

**HANOVER TOWNSHIP ZONING HEARING BOARD**

**OF NORTHAMPTON COUNTY, PENNSYLVANIA**

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

Application of: : David Venable H. Venable, Sr.  
Application received : November 26, 2020  
Property : 702 Overlook Drive

The Hanover Township Zoning Hearing Board after conducting a hearing on Thursday, January 28, 2021, and rendering its oral decision granting the requested variances hereby makes the following Findings of Fact and Conclusions of Law in support thereof:

1. The subject property is located on 702 Overlook Drive in a PHR – Planned Highway Residential District.
2. The applicant has constructed a concrete patio or porch area in the front of the property as well as a concrete patio area in the rear of the property.
3. The applicant was present at the hearing and testified on behalf of his application. In addition to the diagram attached to the application he presented photos marked Exhibits A-1 through A-10 showing views of the front and rear of the property, both prior to and after the construction.
4. At the hearing letters dated January 23, 2021, from Juan Torres Jones of 595 Stone Park Drive, and dated January 26, 2021, from Ellen Sinclair of 885 Briarstone Road were read into the record. Both letters were generally in favor of the construction.
5. Laura Castellani, the owner and Jeff Horninger, an occupier of the property next door to the subject property testified at the hearing in opposition to the application.
6. The applicant had been advised that the construction of the patio/porch area in the front of the home may be in violation of notes that were set forth on the plan approved for this development. The Board believes that any possible deviation from notes on the plans with respect to the construction of the front patio/porch do not appear to be based on provisions of the zoning ordinance and, therefore, the Zoning Hearing Board has no jurisdiction to either to approve or deny

the same. However, with respect to the patio in the rear, the applicant requires variances from Sections 185-25C(4)(b)[3] and [4].

7. Section 185-25C(4)(b)[3] of the ordinance requires that the minimum distance between the end of a patio or deck along a side lot line shall be at least 12 inches.

8. The applicant testified that prior to this construction of the concrete patio, there were pavers in this area as depicted on Exhibits A-4, A-5 and A-7. He stated that in the construction of the concrete patio he did not come any closer to the side lot line than the pavers that had already been there. He acknowledged that the distance is less than 12 inches and estimated the distance at 6 inches.

9. The neighbors, Laura Castellani and Jeff Horninger testified to the contrary. They stated that Mr. Venable did come closer to the side lot line by approximately 3 inches. They acknowledged that their own patio area is closer than 12 inches. They estimated the distance to be about 6 inches. They argued, however, that they did not construct their patio, it being in existence when they purchased the property.

10. The Board is of the opinion that even if it were to accept the testimony of the neighbors, that the difference is de minimis and not detrimental to this particular neighbor and in general to the neighborhood.

11. Section 185-25C(4)(b)[4] of the ordinance provides that “The maximum horizontal dimension of the patio or deck shall be 16 feet in a direction parallel to the building face along which the deck or patio is constructed and 8 feet in dimension as a projection away from such building face. The maximum distance the patio or deck may project away from a building face may be increased to a maximum of 10 feet if a hose bib, window well or other similar obstruction along the building face prevents the patio or deck from being constructed immediately adjacent to the building face.” In the present case the concrete patio is 25.6 feet rather than 16 feet and projects away from the building 12.6 feet rather than 8 feet or 10 feet.”


12. As indicated Mr. Venable testified that pavers were in this area prior to the construction of the concrete patio as depicted by his preconstruction photos. He stated that the 25.6 feet of concrete patio parallel to his building is exactly what had been there previously. Mr. Venable acknowledged that he extended the projection out from the building by approximately a foot, or at most 2.5 feet more than the pavers that had been there.

13. Mr. Venable indicated that he desired to project the patio out further than the pavers in order to be able to have a safe exit point in the event there was a fire in the upper stories.

14. While the Board does not necessarily agree with Mr. Venable that this rationalization justifies the grant of a variance, it does believe that the additional area will not be detrimental. In that regard, it is noted that Mr. Venable has the end unit so that there is more space within which to accommodate such construction than there might be if the unit were enclosed on both sides. Therefore, the Board believes that grant of the variance from this section is appropriate.:

WHEREFORE, the Hanover Township Zoning Hearing Board hereby grants the variances from the aforesaid sections of the ordinance regulating the construction of patios to be of the dimensions as set forth in the diagram attached to the application.

HANOVER TOWNSHIP  
ZONING HEARING BOARD

By:   
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Barbara L. Baldo, Esquire,  
Chairperson

Dated: 02.03.2021