

BEFORE THE CONDITIONAL USE HEARING OFFICER
LOWER MERION TOWNSHIP, MONTGOMERY COUNTY
PENNSYLVANIA

CU Application #3875C

**RECOMMENDATIONS FOR FINDINGS
OF FACT, CONCLUSIONS OF LAW AND ORDER**

This conditional use application was filed by Amy and Stephen Siano seeking relief from setback requirements on properties located in the MDR1 zoning district and the Haverford Station Historic District pursuant to Code §155-7.1.8.a-e. A Conditional Use Hearing was held on June 24, 2020 before the Conditional Use Hearing Officer.¹

1. The Applicants are Amy and Stephen Siano (“Applicants”).
2. The Applicants are the title owners of 565 Barrett Avenue (hereinafter referred to as the “Property”). It contains approximately .16 acre of land with 50-feet of frontage along Barrett Avenue. The rear property line is adjacent to land containing the R-5 SEPTA (Paoli/Thorndale) rail line owned by Amtrak.
3. The Property has been improved with a single family dwelling with an 882 sq. ft. footprint, containing two stories and approximately 1300 sq. ft. in total, as well as a detached garage with a 276 sq. ft. footprint.
4. The house is sited on the west side of the 50-foot wide lot, rather than the center, resulting in side yards of varying widths. The front of the existing house is sited 6.8-feet from the western side yard property line and the rear of the house is sited 8-feet away. The eastern side yard property line is 17.8-feet away from the existing house.

¹ The Conditional Use Hearing Officer is authorized to conduct the hearing pursuant to Code §155-11.1.6.i.iii.

5. The Property is situated in the MDR1 zoning district and is also subject to the Haverford Station Historic District.

6. The Applicants would like to build a 2.5-story addition with a 395 sq. ft. footprint onto the rear of the existing house, together with a new front porch (“Addition”). The proposed Addition is in-line with the existing house and encroaches two-feet into the side yard setback to the west. Conditional use approval is necessary to reduce the required ten-foot side yard setback to eight-feet (20% reduction) and allow the Addition to be built.

7. The Applicants began planning an Addition to conform with zoning in the autumn of 2019. The Addition was designed with a conforming eight-foot side yard setback. On February 26, 2020, Lower Merion Township adopted a new zoning code with ten-foot side yard setbacks in the MDR1 zoning district. As a result, the proposed Addition would encroach two feet or 20% into the ten-foot side yard setback and relief from setback requirements would be necessary.

8. One March 30, 2020, the Applicants filed an application for conditional use approval for relief from the side yard setback reducing it to eight feet.

9. The Applicants appeared before the Historical Architecture Review Board (HARB) on June 2, 2020. The HARB recommended approval of the Applicants’ conditional use application for relief from side yard setbacks, as shown in the conditional use plan, Ex. T-2.

10. Although the Property is located in a historic district, which is subject to HARB, the Applicant also appeared before the Historical Commission as the only body empowered to make recommendations to add resources to Historic Resource Inventory. The Applicants requested Class II historic designation of the existing residence at 565 Barrett Avenue. On June 22, 2020, the Historical Commission recommended adding the structure to the Historic Resource

Inventory as a Class II resource in the Haverford Station Historic District under criteria 1, 2 and 4. *See*, Ex. A-4.

11. The Board of Commissioners may authorize conditional use relief from specific form standards pursuant to Code §155-7.1.8. *et. seq.*

12. Setback standards in the underlying district may be modified up to 15% for properties containing Class II Historic Resources, subject to obtaining a recommendation from the HARB and obtaining conditional use approval from the Board of Commissioners, pursuant to Code §155-7.1.8.a. The Board of Commissioners may modify setbacks to a greater extent where it determines that the requested relief is essential to the preservation of the historic resource. Code §155-7.1.8.e.

