

**ZONING HEARING BOARD OF DOYLESTOWN TOWNSHIP
BUCKS COUNTY, PENNSYLVANIA**

Application No. Z-7-2013

Applicant: Penn Color, Inc.
400 Old Dublin Pike
Doylestown, PA 18901

Owner: Same

Subject Property: Tax Parcel Nos. 9-4-48-2, 9-4-49, 9-4-50, 9-4-84, 9-48-24, and 9-48-25, which are collectively located at 400 Old Dublin Pike in Doylestown Township.

Requested Relief:

The Applicant desires to consolidate lots and improve the appearance of, and parking for the existing use and, in order to do so, requests the following variances from the Doylestown Township Zoning Ordinance (“Ordinance”): (1) from §175-16.H.3.d.1 to permit the continued existence of a storage shed on Tax Parcel No. 9-48-24 to be located 5 feet from a property line instead of the required 7 feet; (2) from §175-18 to permit obstructions within the required 50’ x 50’ clear sight triangle at the intersection of Pine Run Road and Old Dublin Pike; (3) from §175-21.C.2 to reduce the width of buffer yards between the employee parking area and an adjacent residential district or use from 30 feet; (4) from §175-23.B.2 to allow the continued maintenance of parking area on Tax Parcel No. 9-48-25 less than the required distance from the ultimate right-of-way of its fronting street and to eliminate the required barrier planting strip; (5) from §175-23.C.13 to permit the continuance of an existing parking area on Tax Parcel No. 9-48-25 to be 10 feet from the ultimate right-of-way, instead of the 100 feet required; 10 feet from the side lot line, instead of the 25 feet required; and 10 feet from the rear property line, instead of the 50 feet required; (6) from §175-37 to continue the uses of office and warehouse in a R-1 residential district on Tax Parcel Nos. 9-4-50 and 9-48-25, when such uses are not otherwise permitted in that district; (7) from §175-38 to permit the continued existence of a non-conforming impervious surface coverage of 40% on Tax Parcel No. 9-4-50, instead of the maximum of 20% and to allow such coverage ratio to be 80% on Tax Parcel No. 9-48-25, instead of the required 20%; (8) from the lot area and dimensional requirements of §175-39 in order to permit less lot area on Tax

Parcel Nos. 9-48-24, 9-48-25, and 9-4-50 than required and to allow the continued existence of non-conforming setbacks and lot widths; (9) from §175-106.F to allow a freestanding sign to be located at a setback distance of 4 feet from the ultimate right-of-way line instead of the required 100 feet; and (10) from §175-109.C.4 to allow the freestanding sign to be 32 square feet in size to a height of 5 feet instead of the maximum permitted 12 square feet.

**Hearing
History:**

The application was filed in Doylestown Township on June 20, 2013. The original hearing was to be scheduled on July 25, 2013, however, upon notification to Applicant's counsel of that date, the Applicants requested a continuance due to the unavailability of its counsel. The hearing occurred on August 19, 2013 at the Doylestown Township Building, 425 Wells Road, Doylestown, PA 18901.

Appearances:

Applicant by: Jonathan J. Reiss, Esq.
Grim, Biehn & Thatcher
104 South 6th Street
PO Box 215
Perkasie, PA 18944

Date of Issuance: September 20, 2013

DECISION

FINDINGS OF FACT:

1. The Zoning Hearing Board of Doylestown Township met the requirements of the Zoning Ordinance, the Municipalities Planning Code, and other relevant statutes as to legal notice of the hearing held.

2. The Applicant is the Owner of the subject property, and is therefore possessed of the requisite standing to make application to this Board.

3. The subject property is located in the R-1, Residential Zoning District of Doylestown Township. It consists of 6 separate tax parcels with a gross area of approximately 7.33 acres.

4. The subject property fronts on Old Dublin Pike. It also fronts on Pine Run Road which bisects the subject property as depicted on Exhibit B-1.C, the Preliminary Record Land Development Plan, prepared by Carter van Dyke Associates, dated 11/7/12, last revised 5/17/13 (the "Plan").

5. The subject property presently consists of 6 tax parcels, described as follows:

a. Tax Parcel No. 9-4-48-2, which contains a structure operated as a pump house by the Bucks County Water and Sewer Authority;

b. Tax Parcel Nos. 9-4-49 and 9-4-50, which contain manufacturing and warehouse, as well as office structures operated for many years as Penn Color;

c. Tax Parcel No. 9-4-48-25, which contains the existing parking lot, across Pine Run Road, for the use of Penn Color;

d. Tax Parcel No. 9-4-48-24, which contains a single family residence and a portion of the parking field referenced above; and

e. Tax Parcel No. 9-4-84, which is a small parcel of vacant and undeveloped land that is the remnant of the former right-of-way of Old Dublin Pike.

