

**BEFORE THE ZONING HEARING BOARD
UWCHLAN TOWNSHIP
CHESTER COUNTY, PENNSYLVANIA**

DECISION AND ORDER

Re: Application of Kent and Karen Empie for their residential property located at 487 Lionville Station Road, Chester Springs, Pennsylvania 19425 (UPI No.: 33-1-30), which seeks dimensional variance relief, pursuant to Uwchlan Township Zoning Ordinance Section 265-502.7.c., to permit a rear-yard setback of 10 feet, whereas a minimum rear-yard setback of 50 feet is otherwise required, in order to permanently place and utilize a 32' x 12' equipment shed.

A public hearing (the "Hearing") was held, pursuant to public notice, on Wednesday, July 16, 2025, before the Uwchlan Township Zoning Hearing Board (the "Board") on the above-referenced application (the "Application") of Kent and Karen Empie (the "Applicants") for a dimensional variance to place and utilize a 32' x 12' shed structure (*i.e.*, an equipment shed) (the "Proposed Shed"), at their property located at 487 Lionville Station Road, Chester Springs, Pennsylvania 19425 (UPI No.: 33-1-30) (the "Property") in the RR (Rural Residential) Zoning District of Uwchlan Township (the "Township"). The Proposed Shed will be located 10 feet from the rear-yard boundary line, whereas a 50-foot, rear-yard setback is otherwise required. In order to do so, Applicants require and seek a dimensional variance from Uwchlan Township Zoning Ordinance Section 265-502.7.c. Applicant Kent Empie appeared on behalf of and in support of the Application.

Present at the Hearing from the Board were Members Vernet Spence-Brown and Stephen Dow, as well as Alternate Member Chris Wethman. Also present at the Hearing were: Township Building and Zoning Official Tara Giordano, BCO; Board Solicitor Ryan M. Jennings, Esquire; and Court Reporter Nancy S. Sciarretta. No other individuals

sought party status. Neighboring property owner Greg Weiss, 467 Lionville Station Road, providing public commentary in support of the Application.

After careful review of the Hearing Record, inclusive of the Application, Hearing testimony, and documentary evidence, the Board issues the following Findings of Fact, Discussion, Conclusions of Law, and Order:

I. Findings of Fact

1. The following Exhibits were introduced and accepted into evidence at the Hearing:

Board's Exhibits:

- B-1 Zoning Hearing Board Application;
- B-1a Site Plan;
- B-1b Photograph depicting proposed location of Proposed Shed;
- B-1c Construction Plans of Proposed Shed (10 pages);
- B-2 Legal Notice of the Hearing to the *Daily Local News*;
- B-3 Proof of Publication – *Daily Local News* – July 1 and July 9, 2025; and
- B-4 Notification of Hearing to Abutting Property Owners.

The Township Zoning Ordinance (the “Ordinance”) and Zoning Map were incorporated into the Hearing record by verbal reference.

2. The Applicants are the co-owners of the Property, which is located at 487 Lionville Station Road, Chester Springs, Uwchlan Township, Chester County, Pennsylvania 19425 (UPI No.: 33-1-30).

3. The Property is located in the RR (Rural Residential) Zoning District of the Township.

4. Applicant Kent Empie testified in support of the Application.

5. The residential Property features, inter alia, an occupied, single-family detached dwelling, as well as three (3) horse stalls and three (3) horse pastures.

6. The 5.4-acre Property is also improved with an equestrian ring in the rear, which was installed approximately seven (7) years ago.

7. Applicants desire to place and use the Proposed Shed in the Property's rear yard, behind the equestrian ring.

8. Applicants believe that to be the best location for the Proposed Shed.

9. Placing the desired equipment shed in either of the side yards would not be prudent; they would be more visible to neighboring properties, as well as diminish existing pasture areas and other existing features of the residential dwellings and Property.

10. For the past approximate two (2) decades, Applicants have stored various residential and equestrian-related equipment in this general rear-yard area, where they now desire the Proposed Shed.

11. Applicants own and maintain, inter alia, two (2) mowers, a skid loader, and a wagon, all of which they desire to now store within the Proposed Shed.

12. Applicants desire to have the Proposed Shed match harmoniously with the existing residential and neighboring structures, whereby it would blend with its surroundings.