13. The Lower Merion Planning Commission reviewed the Applicants' plans and conditional use application on June 22, 2020. It recommended approval subject to the Applicants obtaining approval from the Historical Commission to add the property to the Historic Resource Inventory, prior to approval of the conditional use application, *See*, Ex. T-5.

14. The Conditional Use Hearing Officer conducted a public hearing on June 24, 2020.

15. Jillian Dierks, Planner in the Lower Merion Township Building and Planning Department, offered eight (8) documents into evidence:

- Ex. T-1 Conditional Use Application dated 3/30/20;
- Ex. T-2 HARB draft minutes dated 6/2/20;
- Ex. T-3 Issues memo dated 6/18/20 to the Planning Commission;
- Ex. T-4 Historical Commission recommendation dated 6/22/20;
- Ex. T-5 Planning Commission minutes dated 6/20/20;
- Ex. T-6 Proof of publication of the hearing notice;
- Ex. T-7 Conditional Use Plan dated 5/27/20 prepared by Architera, P.C.
- Ex. T-8 Architectural drawings dated 4/8/20 prepared by Architera, P.C.

16. Greg Prichard, Historic Preservation Planner in the Lower Merion Township Building and Planning Department, testified 565 Barrett Avenue is a contributing resource within the Haverford Station Historic District. HARB has jurisdiction over facades and other elements viewable from the public way within Historic Districts. A façade may be altered if reviewed by HARB and a recommendation of approval is issued, and the Board of Commissioners subsequently approves the alterations. Here, the front façade and two side facades are visible from the public way, therefore the proposed changes are reviewable by the HARB. It reviewed the conditional use application and the proposed architecture and found it to be appropriate to the Haverford Station Historic District. Moreover, when the Historical Commission reviewed the addition of 565 Barrett Avenue to the Historic Resource Inventory, it specifically considered whether the Applicants' proposed modifications to the Resource would detrimentally impact the Resource and, therefore, make it ineligible for Class II Historic Resource listing. The Historical Commission found the Applicants' proposed modifications would not make the property ineligible. Both HARB and the Historical Commission found the proposed changes compatible with Class II Historic Resource and Contributing Resource designation in the Haverford Historic District.

17. The Applicants offered one (1) document in support of their conditional use application into the record: Ex. A-1 "Neighborhood Support Submitted." It contains messages from eleven neighbors stating, in sum and substance, they agree with the proposed Addition. The Applicant also provided a letter brief on code compliance outside the record.

18. Applicant Amy Siano testified she and her husband have been residents of Barrett Avenue since 1987. They currently reside in a twin house at 569 Barrett Avenue, two houses away from the Property, together with their three children aged 11 to 14 years old. They have always wanted to live in a single-family house on the street and recently purchased 565 Barret

Avenue with the intent to modernize it for their family's use. The Applicants engaged an architect and engineer to design an addition in the fall of 2019. They worked with the Township and HARB for several months to achieve a modest Addition that modernizes of the house while maintaining architectural integrity of the original home and without increasing impervious surface on the property. The Addition was designed to continue in-line with the existing house, above an existing patio and deck, and maintain the eight-foot side yard setback of the house in compliance with code. After the plans were drawn, the zoning code changed and decreased the side yard setback from eight feet to ten feet, resulting in the proposed Addition encroaching two-feet into the setback. Amy Siano testified changing the proposed plans to meet the new ten-foot side yard setback would detrimentally affect the second floor and roofline, and create awkward layout in the house. The HARB has extensively evaluated the Applicants' design plans and recommended approval of conditional use relief.

19. The original house was constructed with two-stories in the 1920s and a small one-story addition in rear of house was built in 1950s, comprising approximately 1,300 square feet. The existing house contains two bedrooms and two full bathrooms. It has a narrow 12-foot galley kitchen characterized as "very small and tight" by Stephen Siano.

