

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Jennifer S. Abrams, Laura Sirico, :
Rita K. Borzillo, and Richard Spargo, :
Appellants :
v. :
Zoning Hearing Board of Tredyffrin :
Township, Penn Crest Properties, : No. 941 C.D. 2025
LLC, and Tredyffrin Township : Submitted: September 14, 2026

BEFORE: HONORABLE CHRISTINE FIZZANO CANNON, Judge
HONORABLE LORI A. DUMAS, Judge
HONORABLE BONNIE BRIGANCE LEADBETTER, Senior Judge

OPINION NOT REPORTED

MEMORANDUM OPINION
BY JUDGE FIZZANO CANNON

FILED: October 19, 2026

Jennifer S. Abrams, Laura Sirico, Rita K. Borzillo, and Richard Spargo (collectively, Objectors) appeal from a June 23, 2025 order of the Court of Common Pleas of Chester County (Common Pleas) affirming a decision of the Zoning Hearing Board (Board) of Tredyffrin Township (Township) that granted a special exception and a dimensional variance to Penn Crest Properties, LLC (Developer). After careful review, we affirm Common Pleas' order.

I. Background

Common Pleas cogently and concisely set forth the background facts of this matter as follows:

This matter concerns 311 South Valley Forge Road in Devon, Pennsylvania [(Property)]. The [P]roperty is a vacant single-family residence located in [the Township's]

R-4 Residence Zoning District. “R-4 Residence Districts are designed to provide high intensity development opportunities in selected locations of the Township.” Tredyffrin Township [Zoning Ordinance of 1939 (Zoning Code),¹] § 32. “R-4 Districts permit the highest densities of residential use and allow for the greatest variety of housing types.” *Id.* A “multifamily dwelling or apartment house” is permitted as a special exception “following review and recommendation by the Planning Commission, subject to the general standards prescribed in § 208-150 and the special development regulations of § 208-102.” [Zoning] Code § 33.E(6) (emphasis omitted).

On April 27, 2023, the [Board] issued its Decision in Application of Penn Crest Properties, Appeal No. 07-23.^[2] The Board granted [Developer] a special exception under § 208-33.E(6) of the [Zoning] Code to construct a five-unit multi-family dwelling. The Board also granted [Developer] a variance from [Zoning] Code § 208-34.A to permit a lot width of 97.61 feet at the building line where 100 feet would ordinarily be required.

Abrams v. Zoning Hearing Bd. of Tredyffrin Twp. (C.P., No. 2023-03714-ZB, filed June 23, 2025) (Common Pleas Op.) at 2.

Regarding Developer’s proposed construction, the Board found as follows. Developer seeks to replace the existing dwelling with a five-unit multi-family dwelling, a driveway with parking area, a concrete sidewalk, and stormwater management facilities.³ Bd. Dec. at 4. A multi-family dwelling is a use permitted by special exception in the R-4 Zoning District. *Id.* Zoning Code Section 208-34.A requires that each dwelling unit have a lot area of 2,900 square feet; the proposed

¹ The ordinance title is set forth in Zoning Code § 208-1.

² The Board’s decision is attached to Objectors’ Docketing Statement filed in this Court.

³ Notably, the Property is currently nonconforming regarding off-street parking, as it has one parking space where two are required, and even the existing parking space is undersized. Bd. Dec. at 3. Further, there are no existing stormwater management facilities on the Property. *Id.* Developer’s proposed construction would correct both of these existing problems.

construction would provide a lot area of 3,573.4 square feet per dwelling unit. *Id.* The proposed building will comply with the Zoning Code's area and bulk requirements, except for the lot width requirement. *Id.* Zoning Code Section 208-34.A, Attachment 1 requires a minimum lot width at the building line of 100 feet. *Id.* Although the Property is 100 feet wide at its title line, which is within South Valley Forge Road, the Property narrows slightly such that it is 97.61 feet wide at the building line. *Id.* at 5. However, the existing single-family dwelling does not conform to the southern side-yard setback requirement; its removal will correct that nonconformity. *See id.* at 3. Thus, the Board found the proposed lot width variance will not alter the essential character of the neighborhood or impact the public's health, safety and welfare. *Id.* at 8.