13. The Property is encumbered by swales, a septic system, and easement.

14. The Proposed Shed will be less than 400 square feet in area, which does not necessitate the need for further stormwater management at the Property.

15. The Proposed Shed will not have electricity or water/plumbing.

16. No individuals or entities appeared in opposition to the Application.

17. Additionally, no one attended the Hearing to monitor the Application, nor to provide public comment in opposition.

18. The Township received one (1) e-mail, from Lisa Roberts, 493 Lionville Station Road, providing written support of the Application.

19. One neighbor, Greg Weiss of 467 Lionville Station Road, providing public commentary in support of the Application.

20. The Township, through Ms. Giordano, took no position with regard to the requested dimensional variance relief.

21. The Proposed Shed will not alter the character of the neighborhood.

22. The Proposed Shed is not expected to substantially or permanently impair the appropriate use or development of adjacent or nearby properties.

23. The Proposed Shed is not expected to adversely affect neighboring properties, nor adversely affect the public health, safety, morals, or general welfare.

24. The Board, sitting as factfinder, found Applicant Kent Empie's testimony and documentary evidence to be credible.

II. Discussion

Ordinance Section 903.4 empowers the Board to grant variances from the terms of the Ordinance. The Pennsylvania Municipalities Planning Code ("MPC") and existing case decisions provide that variances from a zoning ordinance may be granted owing to any physical circumstance or conditions of the property, which causes unnecessary hardship, and which hardship is not self-created. Specifically, in order to be entitled to a variance, a property owner must meet the five (5) following requirements of MPC Section 910.2 (53 P.S. Section 10910.2) and Ordinance Section 903.4:

- (i) unique physical circumstances peculiar to the subject property which create an unnecessary hardship to the property;
- (ii) such physical circumstances prevent development of the property in strict conformity with the provisions of the zoning ordinance;
- (iii) that the hardship is not self-created;
- (iv) the variance, if authorized, will not substantially impair neighboring properties or otherwise detract from the public welfare; and
- (v) that the variance is the minimum to afford relief.

The Pennsylvania Supreme Court in Hertzberg v. Zoning Board of Adjustment of the City of Pittsburgh has explained the standard for establishing an unnecessary hardship as follows:

[I] determining whether unnecessary hardship has been established, the court should examine whether the variance sought is use or dimensional. To justify the grant of a dimensional variance, courts may consider multiple factors, including the economic detriment to the applicant if the variance is denied, the financial hardship created by any work necessary to bring the building into strict compliance with the zoning requirements and the characteristics of the surrounding neighborhood.

721 A.2d 43, 50 (Pa. 1998). However, the Hertzberg Court additionally held that applications for dimensional variances need not be held to the same strict standards imposed on applicants for a use variance, specifically stating that:

When seeking a dimensional variance within a permitted use, the owner is asking only for a reasonable adjustment of the zoning regulations in order to utilize the property in a manner consistent with the applicable regulations. *Thus, the grant of a dimensional variance is of lesser moment than the grant of a use variance*

Id. at 47 (*emphasis added*).

Here, the Applicants seek dimensional variance relief to permit the presence of a permanently-placed, rear-yard, 32' x 12' shed structure (*i.e.*, an equipment shed). The Proposed Shed will allow for more sightly and secure storage of residential and equestrian equipment that is already stored in the rear portion of the Property. As such, the Applicants propose a 10-foot, rear-yard setback, whereas a minimum of 50-foot, rear-yard setback is otherwise required, pursuant to Ordinance Section 265-502.7.c.

Rear-yard setback aside, no additional zoning non-compliance is proposed or would exist pursuant to the Township's RR (Rural Residential) Zoning District's area and bulk regulations or design standards. Additionally, the Property already features a number of existing, valid uses, including a single-family, detached dwelling, swimming pool, horse pastures, and equestrian riding ring. The Property is also encumbered by a number of impediments, including swales, septic system, and an easement.

The Board finds that the requested dimensional variance will not adversely impact public policy. The Board additionally believes that the Proposed Shed is reasonably sized and proposed for an appropriate and most suitable location on the Property in light of the Property's existing conditions, surroundings, encumbrances, and topography.