20. The proposed Addition will result in four bedrooms, two and half bathrooms, a larger kitchen, and an office on the third floor. The Sianos own a small business and lease studio office space, but they have been working from home and would like to continue doing so. It is possible they will not renew the office space when the lease expires. Additionally, they have home schooled their three children since March.

21. The Applicants believe their expansion plans are reasonable because the existing house is out of scale with many other homes on the street. The proposed Addition will make it more consistent with size and format of other homes on street. The current, non-conforming side

yard setback is 8-ft and they want the Addition to continue along the same line of the existing house. They have not proposed an offset Addition to comply with the ten-foot set back, because it would create issues with the roofline and second floor of the house. It made more sense to continue same line of house in the Addition. Ms. Siano testified they have worked with HARB to retain the form and massing of the existing home intact. The proposed plans call for a dormer facing south to capture natural light.

22. Barrett Avenue contains a mixture of single houses, twin houses and condominiums. Other single-family homes on the street are larger than 565 Barrett Avenue and some have full third floor. Twin houses on the street are also larger with 5 bedrooms and third floors. Several single-family homes on Barrett Avenue have had similar size additions built. The twin home west of 565 Barrett Ave recently had a substantial addition built. Owners of adjoining properties support the Sianos' proposed Addition together with eleven neighbors who wrote messages of support for conditional use relief. See, Ex. A-1.

23. Hala Imms, a resident of 561 Barrett Avenue, testified in support of the conditional use application. She has lived in the adjacent house to 565 Barrett Avenue for 25 years. Imms is a realtor and she testified 565 Barrett Avenue has 1.5 bedrooms rather than two bedrooms, and low clearance on the staircase. The Sianos are proposing modernization the house to meet today's needs. She approves of the proposed Addition because it's "in line with what's going on the neighborhood in terms of design and character." The proposed south facing dormer is similar to a dormer on a house directly across the street. Four single homes on Barrett Avenue have built additions within the past four years. The Applicants' house is the only home on the street which doesn't have a front porch. In 2019, the seller of 565 Barrett Avenue received multiple offers and accepted a lower offer from the Sianos so they could expand the existing house and stay on the block.

24. One neighbor submitted a letter in opposition to the conditional use application, Ex. O-1. Maura A. Gillen wrote the proposed addition is grossly large and out of character with the property and neighborhood. She would not oppose a sensitive addition to 565 Barrett Avenue, but believes the proposed plans are too large and do not meet specific conditional use requirements. Moreover, she objects to loss of moderate income housing in the neighborhood. Lastly, she believes that there were process problems with adding the property to the Historic Resource Inventory and conditional use procedure.

25. All exhibits submitted into evidence were accepted into the record without opposition and the conditional use hearing was closed.

APPLICABLE ORDINANCES

26. Lower Merion Township's Historic Resource Overlay District ("HROD") recognizes as a matter of public policy that the preservation and protection of buildings, structures and sites of historic, architectural, cultural, archeological educations and aesthetic merit are public necessities and are in the interests of the health, prosperity and welfare of the people of Lower Merion Township, Code §155-7.1.1.

27. The HROD is intended to meet the following objectives:

- 7.1.1.b.i Promote the general welfare by protecting the integrity of the historic resources and neighborhoods with unique architectural characteristics of Lower Merion Township;
- 7.1.1.b.ii Establish a clear and public process by which proposed land use changes affecting historic resources can be reviewed;
- 7.1.1.b.iii Discourage the unnecessary demolition of historic resources;
- 7.1.1.b.iv Provide incentives for the continued use of historic resources and to facilitate their appropriate reuse;
- 7.1.1.b.v Encourage the conservation of historic settings and landscapes;
- 7.1.1.b.vi Promote the retention of historical integrity in the context of proposed land use and/or structural changes;
- 7.1.1.b.vii Preserve historic resources in the community as listed on the Historic Resource Inventory and in local Historic Districts.

7.1.1.b.viii For conversions, retains the visual character of the building and the grounds surrounding it as they were designed and/or as they have traditionally been maintained.