The Board made the following findings regarding the project's effect on traffic. Developer's proposal includes a 20-foot-wide common driveway with a single access onto South Valley Forge Road. Bd. Dec. at 5. The proposed driveway exceeds the required sight distance, having a sight distance of 398 feet to the left and 634 feet to the right. *Id.* If a traffic study is required during land development by the Township Engineer, Developer will provide a traffic study. *Id.* at 6.

Regarding the character of the neighborhood, the Board found there are a variety of housing types in the vicinity of the Property. Bd. Dec. at 7. The Property fronts on South Valley Forge Road with other neighboring single-family dwellings located across South Valley Forge Road. Bd. Dec. at 3. The west side yard and the rear yard are bounded by single-family dwellings. *Id.* at 4. However, one edge of the Property is bounded by a multi-family townhouse community known as Devonshire Commons. *Id.* at 7. There is also a five-unit multi-family development to the north of the Property, and there is an apartment complex known as "Stonegate"

to the east of the Property across Poplar Avenue. *Id.* While Developer's proposed multi-family building is larger than some homes in the vicinity, there is also some housing in the immediate area of a similar size and type to this proposal. *Id.* at 14. Thus, the Board found the proposed multi-family dwelling is an appropriate use in the area and will not substantially injure or detract from the use of surrounding property or from the character of the neighborhood. *Id.*

Aesthetically, the Board observed that Developer will comply with the buffering and landscaping requirements in the Zoning Code. Bd. Dec. at 6. Developer proposes to install 100 shrubs, 21 evergreen trees, 11 flowering trees, and 12 deciduous trees on the Property. *Id.* Developer will also retain as many of the existing mature trees on the Property as possible; specifically, most of the existing mature trees at the side property lines will remain, although Developer expressed uncertainty before the Board regarding the existing mature trees at the front property line because a fully developed grading plan had not yet been completed. *Id.*

Based on its findings of fact and related analysis, the Board concluded:

The Board understands there is a traffic and parking problem existing on South Valley Forge Road; however, as noted herein, the proposed multi-family dwelling will not exacerbate the existing issue. There is no evidence of record that the proposed multi-family dwelling will have an impact greater than any other multi-family dwelling, which the [Zoning] Code has established to be appropriate for the zoning district, nor will the proposed multi-family dwelling pose a substantial threat to the health and safety of the community. As such, the Board will grant the special exception.

Bd. Dec. at 15.

Objectors appealed the Board's decision to Common Pleas, which affirmed without taking additional evidence. Common Pleas also denied, as moot,

Objectors’ petition to stay construction at the Property. Objectors’ appeal to this Court followed.

II. Issues

On appeal, Objectors raise two issues for review. First, they assert that the Board abused its discretion by granting the special exception where there was no evidence concerning “the effect of the proposed development on the reserve capacity of the public roads and road intersections providing access to and in the area of the [P]roperty. . . .” Br. of Appellants at 9. Second, they argue that the Board abused its discretion because, in granting a variance from the lot width requirement in the Zoning Code, the Board “failed to consider whether rigid compliance with the ordinance is necessary for the public interests sought to be protected by the [Zoning] Code.” *Id.* at 14.

III. Discussion⁴

A. Special Exception

Section 208-150.A(7) of the Zoning Code requires:

⁴ This Court has explained our limited review of zoning decisions as follows:

When the trial court does not take additional evidence, our . . . review is limited to determining whether the zoning board committed an abuse of discretion or an error of law in denying the use variance. . . . The zoning board abuses its discretion when it makes material findings of fact not supported by substantial evidence. . . . Substantial evidence is such relevant evidence as a reasonable mind might find adequate to support a conclusion. . . .

Bawa Muhaiyaddeen Fellowship v. Phila. Zoning Bd. of Adjustment, 19 A.3d 36, 39 n.1 (Pa. Cmwlth. 2011) (first citing *Soc’y Created to Reduce Urb. Blight (SCRUB) v. Zoning Bd. of Adjustment*, 814 A.2d 847 (Pa. Cmwlth. 2003); and then citing *Teazers, Inc. v. Zoning Bd. of Adjustment*, 682 A.2d 856 (Pa. Cmwlth. 1996)).

