

**DICKINSON TOWNSHIP ZONING HEARING BOARD**

**219 Mountain View Road  
Mt. Holly Springs, PA 17065**

**DECISION**

**Docket No. 20250002, David and Carol Donaldson**

**I. PROCEDURAL BACKGROUND**

David and Carol Donaldson (the “Applicants”) filed an application for a zoning variance with respect to real estate located at 463 Pine Grove Road, Dickinson Township, Cumberland County, Pennsylvania (the “Property”), requesting a variance to permit them to maintain their driveway’s current setback encroachment. The Zoning Hearing Board of Dickinson Township (the “Board”) conducted a hearing on the Application on February 26, 2025, with the hearing being properly advertised. At the conclusion of the hearing, the Board voted 3-0 to grant the requested variance relief and this written decision is in support of the action of the Board.

**II. DISCUSSION AND FINDINGS OF FACT**

The Application requested a variance from Section 205-24B of the Dickinson Township Zoning Ordinance which requires a 5-foot side yard setback (the “Ordinance”). The Applicants sought to leave the driveway that currently exists within the setback on the Property.

David Donaldson submitted a narrative with the Application and at the hearing testified on behalf of the Applicants, and indicated as follows:

- The Property is the residence of the Applicants.
- The requested relief is the 5-foot setback along the property line separating the Applicants’ Property and the property at 467 Pine Grove Road belonging to Daniel and Kelly Heath.
- After the Applicants had their existing gravel driveway paved with asphalt on July 31, 2024, the Dickinson Township Zoning Enforcement Officer informed the Applicants that the driveway extended over the property line onto the neighboring property at 467 Pine Grove Road, the section encroaching over the property line would have to be removed, and a further section would have to be removed to meet the 5-foot setback requirement.
- The Applicants hired a surveyor to accurately locate the property boundary.
- The Applicants wishes to keep the driveway at a 12-foot width to allow larger vehicles to enter the Property, such as emergency services vehicles.
- The Applicants contracted with N.C. Stanley Paving remove the encroachment on the neighbor’s property and did remove that encroachment in December 2024.

- The Applicants asked N.C. Stanely Paving about relocating a portion of the remaining 12 feet of asphalt so that they could maintain the 12-foot width while ensuring compliance with the 5-foot setback requirement.
- N.C. Stanley Paving informed the Applicants that extending the driveway would potentially kill one of the Eastern White Pines located in the center island of the driveway.
- The Applicants are avid environmentalists and are very concerned about potentially harming the Eastern White Pine tree.
- The Applicants wish to protect the tree in their yard, so they have requested the variance to allow the driveway to remain along the side property line within the setback.
- The Applicants provided research regarding the likelihood of destroying the Eastern White Pine tree should the driveway be moved, as they are easily susceptible to root damage and death from paving within the circumference of their canopy.
- The driveway has been located in its current position since before the Applicants purchased the Property.
- The Applicants did not extend or enlarge the driveway when they had it paved.

Mr. Daniel Heath and Mrs. Kelly. Heath, who own the property, 467 Pine Grove Road, that adjoins the Applicants' Property along the property line in question, both testified. Mr. Heath testified first and indicated as follows:

- The Heaths moved into their residence in 2021 and had been concerned with the overlap of the previously gravel driveway on their property, but that issue had been resolved.
- Mr. Heath is concerned that the portion of the driveway in the setback may impact his ability to erect a fence in the future should he want to erect a fence on or near the property line.

Mrs. Heath then testified and indicated as follows:

- Mrs. Heath objects to the request for the variance, because she said the Applicants did not get a permit for the driveway and should have to follow the rules.

### **III. CONCLUSIONS OF LAW**

The Board hereby makes the following Conclusions of Law:

1. The proposed variance will not alter the essential character of the neighborhood.

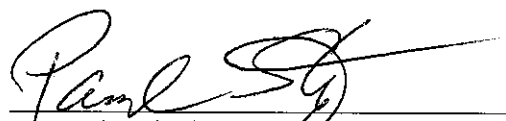
2. The proposed variance is consistent with the previous and current condition of the Property as the driveway has been encroaching in the side yard setback since before the Applicants purchased the Property.
3. The proposed variance represents the minimum variance that is necessary to afford relief and represents the least modification possible of the Ordinance in question.
4. The existing location of the driveway relative to its location of the Eastern White Pine trees, the need to maintain access to the residence, and likelihood of irreparably harming the Eastern White Pine tree to widen the driveway to ensure emergency vehicles can access the Property create a unique condition of the land that poses an unnecessary hardship to Applicants.
5. The driveway cannot be further developed in a manner consistent with the Ordinance provisions.
6. The unique condition and hardship were not caused by the Applicants.

#### IV. DECISION

It is the decision of the Zoning Hearing Board of Dickinson Township that the Applicants are granted a setback variance in order to leave the existing driveway on the Property as it currently exists within the setback. The Applicants shall only be permitted to maintain the current setback encroachment and shall not further widen their driveway in the setback.

DICKINSON TOWNSHIP ZONING  
HEARING BOARD:

Date: 3-26-25

By:   
Paul Strizzi, Chairman

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