

**ZONING HEARING BOARD OF NEW BRITAIN TOWNSHIP,
BUCKS COUNTY, PENNSYLVANIA**

Applicant: Rich Boyd
217 New Galena Road
Chalfont, PA 18914

Applicant’s Attorney: John A. VanLuvanee, Esquire
Eastburn and Gray
60 East Court Street
Doylestown, PA 18901

Appeal No: ZHB-2024-94

Owner of the Property: Rich T. Boyd and Carol S. Boyd

Subject Property: 217 New Galena Road
Chalfont, PA 18914
Bucks Co. TMP #26-019-002

Requested Zoning Relief: Applicant seeks a variance from Section 27-305(H)(H6)(b)(2b) of the Zoning Ordinance to permit ground-array solar panels in the front yard.

Date and Place of Hearing: May 15, 2025 and June 26, 2025
New Britain Township Municipal Building

FINDINGS OF FACT

1. On Thursday, May 15, 2025, and June 26, 2025, the New Britain Township Zoning Hearing Board (the “Board”) held hearings on the application of Rich T. Boyd (the “Applicant”).

2. The Applicant and Carol S. Boyd are the owners of the property located at 217 New Galena Road, Chalfont, Pennsylvania, with a Bucks County Tax Map Parcel Number 26-019-002 (the “Property”).

3. The Board admitted into evidence the following Exhibits:

- B-1 The Zoning Hearing Board Application and Deed for the Property
- B-2 A plot plan of the Property with structural details of the solar panels
- B-3 An aerial photo of the Property
- B-4 Public Notice of the Hearing
- B-5 Proof of Publication of Notice
- B-6 Certificate of Notice of mailing to property owners
- B-7 Affidavit of Posting of public notice at the property
- B-8 Extension of time to review application granted by Applicant

4. The Applicant presented, and the Board admitted into evidence the following exhibits:

- A-1 Aerial photograph of the Property depicting location of the solar panels
- A-2 A presentation packet consisting of 42 pages of supporting documents

5. Notice of the May 15, 2025, hearing was published in the May 1, 2025, and May 8, 2025, editions of the Intelligencer. *See* Exhibit B-5.

6. Notice of the hearing was sent by first class mail on May 1, 2025. The Notice was mailed by Doreen Curtin, the Zoning Officer for New Britain Township, to the record owners of the properties that are within 500 feet of the property. *See* Exhibit B-6.

7. Public Notice of the hearing was posted on the Property by Doreen Curtin. *See* Exhibit B-7.

8. The Applicant and Carol S. Boyd appeared at the hearing on May 15, 2025, and presented evidence and testimony.

9. The Applicant’s attorney appeared at the subsequent hearing on June 26, 2025, and assisted the Applicant.

10. The Property is in the SR-2, Suburban Residential Zoning District under the New Britain Township Zoning Ordinance (the “Zoning Ordinance”).

11. The Property is improved with a historic dwelling and accessory structure(s), all of which are permissible structures and uses under the Zoning Ordinance.

12. The Applicant seeks to install ground-array solar panels in the designated front yard of the Property.

13. To permit the installation of ground-array solar panels in the front yard, the Applicant seeks a variance from Section 27-305(H)(H6)(b)(2b) of the Zoning Ordinance.

14. The Applicant testified in support of the application. New Britain Township took no position on the application and no other person appeared at the hearing to request party status.