A. In any instance where the . . . Board is required to consider a request for a special exception . . . in accordance with the provisions of this chapter, the . . . Board shall, to the full extent permitted by law, consider the following factors *where appropriate*:

. . .

(7) Consider *the probable effects of proposed development on highway congestion* and ensure the adequate highway access arrangements are provided in order to protect major highways from undue congestion and hazard. *Each applicant for special exception or variance shall establish the effect of the proposed development on the reserve capacity of the public roads and road intersections providing access to and in the area of the subject property.* No special exception . . . shall be granted if an effect thereof will be to *materially increase traffic congestion* on said roads or at said road intersections.

Zoning Code, § 208-150.A(7) (emphasis added).

Objectors' argument essentially focuses on which party had the burden of producing evidence to the Board concerning the effect of the proposed development on the capacity of pertinent roads. Common Pleas concluded that Objectors rather than Developer bore that burden because the issue was one of a non-objective rather than an objective criterion. Objectors insist that the criterion is objective and that because no evidence on that issue was presented at the Board hearing, Developer cannot have sustained its burden. We agree with Common Pleas that Objectors, not Developer, had the initial burden regarding the effects of any traffic increase from the additional four dwelling units proposed by Developer.

As Common Pleas explained in its opinion, zoning ordinances may require both specific, objective requirements and general, non-objective

requirements. Common Pleas Op. at 3 (quoting *Heisler's Egg Farm, Inc. v. Walker Twp. Zoning Hearing Bd.*, 232 A.3d 1024, 1035-36 (Pa. Cmwlth. 2020)).

Once the applicant has met his burden of proof and persuasion [concerning the objective requirements for a special exception], a presumption arises that it is consistent with the health, safety and general welfare of the community. . . . The burden then normally shifts to the objectors of the application to present evidence and persuade the [z]oning [h]earing [b]oard that the proposed use will have a generally detrimental effect on health, safety and welfare or will conflict with the expressions of general policy contained in the ordinance.

Manor Healthcare Corp. v. Lower Moreland Twp. Zoning Hearing Bd., 590 A.2d 65, 70 (Pa. Cmwlth. 1991) (first citing *Appeal of R.C. Maxwell Co.*, 548 A.2d 1300 (Pa. Cmwlth. 1988); then citing *Kern v. Zoning Hearing Bd. of Twp. of Tredyffrin*, 449 A.2d 781 (Pa. Cmwlth. 1982); then citing *Ralph & Joanne's v. Neshannock Twp. Zoning Hearing Bd.*, 550 A.2d 586 (Pa. Cmwlth. 1988); and then citing *Bray v. Zoning Bd. of Adjustment*, 410 A.2d 909 (Pa. Cmwlth. 1980)). Stated otherwise, once an applicant establishes that a proposed special exception meets the zoning ordinance's objective requirements, the burden regarding non-objective requirements "shifts to the objectors to prove to a high degree of probability that the impact from the proposed use will substantially affect the health, safety, and welfare of the community to a greater extent than would be expected normally from that type of use." *Heisler's Egg Farm*, 232 A.3d at 1036; *see also* Common Pleas Op. at 3 (quoting *Heisler's Egg Farm*); Bd. Dec. at 9 (quoting *Greaton Props., Inc. v. Lower Merion Twp.*, 796 A.3d 1038, 1045-46 (Pa. Cmwlth. 2002)).

Objectors do not challenge this statement of the applicable legal principles. Indeed, Objectors cite additional authorities stating the same principles in similar language. *See* Br. of Appellants at 9 (quoting *Greaton Props.*, 796 A.3d at

1045 (acknowledging that the burden shifts to objectors once an applicant meets the objective criteria for a special exception and that “[t]he evidence presented by the objectors must show a high probability that the use will generate adverse impacts not normally generated by this type of use and that these impacts will pose a substantial threat to the health[] and safety of the community”)).

Nonetheless, Objectors argue that Developer “failed to present any evidence, much less substantial evidence, on the effect the development would have on the ‘reserve capacity of the public roads and road intersections providing access to and in the area of the subject property.’” Br. of Appellants at 11. Common Pleas rejected that argument.

