

Dear Justin,

Sorry for the delay in response. As was previously noted, your appeal was received and is scheduled to be heard by the Board at its February Meeting: Monday, February 23, 2026 at noon at the Hamlin County 4-H Building. You will receive notice of this meeting, which will be mailed at least ten (10) days prior to the meeting. Please note: payment in the amount of \$250, payable to the Hamlin County Treasurer must be submitted to the Hamlin County Treasurer by Friday, January 30, 2026. The appeal portion of the meeting will be run with assistance from the Hamlin County State's Attorney. I have attached rules which the Board will follow in the process for appeals at the meeting.

In summary, the Board will start with a motion in Favor of your appeal. You will have up to 10 minutes to describe your appeal. The Zoning Officer will be asked to describe the basis of the decision being appealed. Then the Board will ask any questions they have of the appellant or the zoning officer. The Board will hold discussion and then vote. It will take 5 "yes" votes to rule in favor of the appellant. This process will be repeated for each of the 3 appeals listed in your appeal/notice of appeal.

In reference to the 3 appeals: I will need to reference the sections of the ordinance in which the zoning office's interpretation is being challenged. Can you please confirm:

- **Appeal #1:** The zoning officer's determination that the structure exceeds the maximum sidewall height Section 3.01.11A.1 as described in Table 3.07.11.1.
- **Appeal #2:** The Zoning Officer's determination that the structure contains a "dwelling unit" as defined by [Article II Definitions] Section 264. Dwelling Unit.
- **Appeal #3:** The Zoning Officer's determination that the required yard along the boundary shared with the SD HWY 28 Right-of-Way meets the definition of a "Front Yard" as described in Section 5.06.02.3 [Additional Yard Requirements], and defined in [Article II Definitions] Section 435. Yard, Front.

I presume the appeal was, in part, a plan for compliance as well.

In reference to Appeal #1: this office is authorized to allow a sidewall height of 16 feet if a special permitted use permit is issued, thereby rendering Appeal #1 moot. In order to grant a Special Permitted Use please submit the following attached applications:

- **Special Permitted Use Application** (no need for consent of any road authority for increased sidewall height for an oversized side wall)

- **Waiver for unattached garage with side wall height over 12’.** (I have created a custom version of this for the Grey’s in reference to Adjacent landowners. This includes owners across the road. Exhibit “B” includes the signature of one (1) adjacent landowner. The original version of that exhibit may be attached to this new form to avoid getting their signature again.
- **Cash or Check (payable to Hamlin County Treasurer) \$400 After-the-Fact Special Permitted Use Application Fee.**

In reference to Appeal #2: this office will accept the proposed use of the structure as an accessory structure, not to be used as a dwelling unit, thereby rendering Appeal #2 moot provided:

- Affidavit in a form approved by the Hamlin County State’s Attorney is submitted attesting that the structure does not, and will not contain a kitchen or “sleeping facilities”

In reference to Appeal #3: No actions may be taken by the zoning officer to render this appeal moot. In June of 2022 Hamlin County Ordinance #2022-03 became effective. That ordinance made several changes to the Lake Park District. One of those changes was to allow the decrease of front yard setbacks on back lots, from 30 feet to 25 feet by Special Permitted Use with written consent from the road authority. In order to grant a Special Permitted Use to decrease the setback from SD HWY 28 and/or North Lake Drive, respectively please submit the following attached applications for each respective right-of-way:

- **Special Permitted Use Application** (I recommend a separate application from the sidewalk application; and)
- **Reduced LP Front Setback Form.** (I have created a custom version of this for the Grey’s in reference to Adjacent landowners. Again, I recommend one for each right-of-way to avoid confusion. Signatures of adjacent landowners could be combined from the side wall SPU application as long as the site plan and signature is clearly in support of the location as well as sidewalk height).
- **Cash or Check (payable to Hamlin County Treasurer) \$400 After-the-Fact Special Permitted Use Application Fee for each right-of-way setback being sought to be decreased.***

*I realize that a key component of the appeal is contesting that SD HWY 28 should constitute a rear yard. It is not my intent to reference a request for decreased setback as a concession that SD HWY 28 requires a front yard. This is being sent as a matter of expediency.

Although numerous Special Permitted Use Permits have been issued to decrease setbacks to 25 feet, the Board has not issued variance to **any** setbacks on back lots since the effective date of Ordinance 2022-03. On the contrary, it denied the only variance request to setbacks brought before them since this amendment. If it is still your intent to request variance for setback(s) from SD HWY 28 right-of-way and North Lake Drive right-of-way; Please submit the following:

- **Variance Application** (to be completed online at: <https://hamlinbuildingpermits-firstdistrict.hub.arcgis.com/>) If it is the intent to apply for variance allowing the structure to be less than 25' from both the SD HWY 28 right-of-way and North Lake Drive right-of-way please note it as such on this application.**
- **Cash or Check (payable to Hamlin County Treasurer) \$1,000 After-the-Fact Variance Application Fee for each right-of-way setback being sought to be decreased.***

**Please make application and submit fees prior to the deadline of Friday, January 30. Again is not my intent to reference a request for decreased setback as a concession that SD HWY 28 requires a front yard. If the Board rules in favor of the appeal, the request for variance on the SD HWY 28 side becomes moot. The variance would be taken up after the appeal(s). The intent here is to complete all actions associated with this matter at the same meeting, if possible.

Hopefully this addresses any questions you may have. Clearly this is an exhaustive list of information. It was not the intent to dismiss any questions. Feel free to follow up if I missed anything.

Sincerely,

Luke Muller

Acting Hamlin County Zoning Officer