15. The Applicant submitted a detailed presentation, documentation, and data in support of the application. *See Exhibit A-2.*

16. The dwelling on the Property is a farmhouse constructed in 1790. The farmhouse is situated at the rear of the property. *See Exhibit A-2, Section 8.*

17. An aerial topography map and contour map were presented supporting the position that the front yard is the only location that would support the ground-array solar panels. *See Exhibit A-2, Section 1.*

18. Aerial photos of the Property were presented establishing large trees populated a significant portion of the rear yard. *See Exhibit A-2, Section 2.*

19. The Applicant testified that based on his most recent PECO utility bill, his average annual usage is 25,056 kWh. Based on the NREL solar calculator used by Azimuth Renewable Energy, the ground-array solar panels, at the proposed location, would produce approximately 21,403 kWh per year. *See Exhibit A-2, Section 3.*

20. The Applicant submitted a Hand-Auger Soil Evaluation – Soil Drainage Classification from VW Consultants LLC (the “Soil Evaluation”). *See Exhibit A-2, Section 4.* The Soil Evaluation concluded that the “best location for the solar array, based on soil drainage classification and abundance and contrast of the observed redox features” is the proposed location.

21. The Applicant presented photographs depicting large trees in the rear of the Property that would block sun from ground-array solar panels. Many of the large trees that would block the sun from the ground-array solar panels are not located on the Applicant’s Property and cannot be removed. *See Exhibit A-2, Section 5.*

22. The Applicant staked out the proposed location of the ground-array solar panels to show the visibility of the solar panels from New Galena Road. The photographs depict limited visibility of the ground-array solar panels from New Galena Road. *See Exhibit A-2, Section 6.*

23. The Applicant submitted a letter of support from their neighbor, Stephen and Gionna Yale. The Yales, who reside at 211 New Galena Road, wrote that the proposed location of

the solar panels is “virtually unnoticeable from our property” and they endorsed the Applicant’s plans. *See Exhibit A-2, Section 7.*

24. Dennis Byrnes, the owner of 242 New Galena Road, spoke in support of the proposed location. Mr. Byrnes stated that his property was located on New Galena Road directly across from the proposed location of the ground-array solar panels.

25. The Applicant presented detailed elevations of the ground-array solar panels at the proposed location. *See Exhibit A-2, Section 9.*

26. At the conclusion of the May 15, 2025, hearing, the Applicant invited the Board members to visit the Property. The purpose of the invitation was to tour the front and rear yards of the Property and observe the proposed location of the ground-array solar panels. A couple of the Board members visited the Property prior to the June 26, 2025 hearing.

27. There were no neighbors present that expressed any concern or objection to the proposed front yard location of the ground-array solar panels.

CONCLUSIONS OF LAW

1. The Zoning Hearing Board of New Britain Township met the requirements of the Zoning Ordinance and the Pennsylvania Municipalities Planning Code by making sufficient publication, posting and mailing of notice of the May 15, 2025, hearing to affected property owners.

2. Under traditional concepts of zoning law as set forth in 53 P.S. §10910.2 and further enumerated in Section 27-3104(a) of the New Britain Township Zoning Ordinance, a Board may grant variances provided the following findings are made where relevant to a specific case:

- a. an unnecessary hardship stemming from unique physical characteristics or conditions will result if the variance is denied;
- b. because of the physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of the zoning ordinance and a variance is necessary to enable the reasonable use of the property;
- c. the hardship has not been created by the applicant;
- d. the variance, if granted, will not alter the essential character of the neighborhood where the property is located nor will it be detrimental to the public welfare; and
- e. the variance, if granted, represents the minimum relief to the applicant and such variance represents the minimum modification possible of the regulation at issue.

3. When seeking a dimensional variance, the quantum of proof to establish unnecessary hardship is less strict than seeking a use variance. *Hertzberg v. Zoning Board of*

Adjustment of the City of Pittsburgh, 721 A.2d 43, 48 (Pa. 1998). In considering whether or not to grant a dimensional variance, multiple factors are considered, such as economic hardship to the applicant, financial hardship to bring the property into compliance with local zoning regulations and the characteristics of the surrounding neighborhood. *Id.* at 50.

4. A dimensional variance may be granted in limited situations where the proposed deviations are minor. The decision of whether to grant or deny the variance is left to the discretion of the local zoning hearing board. *Segal v. Zoning Hearing Board of Buckingham Township*, 771 A.2d 90 (Pa.Cmwlt. 2001).