First, Common Pleas pointed out that Section 208-150.A of the Zoning Code requires consideration of the stated criteria regarding special exceptions “only ‘where appropriate.’” Common Pleas Op. at 4 (quoting Zoning Code, § 208.150.A). Contrary to Objectors’ argument, Common Pleas opined that the language of Section 208-150.A(7) refers only to general traffic concerns, not to objective criteria. *Id.* In support, Common Pleas explained that “the concern that increased traffic from a proposed special exception will exceed ‘safe capacity’ or be ‘out of character with the normal traffic using said public roads’ has been held to be a general concern as to public health, safety, and welfare.” *Id.* (quoting *Appeal of M.G.H. Enters.*, 480 A.2d 394, 396 (Pa. Cmwlth. 1984)).

Objectors respond that Developer had the burden of proof because this is an objective criterion. Br. of Appellants at 12. They argue that Common Pleas erred in relying on *M.G.H.*, 480 A.2d at 396, which Objectors say actually supports categorizing the criterion in Section 208-150.A.(7) of the Zoning Code as objective rather than non-objective. *Id.* (citing and discussing *M.G.H.*). Objectors contend

that the applicant for a special exception in *M.G.H.* “‘did not meet its initial burden’ and ‘failed to comply with . . . four specific provisions of [the zoning ordinance],’ three of which related to potential traffic conditions.” *Id.* (quoting *M.G.H.*, 480 A.2d at 395-96). We discern no error by Common Pleas.

Both parties accurately quote *M.G.H.* This Court’s discussion regarding traffic issues in that case began by observing that the zoning ordinance required the zoning hearing board to “consider certain general safety conditions when granting a special exception.” *M.G.H.*, 480 A.2d at 396. We concluded that “the Board properly considered sight distance and traffic conditions” in denying a special exception. *Id.* This observation and conclusion suggest that traffic conditions are general and non-objective criteria. However, we also observed in *M.G.H.*:

More specifically, [the zoning ordinance requires] that the Board shall determine that:

3. Points of vehicular access to the lot are provided at a distance from intersections and other points of access and in number sufficient to prevent undue traffic hazards and obstruction to the movement of traffic.

4. The location of the site with respect to the existing public roads giving access to it is such that the safe capacity of the public roads is not exceeded by the estimated traffic attracted or generated by the proposed use and that the traffic generated or attracted is not out of character with the normal traffic using said public roads.

...

6. The proposed use is not incompatible with the existing traffic conditions and adjacent uses.

...

8. Screening of the proposed use from adjacent uses is sufficient to prevent the deleterious impact of the uses upon each other.

The only remaining issue for our review is whether the [zoning hearing b]oard abused its discretion in concluding that applicant failed to comply with these four specific provisions.

Id. Read as a whole, these excerpts from *M.G.H.* suggest that “traffic conditions” are non-objective criteria, while specific enumerated items such as those described in paragraphs 3, 4, and 6 of the quoted ordinance are objective criteria that an applicant must establish.

Here, the applicable Zoning Code provision required the Board to consider “the probable effects of proposed development on highway congestion and ensure the adequate highway access arrangements are provided in order to protect major highways from undue congestion and hazard.” Zoning Code, § 208-150.A(7). Further, the Zoning Code forbids granting a special exception “if an effect thereof will be to materially increase traffic congestion on said roads or at said road intersections.” *Id.* We agree with Common Pleas that these requirements express general non-objective criteria as to which the burden to produce evidence shifted to Objectors once Developer met the Zoning Ordinance’s specific objective requirements for a special exception. Accordingly, we reject Objectors’ contention that Developer failed to meet any applicable burden regarding traffic conditions.

Objectors alternatively assert that, regardless of the general rule regarding burden shifting, Section 208-150.A(7) of the Zoning Code expressly placed the burden on Developer to establish even non-objective requirements regarding the development’s effect on traffic conditions, in that Section 208-150.A(7) requires that “[e]ach applicant for special exception or variance shall establish the effect of the proposed development on the reserve capacity of the public

roads and road intersections providing access to and in the area of the subject property.” Br. of Appellants at 13 (quoting Section 208-150.A(7)) (additional quotation marks omitted). We disagree.

In *Manor Healthcare*, a township’s zoning ordinance provided:

The applicant for a special exception shall have the burden of proving to the satisfaction of the Zoning Hearing Board that his application falls within the provisions of this ordinance and that the granting of his application for a special exception will not adversely affect the health, safety or welfare of the community of the Township.

