

ZONING HEARING BOARD OF UPPER MERION TOWNSHIP

APPLICATION NO. 2012-002 : HEARING DATE: March 20, 2012 and
: April 4, 2012
APPLICATION OF: :
Charles M. Hartman, Sr. :
: :
: DECISION DATE: April 4, 2012
PROPERTY: :
426 King of Prussia Road :
Wayne, PA 19087 :

**OPINION AND ORDER OF THE UPPER MERION
TOWNSHIP ZONING HEARING BOARD**

The Applicant, Charles M. Hartman, Sr. (hereinafter referred to as the "Applicant"), filed an application requesting a variance to Section 165-23, or, in the alternative, Section 165-24.E. The application was properly advertised, and public hearings were held before the Upper Merion Township Zoning Hearing Board on March 20, 2012 and April 4, 2012 at the Upper Merion Township Building. All members of the Zoning Hearing Board were present except for Stephen Levine, as well as the Solicitor, Zoning Officer, and Court Reporter.

FINDINGS OF FACT

1. The Applicant is Charles M. Hartman, Sr., with a mailing address at 426 King of Prussia Road, Wayne, Pennsylvania 19087.
2. The legal owner of the subject property is Charles M. Hartman, Sr.
3. The property is located at 426 King of Prussia Road, Wayne, Pennsylvania 19087.
4. The Applicant was not represented by an attorney.

5. The subject property is located in the "R-1A" zoning district.
6. The lot is approximately 18,289 square feet.
7. The Applicant desires to build a garage at the subject property utilizing a prefabricated garage structure and seeks a variance.
8. The subject property is a single family residence.
9. Resident and wife of Applicant, Teresa Hartman, testified in favor of the project.
10. Residents Joan Mastroiani and Rick Penny opposed the project.
11. Resident Wen Jan Liu asked questions about the project.
12. The Board recognized that the Applicant presented signed correspondence from adjoining neighbors in favor of the variance requested.

CONCLUSIONS OF LAW

1. The Applicant is Charles M. Hartman, Sr., with a mailing address at 426 King of Prussia Road, Wayne, Pennsylvania 19087.
2. The legal owner of the subject property is Charles M. Hartman, Sr.
3. The property is located at 426 King of Prussia Road, Wayne, Upper Merion Township.
4. The subject property is located in the "R-1A" zoning district and is a single family residence.
5. The lot is approximately 18,289 square feet.
6. The Applicant desires to build a garage on the property.
7. In order to accomplish this request, the Applicant requires a de minimis variance to Section 165-24.E of the Upper Merion Zoning Ordinance. In accordance with Section 165-24.E of the Upper Merion Zoning Code, "not more than 15% of the area of any lot shall be occupied by buildings."

8. The grant of a de minimis variance is a matter of discretion with the local zoning board. *Hawk v. City of Pittsburgh Zoning Bd. Of Adjustment*, 38 A.3d 1061 (Pa.Cmwlth., 2012). A de minimis variance may be granted where the variation requested is minor and rigid compliance with the zoning ordinance is not necessary to protect public policy concerns. *Township of Middletown v. Zoning Hearing Board of Middletown Township*, 682 A.2d 900 (Pa.Cmwlth. 1996). There are no set criteria for determining what is de minimis. *Lench v. Zoning Board of Adjustment of the City of Pittsburgh*, 13 A.3d 576 (Pa.Cmwlth. 2011).
9. Here, the Applicant is requesting permission to build a garage on the property. Currently, the percent of lot area occupied by existing buildings totals 14.8 percent of the property. If the relief requested is granted, an additional 3.2 percent of the property will be occupied by the proposed garage. As a result, the total percentage of lot area to be occupied by buildings will be 18%. The Board found that the Applicant met the criteria to warrant the granting of a de minimis variance.

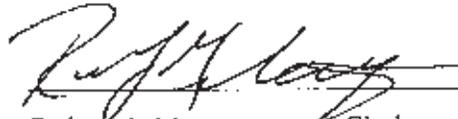
ORDER OF THE UPPER MERION TOWNSHIP

ZONING HEARING BOARD

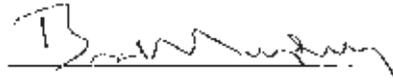
IT IS HEREBY ORDERED AND DECREED that the Board finds that the Applicant presented sufficient testimony to grant a variance to Section 165-24.E. This variance is granted conditioned upon the Applicant's compliance with the testimony of the Applicant at the public hearing on March 20, 2012 and April 4, 2012.

Decision Dated:

**UPPER MERION TOWNSHIP
ZONING HEARING BOARD**



Robert J. Montemayor - Chairman



Brad Murphy - Vice Chairman

Lynne Z. Gold-Bikin - Secretary

William J. Clements

ORDER OF THE UPPER MERION TOWNSHIP

ZONING HEARING BOARD

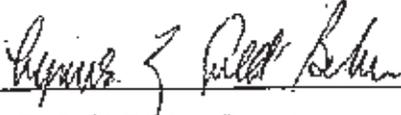
IT IS HEREBY ORDERED AND DECREED that the Board finds that the Applicant presented sufficient testimony to grant a variance to Section 16S-24.E. This variance is granted conditioned upon the Applicant's compliance with the testimony of the Applicant at the public hearing on March 20, 2012 and April 4, 2012.

Decision Dated:

**UPPER MERION TOWNSHIP
ZONING HEARING BOARD**

Robert J. Montemayor - Chairman

Brad Murphy - Vice Chairman


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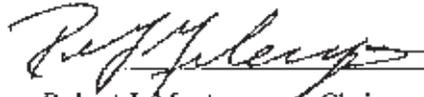
ORDER OF THE UPPER MERION TOWNSHIP

ZONING HEARING BOARD

IT IS HEREBY ORDERED AND DECREED that the Board finds that the Applicant presented sufficient testimony to grant a variance to Section 165-24.B. This variance is granted conditioned upon the Applicant's compliance with the testimony of the Applicant at the public hearing on March 20, 2012 and April 4, 2012.

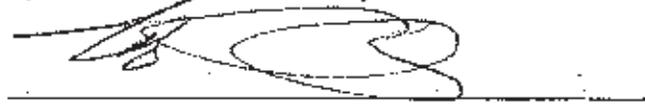
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NOTE TO APPLICANT:

There is a thirty (30) day period after the date of a decision for an aggrieved person to file an appeal in the Court of Common Pleas of Montgomery County to contest an approval or denial by the Zoning Hearing Board. If the Applicant has been granted Zoning Hearing Board approval, the Applicant may take action on said approval during the thirty (30) day appeal period; however, the Applicant will do so at his or her own risk. If the Applicant has received Zoning Hearing Board approval, the Applicant must secure all applicable permits from Upper Merion Township within one (1) year of the date of the approval or the decision granting approval.