5. Based on the credible testimony and supporting documentation presented, the Board concludes that the Applicant has met the burden of establishing a variance to install the ground-array solar panels in the front yard for the following reasons:

- a. The Property is a large site, but the 1790 dwelling sits back a distance from New Galena Road creating a significant front yard and small rear yard.
- b. The contour and topographical data submitted by the Applicant establish the proposed front yard location of the ground-array solar panels is the most viable option.
- c. The proposed size and location of the ground-array solar panels would produce close to, but not exceed, the Applicant's annual energy usage.
- d. The Applicant's Soil Evaluation concluded that the proposed front yard location is the best and only viable location for ground-array solar panels.
- e. The rear yard of the Property is encumbered by large trees that create too much shade – rendering ground-array panels ineffective. Many of the large trees causing significant shade are not located on the Applicant's Property.
- f. The well and septic system servicing the Property is located in the rear yard and cannot be relocated to accommodate the ground-array solar panels.
- g. The proposed front yard location and elevation of the ground-array solar panels will limit the visibility of the solar panels from New Galena Road.
- h. Neighboring property owners support the proposed front yard location concluding the location would limit, or eliminate, their view of the ground-array solar panels.
- i. Board members visual inspection of the Property ratifies that the rear yard, due to its limited size, large trees and lack of daylight, render it an ineffective location for the ground-array solar panels.

6. Provided the Applicant complies with the reasonable conditions attached to the relief granted herein, the Applicant has met the requirements for a variance to construct and install ground-array solar panels in the front yard, as shown on the surveyed plans. *See* Exhibit A-1 and A-2, Section 9.

7. The approved variance will not alter the essential character of the neighborhood in which the Property is located, nor will it impair the appropriate use of development of adjacent properties.

8. The approved variance will not be detrimental to the public welfare.

9. The conditions and circumstances imposing a hardship upon the Property for the approved variance are not of the Applicant's own doing.

10. The approved variance represents the minimum variances that will afford relief and represent the least modification of the zoning regulations under the circumstances.

DECISION AND ORDER

AND NOW, this ____ day of July, 2025, after public hearings held on May 15, 2025 and June 26, 2025, and pursuant to a public vote, the Zoning Hearing Board of New Britain Township does hereby formally adopt the above Findings of Fact and Conclusions of Law and grants the Applicant's request for a variance from §27-305(H)(H6)(b)(2b) to install ground-array solar panels in the front yard. The relief granted is subject to and conditioned upon the Applicant locating the ground-array solar panels in the specific area identified in Exhibit A-1 and A-2, Section 9.

The signatures of the New Britain Township Zoning Hearing Board members that appear on the following page attached hereto and incorporated herein confirm the Board's Decision and Order.

Signed by:
By: Doreen Curtin
Doreen Curtin
New Britain Township Zoning Officer

Date: 7/21/2025

THE ABOVE DECISION DOES NOT CONSTITUTE AUTHORIZATION TO BUILD. PRIOR TO COMMENCEMENT OF CONSTRUCTION, THE APPLICANT MUST APPLY FOR AND SECURE THE NECESSARY ZONING AND BUILDING PERMITS.

DATE OF DECISION: 07/24/2025

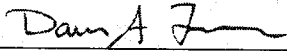
DATE OF MAILING: 07/24/2025

NEW BRITAIN TOWNSHIP ZONING HEARING BOARD

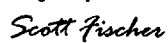
SIGNATURE PAGE

Application: Rich T. Boyd, 517 New Galena Road, Chalfont, PA 18914
Tax Map Parcel No. 26-019-002

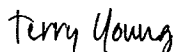
Dawn Farver, Chair

Signed by:

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Scott Fischer, Vice Chair

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Terry Young, Member

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Robert Byrne, Member

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Kristen Ives, Alternate Member

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