Id., 590 A.2d at 70 n.6 (original emphasis removed). There, as here, the objectors argued that the zoning ordinance expressly shifted the default burden of proof. This Court rejected that argument, observing that

the Zoning Ordinance may, as here, place the “burden of proof” on the applicant as to the matter of detriment to health, safety and general welfare. . . . Such a provision in the Zoning Ordinance however, merely places the persuasion burden on the applicant. The objectors still retain the initial presentation burden with respect to the general matter of the detriment to health, safety and general welfare.

Id. at 70 (first citing *Kern*, 449 A.2d 781; and then citing *Bray*, 410 A.2d 909).

Here, Objectors offered no evidence to sustain their burden of production so as to rebut the presumption that arose once Developer met its burden to satisfy the specific objective criteria for a special exception. Therefore, Developer is entitled to the benefit of that presumption.

Finally, Objectors argue that the Board’s decision was contrary to its own prior decision in an analogous case. According to Objectors, the “Board previously denied an application for a special exception where the applicant failed to provide evidence in compliance with the requirement of 208-150(A)(7)” Br.

of Appellants at 13 (referring to *In re: Application of Arash Dadvand*, Appeal No. 03-19 at 6, Reproduced Record (R.R.) at 204a⁵). We reject Objectors’ suggestion that the Board, Common Pleas, or this Court is bound by the *Dadvand* decision.

First, the Board in *Dadvand* did not discuss the applicant’s failure to comply with Section 208-150.A.(7) beyond a passing mention. *See* R.R. at 204a. Instead, the Board relied on its findings that the proposed development was not consistent with the neighborhood because it was to be a “twin” surrounded by single-family homes, it would be set back farther from the street than the surrounding homes, it would have its driveways in the front of the property unlike the surrounding properties, and it did not appear to comply with the Zoning Code’s minimum habitable floor space requirement. *Id.* *Dadvand*, therefore, has little to no application here.

Further, the Board may refer to a prior final and unappealed decision in a different matter – although, notably, it did not do so here – but even where it does so, it still must analyze the case before it independently. *See Merion Park Civic Ass’n, Inc. v. Zoning Hearing Bd. of Lower Merion Twp.*, 530 A.2d 968, 971 (Pa. Cmwlth. 1987). Moreover, “[a] zoning hearing board is charged with the interpretation and application of the zoning ordinance, and its interpretation is entitled to deference” by a reviewing court. *In re Jerrehian*, 155 A.3d 674, 682 (Pa. Cmwlth. 2017) (citing *Smith v. Zoning Hearing Bd. of Huntingdon Borough*, 734 A.2d 55, 57 (Pa. Cmwlth. 1999)). The logical inference from these principles is that a zoning hearing board must consider each matter on its own merits, even if it then reaches a different conclusion from what it reached in some other matter, and a reviewing court must give deference to the zoning hearing board’s interpretation in

⁵ Objectors improperly numbered the pages of the reproduced record “a1, a2, a3, etc.” instead of “1a, 2a, 3a, etc.” *See* Pa.R.A.P. 2173. We use the correct designation here.

the matter under review, not in some other matter. Objectors cite no authority to support their implicit argument that the Board was bound by its bare assertion in a different matter; nor do they cite authority suggesting that a reviewing court may ignore the Board's interpretation of its Zoning Code in the case under review, on the basis that the Board may have decided differently in a different matter. Accordingly, the Board did not err by failing to conform its ruling here to its conclusory statement in *Dadvand*.

For these reasons, we conclude that Common Pleas did not err in affirming the Board's grant of a special exception.

B. Dimensional Variance

Section 910.2 of the Pennsylvania Municipalities Planning Code⁶ requires an applicant for a variance to show:

- (1) That there are unique physical conditions peculiar to the property and that the unnecessary hardship is due to those conditions;
- (2) That because of the physical conditions, there is no possibility that the property can be developed in strict conformity with the zoning ordinance and that a variance is needed to enable reasonable use of the property;
- (3) That unnecessary hardship has not been created by the applicant;
- (4) That the variance is not detrimental to the public welfare; and
- (5) That the variance is the minimum variance that will afford relief and is the least modification of the regulation at issue.

