

IN RE: : BEFORE THE ZONING HEARING  
APPLICATION OF FAITH TAYLOR : BOARD OF DICKINSON TOWNSHIP  
: CUMBERLAND COUNTY, PENNSYLVANIA  
: DOCKET NO. 2017-02

**FINDINGS OF FACT, CONCLUSIONS OF LAW  
AND DECISION DENYING  
APPLICANT'S REQUEST FOR ZONING VARIANCES**

The Applicant seeks variances from the minimum rear yard and side yard setbacks in the Low Density Residential (LDR) District as set forth in the Dickinson Township Zoning Ordinance. Hearings on the application were held by the Dickinson Township Zoning Hearing Board on March 29, 2017 at 4:00 p.m. and May 3, 2017 at 4:00 p.m. at the Dickinson Township Municipal Building, 219 Mountain View Road, Mount Holly Springs, PA 17065.

**FINDINGS OF FACT**

1. The Applicant is Faith Taylor, now Faith Chilbert, (the "Applicant"), 140 Clearview Place, Carlisle, Pennsylvania, 17015 (the "Subject Property").
2. The Applicant and her husband Anthony Chilbert are the owners of the Subject Property (the "Owners"). The Parcel Identification Number is 08-11-0290-045.
3. The Subject Property is zoned Low Density Residential (LDR) District.
4. The Subject Property is a rectangular shaped lot.
5. The Subject Property is currently improved by a single-family dwelling with an attached garage.
6. The Subject Property is approximately 2.35 acres in area.

7. The Owners desire to construct a detached garage consisting of a 50 foot by 60 foot pole building, 3,000 square feet in area, in the southeast corner of the Subject Property.

8. The Owners desire to use the pole building for storage of, among other things, a 41 foot camper and classic cars.

9. The Owners are requesting a variance from the minimum rear yard setback to allow the pole building to be twenty feet (20) feet from the rear property line and a variance from the minimum side yard setback to allow the pole building to be twenty feet (20) from the eastern side property line.

10. The Owners testified that although a rear yard setback variance and a side yard setback variance were requested, it is physically possible to construct the pole building on the Subject Property in full compliance with the Zoning Ordinance.

11. The Owners further testified that if the pole building was constructed in full compliance with the Zoning Ordinance, the building would be located approximately seventeen (17) feet from their dwelling.

12. The Owners did not present sufficient evidence to establish 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 Subject Property that create an unnecessary hardship.

13. The property adjacent to the east and south of the Subject Property is an "L" shaped lot owned by Dr. and Mrs. Bruce Harris ("Harris").

14. Harris appeared with legal counsel to oppose the application.

15. Notice of the first hearing was duly advertised in the Carlisle Sentinel, a newspaper

of general circulation, on March 15, 2017 and March 22, 2017.

16. Notice of the first hearing was posted on the Subject Property on March 15, 2017.

17. Notice of the hearing was mailed to the surrounding property owners on March 15, 2017.

18. Notice of the second hearing was duly advertised in the Carlisle Sentinel, a newspaper of general circulation, on April 19, 2017 and April 26, 2017.

19. Notice of the second hearing was posted on the Subject Property on April 19, 2017.

20. Notice of the hearing was mailed to the surrounding property owners on April 19, 2017.

### **CONCLUSIONS OF LAW**

1. Sections 10910.2 of the Municipalities Planning Code (the "MPC"), 53 P.S. §10910.2, requires the Zoning Hearing Board to hear requests for variances. Section 910.2 further provides that in granting a variance, the Zoning Hearing Board may attach such reasonable conditions and safeguards as it may deem necessary to implement the purposes of the MPC and zoning ordinance.

2. Section 910.2 of the MPC further sets for the five (5) criteria, all of which must be satisfied in order to obtain a variance, as follows:

(1) 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) 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 the authorization of a variance is therefore necessary to enable the reasonable use of the property.

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

(4) The variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, nor substantially impair the appropriate use or development of adjacent property, nor be detrimental to the public welfare.

(5) 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.

3. The Owners have the burden of proof with regard to the aforementioned five criteria to obtain a variance.

4. Section 205-12(E)(1)(e,f) of the Dickinson Township Zoning Ordinance sets forth the minimum side yard setback of twenty-five (25) feet and a minimum rear yard setback of thirty-five (35) feet for lots in the Low Density Residential (LDR) District.

5. The Owners can construct the pole building and comply with the required minimum rear yard setback and side yard setback.

6. There are no 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 Subject Property that create an unnecessary hardship.

7. The Subject Property is already being reasonably used by the Owners in strict compliance with the Zoning Ordinance in that it is improved by a single family dwelling with an attached garage.


8. The Owners have not met their burden of proof to obtain the requested variances.

**DECISION**

In view of the foregoing and having carefully considered the testimony and exhibits submitted to the Board, the requests for variances from the minimum rear yard setback and side yard setback requirements in the Low Density Residential (LDR) District of the Dickinson Township Zoning Ordinance are denied.

VOTE

No

  
\_\_\_\_\_  
Gerald Eby, Chairman

No

  
\_\_\_\_\_  
Robert Robinson, Member

NO

  
\_\_\_\_\_  
Dennis Calaman, Member

**ANY PERSON AGGRIEVED BY THIS DECISION OF THE DICKINSON TOWNSHIP ZONING HEARING BOARD MAY APPEAL TO THE COURT OF COMMON PLEAS OF CUMBERLAND COUNTY. THE APPEAL MUST BE FILED WITHIN 30 DAYS OF THE MAILING DATE OF THIS DECISION.**

**MAILING DATE:**