28. The provisions of “Article 7: Conservation & Preservation Overlays” shall apply to all Class I and Class II Historic Resources and contributing resources in local historic districts designated by the Board of Commissioners and identified on the Historic Resource Inventory, unless stated otherwise, pursuant to Code §155-7.1.2.a.

33. The Board of Commissioners may grant relief from setback standards, by conditional use, pursuant to Code § 155-7.1.8:

Relief from Specific Form Standards

7.1.8.a. The impervious surface and setback standards in the underlying zoning district may be modified up to 15% for properties containing Class I and Class II Historic resources, subject to:

7.1.8.a.i. obtaining a recommendation from either the Historical Commission or the Board of Historical Architectural Review, pursuant to Chapter 88, and

7.1.8.a.ii. obtaining conditional use approval from the Board of Commissioners.

(...)

7.1.8.c. Where form requirements are modified, the Applicant shall demonstrate to the satisfaction of the Board of Commissioners that the degree of relief is required to accommodate the reasonable development, use or enhancement of the historic resource;

(...)

7.1.8.e. Where the Board of Commissioners determines that the requested relief is essential to the preservation of the historic resource, the Board of Commissioners may, by conditional use, modify such requirements to a greater degree than permitted by this section to protect the historic resource.

29. Specific requirements for conditional use approval for historic resources are set forth in “Article 11: Process & Procedure”, Section 11.1.8, pursuant to Code §155-7.1.5.a.

30. Conditional use approval requirements for historic resources:

- 11.1.8.g. Criteria for the grant of conditional use approval. Where a use is permitted in an Historic Resource Overlay District by conditional use, that use shall not be granted unless the following requirements have been satisfied in addition to those set forth in Section 11.1.6.
- 11.1.8.g.i The Applicant shall have the burden of demonstrating that approval of the application will not jeopardize the preservation of the Historic Resource(s) contained on the property subject to the application. To sustain this burden the Applicant shall present evidence demonstrating the following:
 - 11.1.8.g.i(1). The exact location of the area in which the work is to be done.
 - 11.1.8.g.i(2). The exterior changes to be made to the exterior character of the structure to be erected.
 - 11.1.8.g.i(3). A list of the surrounding structures with their general exterior characteristics.
 - 11.1.8.g.i(4). The effect of the proposed change upon the general historic and architectural nature of the property.
 - 11.1.8.g.i(5). The appropriateness of exterior architectural features of structures involved with the proposed work.
 - 11.1.8.g.i(6). The general design, arrangement, texture, material, scale, mass and color of any affected building, structure, site, and the relation of such factors to similar features of other structures on the property.
 - 11.1.8.g.i(7). That the rehabilitation work will not destroy the distinguishing qualities or character of the historic resource and its environment.
 - 11.1.8.g.i(8). In the event that replacement of contributing architectural features is necessary, the new material should, as closely as possible, match the material being replaced in kind. (....)
 - 11.1.8.g.i(9). Distinctive stylistic features or examples of skilled craftsmanship shall be preserved.
 - 11.1.8.g.i(10). Changes which may have taken place over the course of time are evidence of the history and development of the building, structure or site and its environment. These changes may have acquired significance in their own right, and this significance shall be recognized and respected.
 - 11.1.8.g.i(11). A property shall be used for its historic purpose or be placed in a new use that requires minimal change to the defining characteristics of the building, its site and environment.
- 11.1.8.h. The most current version of the Secretary of the Interior's Standards for Rehabilitation of Historic Resources, as amended, shall be used