⁶ Act of July 31, 1968, P.L. 805, *as amended* 53 P.S. §§ 10101-11202. Section 910.2 was *added by* the Act of December 21, 1988, P.L. 1329, 53 P.S. § 10910.2.

53 P.S. § 10910.2; *see also* *Hertzberg v. Zoning Bd. of Adjustment of City of Pittsburgh*, 721 A.2d 43, 46-47 (Pa. 1998) (quoting 53 P.S. § 10910.2).

In addition, the hardship criterion for obtaining a dimensional variance is less stringent than for obtaining a use variance:

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, since the latter involves a proposal to use the property in a manner that is wholly outside the zoning regulation.

Hertzberg, 721 A.2d at 47-48.

Here, the Board explained that the variance Developer sought was *de minimis*:⁷

[Developer] requires a dimensional variance from [Zoning] Code Section 208-34.A to permit a width at the building line of 97.61 feet where 100 feet is required, a difference of 2.39 feet. The variance sought by [Developer] is *de minimis* in nature. A *de minimis* variance applies when an applicant requests a minor deviation from a dimensional requirement of the applicable zoning ordinance, and rigid compliance is not necessary to protect the policy concern inherent in the ordinance. *See Segat v. Zoning Hearing Bd. of Buckmgham Twp.*, 771 A.2d 90, 94-95 (Pa. Cmwlth. 2001) (citing *Evans v. Zoning Hearing Bd. of Borough of Spring City*, 732 A.2d 686, 692 n.5 (Pa. Cmwlth. 1999)). Further, “the decision of whether to grant a *de minimis* variance is left to the discretion of the local zoning board.” *Id.* at 95. Here [Developer] seeks a minor deviation of less than 3 [percent] from the required lot width at the building line. [Developer] is compliant with the side yard setback

⁷ “‘*De minimis non curat lex*’ is the legal maxim meaning that the law does not care for small or trifling matters.” *Nettleton v. Zoning Bd. of Adjustment of City of Pittsburgh*, 828 A.2d 1033, 1038 n.5 (Pa. 2003).

requirements and will comply with the landscaping and buffering requirements of the [Zoning] Code during land development. As such, the grant of the *de minimis* variance is appropriate.

Bd. Dec. at 16. We agree.

A *de minimis* variance may be granted “in the absence of a showing of the unnecessary hardship traditionally required to support such relief where the violation is insignificant and the public interest is protected by alternate means.” *Nettleton v. Zoning Bd. of Adjustment of City of Pittsburgh*, 828 A.2d 1033, 1038 (Pa. 2003). There are no set criteria for determining what constitutes a *de minimis* variance. *Lench v. Zoning Bd. of Adjustment of City of Pittsburgh*, 13 A.3d 576, 582 (Pa. Cmwlth. 2011). However, courts have found that a dimensional deviation of more than the percentage at issue here can be *de minimis*. See *Appeal of Ressler Mill Found.*, 573 A.2d 675 (Pa. Cmwlth. 1990) (finding that a 7 percent deviation from lot width requirement was *de minimis*); see also *Twp. of Middletown v. Zoning Hearing Bd. of Middletown Twp.*, 682 A.2d 900, 901-02 (Pa. Cmwlth. 1996) (finding that a 5.82 percent deviation from a height restriction and a 6.76 percent deviation from the maximum building lot coverage were *de minimis*); *Pyzdrowski v. Bd. of Adjustment of City of Pittsburgh*, 263 A.2d 426 (Pa. 1970) (finding that a 7 percent deviation from a side yard setback was *de minimis*); *Stat v. Kennett Twp. Zoning Hearing Bd.* (Pa. Cmwlth., No. 888 C.D. 2018, filed Nov. 7, 2019),⁸ slip op. at 21 (finding that a 6.43 percent deviation from the lot coverage limitation was *de minimis*); *Laskowski v. W. Chester Borough Zoning Hearing Bd.* (Pa. Cmwlth. No. 1902 C.D. 2012, filed July 11, 2013), slip op. at 5-6 (finding that a deviation of over 10 percent from the maximum building height requirement was *de minimis*).