Furthermore, the Board does not expect that the Proposed Shed's existence or placement will have any practical effect on neighboring properties, nor negatively impact or affect the public health, safety, welfare, or morals. Should it visually impact neighboring property owners, the Board is imposing a condition of dimensional variance approval to ensure adequate vegetative screening of the Proposed Shed in the rear yard area, at the Property's boundary. Moreover, the Proposed Shed will be in keeping with the

characteristics of neighborhood and will not otherwise alter the essential character of the surrounding properties, neighborhood, or the RR (Rural Residential) Zoning District.

The Board also notes that neighboring property owners were properly notified of the Hearing (see Exhibits B-2, B-3, and B-4), and no one attended the Hearing for purposes of voicing opposition or objection to the Application, nor did anyone provide public comment stating the same. Moreover, the Township took no position with regard to the Application. Therefore, no adverse proof was proffered in this matter. Additionally, immediately-adjacent property owner Greg Weiss of 467 Lionville Station Road attended the Hearing and providing public commentary in support of the Application. Accordingly, in the absence of opposition, the Board finds it reasonable to apply the relaxed dimensional variance standard to the Applicants' requested zoning relief.

Based upon the foregoing, the Board has determined that the Applicants presented the necessary proof to warrant the grant of the requested dimensional variance.

III. Conclusions of Law

1. The Applicants, as co-owners of the Property, have the requisite ownership interest and standing to file and pursue the Application.
2. Pursuant to MPC Section 909.1.(a)(5) and Ordinance Section 903.4, the Board has jurisdiction to adjudicate the Applicants' request for dimensional variance relief.
3. The Hearing was duly advertised in accordance with notice requirements set forth in the MPC and the Ordinance.
4. This Decision and Order on the Application were timely rendered by the Board in accordance with the requirements of the MPC.

5. Pursuant to Ordinance Section 903.4.a., the Board may grant a variance, provided that certain findings, where relevant, are made in a given case.

6. Here, the Applicants have adequately satisfied the applicable standards enumerated within the Ordinance to establish entitlement to dimensional variance relief to permit the placement and use of an equipment shed, to be located 10 feet from the rear-yard setback, whereby a 50-foot, rear-yard setback is otherwise required.

Accordingly, based upon the above Findings of Fact, Discussion, and Conclusions of Law, the Board enters the following:

ORDER

AND NOW, this 28th day of July, 2025, the request for a dimensional variance from the applicable, minimum rear-yard dimensions for the placement of a rear-yard, 32' x 12' shed structure (*i.e.*, an equipment shed), at their property located at 487 Lionville Station Road, Chester Springs, Pennsylvania 19425 (UPI No.: 33-1-30), to be located 10 feet from the rear property line, whereas a 50-foot rear-yard setback is otherwise required, pursuant to Uwchlan Township Zoning Ordinance Section 265-502.7.c., is hereby **GRANTED** to Applicants Kent and Karen Empie. The dimensional variance relief herein granted is expressly subject to the Applicants' compliance with each and every of the following five (5) conditions:

1. Applicants shall comply with all applicable and/or customary building, construction, and fire code requirements, including inspections and permitting;
2. The dimensions of the Proposed Shed, including its placement, shall not exceed the dimensions set forth in the Application, plans, and depictions that made part of the Hearing record, and the placement and appearance of the Proposed Shed shall be substantially as set forth in the Application and as described during the Applicant Kent Empie's Hearing testimony and as identified in the Hearing Exhibits;

3. Applicants shall comply with any and all other applicable area and bulk requirements and design standards, except for the specified, limited dimensional variance relief granted herein;
4. Applicants shall comply with any and all applicable Federal, State, and Local laws and ordinances, as well as obtain all governmental approvals and permits necessary for the Proposed Shed; and
5. Applicants shall install a landscaped, vegetative buffer at and along the Property's rear boundary to the satisfaction of the Township Zoning Officer.

**BY ORDER OF THE
ZONING HEARING BOARD
OF UWCHLAN TOWNSHIP**

Vernet Spence-Brown
Vernet Spence-Brown, Chair

Stephen Dow
Stephen Dow, Member

Chris Wethman
Chris Wethman, Alternate Member

Attest:

Tara Giordano
Tara Giordano, BCO
Building & Zoning Official