medium density residential.
3. The property is improved with a 1 ½ story residential dwelling with an attached garage on the east side of the property. The existing structure is set back 14 feet 9 inches from the eastern property line. A sewer line runs along the eastern side of the parcel from the rear of the house to Judy Lane with a setback of five feet.
4. The applicant proposes to expand the existing garage by adding an addition to the east side. This addition, to be wide enough to accommodate a car and so as to avoid having the foundation fall on top of the sewer lateral, is proposed to be set back four feet from the eastern property line. The existing setback of 17 feet 3 inches on the western side would be maintained.
5. Notice of the hearing was posted and advertisement made as required by the ordinance.

6. In addition to the applicant, a neighbor, Ulysses Bell, appeared to testify before the Board. Mr. Bell had no objection to the proposed construction. The applicant has discussed his project with the adjoining property owners who approved the requested variance.

### Conclusions

1. Section 307.A of the ordinance requires a minimum side yard setback of five feet and combined side yard setback of 20 feet. The proposed addition would violate this section of the ordinance, although it complies with the 20 feet combined setback.

2. Article 111.D.3 of the ordinance gives the Zoning Hearing Board the power to authorize, in specific cases, variances from the terms of the ordinance and its supplements as will not be contrary to the public interest, where owing to special conditions, a literal enforcement of the provisions of the ordinance would result in unnecessary hardship. The ordinance further requires that the spirit of the ordinance shall be observed, public health, safety and general welfare shall be secured, substantial justice shall be done, and no appreciable diminution of the market value surrounding properties shall be caused by such variance.

3. The Board finds that the property in question is burdened by a hardship not created by the owner consisting of the narrow lot width. This hardship is further compounded by the irregular topography of the lot. The steep rise in elevation on the west side of the lot makes expansion in that direction impractical. In addition, the location of the existing driveway mandates expansion to the east. The existing sewer line placement further severely limits possible locations for the garage.

4. Granting the variance will not alter the essential character of the neighborhood nor impair surrounding property values. The overall setback is met and the

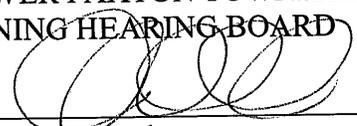
lot is not over-improved. Given the side yard being maintained by the adjoining property owner, the one foot variance will be virtually invisible.

**Decision**

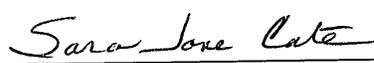
In view of the foregoing and having carefully considered the plans and testimony submitted to the Board, it is the opinion of the Board that the variance requested should be and is hereby granted allowing the erection of a garage with a minimum side yard setback of four (4') feet. In all respects construction shall be in strict accord with the plans and testimony submitted to the Board.

LOWER PAXTON TOWNSHIP  
ZONING HEARING BOARD

Date: 9/23/10

  
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Jeffrey W. Staub

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David B. Dowling

  
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Sara Jane Cate