⁸ This unreported decision is cited as persuasive authority pursuant to Section 414(a) of this Court’s Internal Operating Procedures, 210 Pa. Code § 69.414(a).

Here, the deviation in the Property's lot width of 97.61 feet is 2.39 percent from the 100-foot requirement of the Zoning Code, significantly smaller than the deviations found *de minimis* in the cases cited above. Indeed, it is roughly one-third of the percentage of the deviation from the lot width requirement that was deemed *de minimis* in *Ressler Mill*. Inasmuch as there has already been a dwelling on the Property for 100 years despite the deviation from the required lot width requirement, and inasmuch as Developer's proposed building will still comply with all applicable setbacks, we discern no error in the Board's conclusion granting the variance as *de minimis*.

Notably, "[w]here the *de minimis* doctrine applies, there is no need to resort to any other theory of relief." *Pequea Twp. v. Zoning Hearing Bd. of Pequea Twp.*, 180 A.3d 500, 504 (Pa. Cmwlth. 2018). However, even if the requested variance here were not *de minimis*, we would conclude that Developer has demonstrated the necessary elements to obtain variance relief. The lot's building line width of 97.61 feet rather than the 100 feet mandated by the Zoning Code is plainly a physical condition of the Property. The impossibility of compliance with the Zoning Code's width requirement is clearly an unnecessary hardship, and not one created by Developer. A variance is needed in order to allow reasonable use of the Property. The variance requested is also the minimum needed to provide relief; indeed, it is the same relief that would be required for *any* construction on the Property.

This Court considered a similar circumstance in another case involving a pre-existing nonconformity in lot width. *See In re Sesso*, 309 A.3d 226, 228 (Pa. Cmwlth.) *appeal denied*, 323 A.3d 1268 (Pa. 2024). In *Sesso*, the zoning ordinance required a minimum lot width of 200 feet, while the lot at issue had a width of 163.72

feet. *Id.* The lot was exceptionally deep, however, and the owner wanted to subdivide it into front and rear lots, each of which would conform to the zoning ordinance's minimum area requirement and would still have the original width. *Id.* at 229. In discussing the hardship supporting a variance, this Court explained that

nothing about granting the variance will create or enhance the preexisting nonconformity of the [p]roperty. The [p]roperty exists at the width it is and it is not possible for [the applicant], in escaping the hardship imposed by the [o]rdinance, to provide even one more inch of lot width than that which currently exists along the entire length of the [p]roperty." . . . In other words, there is no amount of money or effort that [the applicant can undertake to bring the [property] into strict compliance with the zoning requirements.

Id. at 237 (emphasis added) (additional quotation marks omitted) (citing *Hertzberg*, 721 A.2d at 50).

Here, Objectors base their opposition to the dimensional variance on their insistence that the Board "failed to consider whether rigid compliance with the ordinance is necessary for the public interests sought to be protected by the [Zoning] Code." Brief of Appellants at 14. However, we observe that the Property's nonconforming width means that construction of *any* dwelling would require a dimensional variance. In other words, here, as in *Sesso*, rigid compliance with the lot width requirement is impossible. The Property "exists at the width it is"; Developer cannot "provide even one more inch of lot width than that which currently exists" and "there is no amount of money or effort that [can] bring the [Property] into strict compliance with the zoning requirements." *Sesso*, 323 A.3d at 237. In such a circumstance, by definition, rigid compliance cannot be necessary for the public interests the Zoning Code is meant to protect.

Accordingly, we conclude the Board did not err in granting the requested dimensional variance.

IV. Conclusion

Based on the foregoing discussion, Common Pleas' order is affirmed.

CHRISTINE FIZZANO CANNON, Judge

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Jennifer S. Abrams, Laura Sirico,	:	
Rita K. Borzillo, and Richard Spargo,	:	
Appellants	:	
	:	
v.	:	
	:	
Zoning Hearing Board of Tredyffrin	:	
Township, Penn Crest Properties,	:	No. 941 C.D. 2025
LLC, and Tredyffrin Township	:	

ORDER

AND NOW, this 19th day of October, 2026, the June 23, 2025 order of the Court of Common Pleas of Chester County is AFFIRMED.

CHRISTINE FIZZANO CANNON, Judge