- as a guideline in carrying out any plans involving rehabilitation, alteration or enlargement of historic resource(s).
- 11.1.8.i. Where plans involving the rehabilitation, alteration or enlargement of historic resources will result in all or portions of any such resources remaining unoccupied, such unoccupied resources shall be securely sealed and barred off and utilities turned off for safety, in a manner not jeopardizing historical integrity, as per the most current construction techniques for historic structures.
- 11.1.8.j. A means to guarantee the permanent protection of the historical integrity of the subject resource(s), such as the establishment(s) of conservation easement(s) or appropriate covenants in a form acceptable to the Township Solicitor shall be provided.
- 11.1.8.k. The Applicant shall have the burden of proving that the historical integrity of the resource has been provided for through the design of the building improvements as well as through implementation of buffering, landscaping, lighting, storage, access, and traffic management, interior circulation, loading, parking, fencing, signage and all other land development features.
- 11.1.8.l. The Applicant shall have the burden of proving that the grant of the application will not be destructive to the integrity of the historic resource or detrimentally affect the value of the surrounding properties.
- 11.1.8.m. The Applicant must comply with the parking requirements for the proposed use as set forth in “Article 8: Parking Standards”. The Board of Commissioners may prohibit any additional parking between the right of way and the façade of the building if the Board finds such parking would negatively impact the historical integrity of the resource. Special accessory events which may generate an unusual volume of traffic beyond that normally generated by the permitted use on a daily basis, such as fund raising events, recitals, stage performances, lectures and exhibitions, etc.
- 11.1.8.n. The Applicant must comply with the requirements of this chapter with respect to signage. The Board of Commissioners may approve on reduction in the size of the signage if it finds that the permitted signage will obstruct views required to assure the safety of the public or to retain the historic nature of the community.
- 11.1.8.o. The Board of Commissioners may attach conditions to achieve the objectives set forth in this section and to promote the public health, safety and welfare, which conditions may relate to any aspect of the proposed use of the property, including but not limited to buffering, parking, signage, traffic volume and flow, hours of operation, noise and odor emission.
- 11.1.8.p. Where the Board of Commissioner waives any requirement which thereby increases the rate or volume of stormwater generated on the property, the additional rate and/or volume of runoff caused by such waiver shall be controlled for the one-hundred year storm.

31. The Applicant for conditional use approval must also comply with general procedures and criteria found in Code §155-11.1.6, *et seq.*

FINDINGS OF FACT AND CONCLUSIONS OF LAW

32. The Property is located in the MDR1 zoning district which requires ten-foot side yard setbacks, pursuant to Code §155-4.2.1.

33. The Property is located in the Haverford Station Historic District.

A. Compliance with Code §155-7.1.8. *et seq.*

34. The Applicants seek to reduce the required 10-foot side yard setback in the MDR1 district to eight-feet on the western side of the Property for the construction of a rear Addition, pursuant to Code §155-7.1.8.a. This two foot reduction is 20% of the ten foot side yard setback.

35. The Applicants have obtained a recommendation from the Historical Commission and HARB, as required by Code §155-7.1.8.a.i.

36. The Applicants have requested conditional use approval for a two-foot reduction of the side yard setback from the Board of Commissioners, as required by Code §155-7.1.8.a.ii.

37. The Applicants have established through the credible testimony of Amy Siano, Stephen Siano and Hala Imms, as well as conditional use site plan (Ex T-7) and architectural drawings (Ex. T-8), that reducing the side yard setback is necessary to accommodate reasonable development, use or enhancement of the historic resource, pursuant to Code §155-7.1.8.c. The existing 1,300 sq. ft house is out of scale with many other larger homes on Barrett Avenue, both single family and twin houses. Permitting the construction of a 2.5 story Addition with a 395 sq. ft. footprint will make the house more consistent with the size and format of other homes. Moreover, the existing house has a small and tight galley kitchen, two bedrooms and two bathrooms, and low ceiling over the staircase. The Addition will modernize and expand the

living quarters to four bedrooms, two and a half bathrooms, an enlarged kitchen and an office on the third floor, making it more suitable for a family of five. Siting the Addition in-line with the house over the existing patio and deck will not increase impervious surface coverage. The HARB recommended reducing the side yard setback because the proposed Addition is compatible with the front and side facades when viewed from the public way.

38. The Applicants request 20% reduction of the side yard setback, from ten feet to eight feet, because it is essential to the preservation of the Historic Resource, pursuant to Code §155-7.1.8.e.

39. The Applicants have established through the credible testimony of Amy Siano and Stephen Siano that an additional, *de minimus* six-inch reduction of the side yard setback, from 15% to 20%, is essential to preserve the Historic Resource. The Sianos directed their architect to design a code compliant Addition in 2019. After working with HARB and Township staff for several months on the design of a rear Addition with code compliant eight-foot side yard setbacks, the zoning code changed to require ten-foot side yard setbacks in their district. The Applicants were unaware of the impending zoning change until after it was enacted, and changing their architectural plans would negatively impact the roofline and second floor layout. The distinctive gambrel roof of the existing house and proposed Addition would be impacted if an additional six-inch reduction of the side yard setback were denied. The gambrel roof is a unique physical characteristic of the existing house which represents an established and familiar visual feature of the neighborhood according to HARB.

B. Compliance with Code §155-11.1.6, et seq.

40. The Applicants have complied with the criteria for conditional use approval found in Code §155-11.1.6.i.vi.

41. The proposed Addition meets all conditions of uses expressed in the use classification section of Chapter 11, pursuant to Code §155-11.1.6.i.vi(1).

42. The proposed Addition does not conflict with the Township and County Comprehensive Plans and other plans adopted by the Township, pursuant to Code §155-11.1.6.i.vi(2).

43. The proposed Addition is consistent with the spirit, purposes and intent of the applicable zoning district, pursuant to Code §155-11.1.6.i.vi(3).

44. The proposed Addition is in conformance with all applicable requirements of this Chapter and all municipal, state and federal codes applicable to the use of process in question, pursuant to Code §155-11.1.6.i.vi(4).

45. The proposed Addition is suitable for the property in question, pursuant to Code §155-11.1.6.i.vi(5). Specifically, it is suitable for adjacent land uses and the surrounding Haverford Station Historic District. Moreover, the scale of the use relates to and complements the surrounding area because the expanded house will be a similar size to other homes on the Barrett Avenue.

46. The use shall be served by public sewer pursuant to §155-11.1.6.i.vi(6).

C. Compliance with Code §155-11.1.8.et seq.

47. The Applicants have complied with the criteria contained in Code §155-11.1.8.et seq.

48. The testimony of Amy Siano and Stephen Siano, as well as the conditional use site plan and architectural renderings by Architetra, provided descriptions of the location, work, changes, appropriateness, and all other information required by Code §155-11.1.8.g.i(1-11).

49. The most current version of the Secretary of the Interior's Standards for Rehabilitation of Historic Resources, as amended, has been used as a guideline in carrying out alteration or enlargement of historic resource, as required by Code §155-11.1.8.h.

50. The unoccupied Historic Resource shall be securely sealed and barred off and utilities turned off for safety, in a manner not jeopardizing historical integrity, as per the most current construction techniques for historic structures, pursuant to Code §155-11.1.8.i.

51. The Applicants have agreed to provide a means to guarantee the permanent protection of the historical integrity of the subject resource, such as appropriate covenants in a form acceptable to the Township Solicitor, pursuant to Code §155-11.1.8.j.

52. The Applicants have proven that the historical integrity of the resource has been provided for through the design of the building improvements as well as through implementation of buffering, landscaping, lighting, storage, access, and traffic management, interior circulation, loading, parking, fencing, signage and all other land development features, pursuant to Code §155-11.1.8.k.

53. The Applicants have proven that the grant of the application will not be destructive to the integrity of the historic resource or detrimentally affect the value of the surrounding properties, Code §155-11.1.8.l. The proposed front porch and Addition will complement the integrity of the historic resource.

54. The Applicant will comply with the parking requirements for the proposed use as set forth in "Article 8: Parking Standards", pursuant to Code §155-11.1.8.m.

55. Signage requirements, pursuant to Code §155-11.1.8.n. are not applicable to this application for a residential property.

56. The Applicants agree to comply with conditions set by the Board of Commissioners to achieve the objectives set forth in this section and to promote the public

health, safety and welfare, which conditions may relate to any aspect of the proposed use of the property, including but not limited to buffering, parking, signage, traffic volume and flow, hours of operation, noise and odor emission, pursuant to Code §155-11.1.8.o.

57. The Applicants agree if the Board of Commissioners waive any requirement which thereby increases the rate or volume of stormwater generated on the property, the additional rate and/or volume of runoff caused by such waiver shall be controlled for the one-hundred year storm, pursuant to Code §155-11.1.8.p.

58. Sufficient plans, studies and other data showing compliance with the regulations for the permitted use have been submitted to Township Staff, the HARB, the Historical Commission, the Lower Merion Planning Commission and the Hearing Officer.

59. Compliance with all criteria and standards has been assured through multiple reviews by the HARB, the Historical Commission, Township Staff and Lower Merion Planning Commission.

DISCUSSION

60. The Applicants' plan for in-line expansion of the Historic Resource along the structure's western side is compatible with the character, scale and architecture of the surrounding historic district. An offset addition which does not encroach into the side yard setback would negatively affect the roofline and second floor layout. The HARB noted the gambrel roof of the Historic Resource is a unique physical characteristic which represents an established and familiar visual feature of the neighborhood and should be preserved. The HARB recommended granting conditional use approval of 20% relief from the side yard setback to allow a historically sympathetic Addition to be built and the Historic Resource to continue to serve the community's residential needs. The Applicants require a modernized and expanded house for their family of five to reside in and the existing 1,300 square foot house is too small .

61. While six additional inches of relief from the side yard setback is *de minimus*, when added to an 18-inch (15%) reduction of the ten foot setback, it results in a 20% reduction which requires a greater showing to receive conditional use approval, pursuant to Code § 155-7.1.8.e. This burden has been met by the unique circumstances surrounding in this matter, narrowly limited facts and compelling need to preserve the Historic Resource. After working in good faith on a code compliant Addition for months, the Applicants discovered the zoning code had changed rendering their plans non code compliant. Rather than revise the plans and negatively impact the roofline and second floor, the Applicants seek to reduce the side yard setback from ten feet to eight feet to build the Addition as planned. It should be noted that the original siting of the Historic Resource on the western side of the fifty-foot wide lot gives rise to this request for relief. If the Historic Resource had been built in the middle of the lot, the side yard setback would not be affected by the proposed Addition. The Applicants need a small amount of flexibility to modernize and improve the small Historic Resource sited off center on the property. They did not create the off-center siting of the Historic Resource which is related to their requested relief, the amount of additional relief requested is *de minimus* and their proposed plans are code compliant in all other respects. The Applicants have worked in good faith with the HARB, the Historical Commission, Planning Commission, and Township Staff for months to arrive at an acceptable plan and have modified their plans to comply with their recommendations. In light of these narrowly limited facts and unique timing issues, the Applicants have met their burden of proof and shown that reducing the side yard setback on the west side of the Property is both reasonable and necessary to preserve the Historic Resource.

62. For the reasons set forth above, the following Order is recommended to the Board of Commissioners.

ORDER

AND NOW on this ____ day of July, 2020, the application of Stephen and Amy Siano for conditional use approval to reduce the side yard setback to eight feet on the west side of the Property only, pursuant to the Zoning Code of the Township of Lower Merion is granted.

This grant of Conditional Use approval is based on the documents and plans submitted in support of the application, all of which are specifically incorporated herein by reference thereto.

By: _____
Pamela M. Loughman, Esq.
Conditional Use Hearing Officer
Township of Lower Merion