6. The Applicant desires to consolidate the lots and improve the exterior of the structures, as well as redesign the parking field so as to provide the required number of off-street parking spaces for the Penn Color use. The consolidation of lots proposes a reduction in number from 6 to 3.

7. The new lots proposed are:

a. Parcel A, to accommodate the existing manufacturing, warehousing and office use, as well as the pump house property (the “Manufacturing Parcel”);

b. Parcel B, to contain the proposed expanded accessory parking for that use (the “Parking Parcel”); and

c. Parcel C, to be dedicated to a single family residential use (the “Residential Parcel”).

8. In order to achieve the improvement and development of the property as proposed in the Plan, the Applicant seeks 10 items of zoning relief. Each of the variances sought will be discussed consistent with the chronology of relief set forth in the Requested Relief.

9. Variance # 1 seeks relief to permit the continued existence of a storage shed, less than 144 square feet in size, to exist as a residential accessory structure on the Residential Parcel at a setback distance of 5 feet, instead of the 7 feet required thereby. The evidence establishes that this storage shed location is an existing non-conformity and that, therefore, no variance relief is necessary.

10. Variance # 2 seeks relief from the requirement of Ordinance §175-18 to provide a 50’ by 50’ clear sight triangle at the intersection of Pine Run Road and Old Dublin Pike. The Applicant proposes a sight triangle of 30’ by 30’ which is compliant with the PA DOT sight triangle requirements for state highways.

11. Presently, the parking field abuts the edge of cartway of Pine Run Road. The proposed parking field will permit the installation of a bike lane parallel to Pine Run Road and will delineate the parking field from the adjacent streets, as well as provide storm water management improvements beneath it. Access to the parking field from Old Dublin Pike will be relocated farther from its intersection with Pine Run Road and aligned with the entrance to the Charing Cross residential development, across Old Dublin Pike from the subject property. The Plan proposes provision for 88 off-street parking spaces, 73 of which will be paved and 15 of which will be “reserved in green” after stabilization to permit occasional use.

12. Landscaping is proposed within the sight triangle distance set forth on the Plan in the form of a low boxwood that would be approximately 30” in height, and would not interfere with vehicular sight lines at the intersection.

13. Variance # 3 seeks relief from §175-21.C.2 to reduce the width of the buffer yard between the employee parking area and an adjacent residential district or use. The credible evidence established by Carter van Dyke, the Applicant’s Planner, who was qualified to testify and render an expert opinion in the land planning and landscape architectural fields, indicates that compliance with the 30’ buffer requirement between the Parking Parcel and the Residential Parcel would eliminate the possibility of the Parking Parcel to provide the required number of off-street parking spaces. There presently exists no buffering between these parcels and the Applicant proposes the planting of forsythia which will provide, when mature, sufficient screening and

buffering between these two parcels so as to soften the impact of the Parking Parcel upon the Residential Parcel.

14. Variance # 4 seeks relief from §175-23.B.2 of the Ordinance, which requires that all parking areas be separated from the ultimate right-of-way line of fronting streets by a barrier planting strip not less than one-half the front yard requirement or 10 feet, whichever is greater. As applicable to this application, the required separation distance would be 50' from the right-of-way lines of both fronting streets.

15. The credible evidence establishes that the existing parking areas are located within the right-of-way lines of both fronting streets. The proposal will result in a 10' separation distance from applicable rights-of-way lines, which will remain in green. Again, the evidence establishes that compliance with this separation distance requirement would prohibit the provision of the required number of off-street parking spaces. No variance is necessary as the parking field's location is an existing non-conformity and the application proposes a lessening thereof.

16. Variance # 5 seeks relief from Ordinance §175-23.C.13 which prohibits the location of parking and access ways within 50% of the setback distance required from any ultimate right-of-way or lot line. As developed, the parking area and access ways are non-conforming to this requirement on the Parking Parcel. Accordingly, the Board finds the following non-conformities to §175-23.C.13 to exist on the Parking Parcel:

a. a 10' setback from the parking to the ultimate right-of-way line, instead of the 100' required;

b. a 10' setback from the side lot line, instead of the 25' required;
and

c. a 10' setback from the rear property line, instead of the 50' required.

17. Variance # 6 seeks relief from Ordinance §175-37 to allow the office and warehouse use on the Manufacturing Parcel within the R-1 Zoning District, where it is prohibited. This use non-conformity, the Board finds, results from its existence prior to the enactment of the first Township Zoning Ordinance.

18. Variance # 7 seeks relief from Ordinance §175-38 which requires a maximum impervious surface coverage ratio of 20%, as applied to the Manufacturing Parcel; and of 20%, as applied to the Parking Parcel.

19. The Plan proposes an impervious surface coverage ratio of 40% on the Manufacturing Parcel and of 80% on the Parking Parcel.

20. The Board finds that the Plan proposes no structural additions on the subject property and no increase in the existing impervious surface coverage ratio. The

improvement to the parking field will result in some relocation of a portion of it that will result in no increase of the impervious surface coverage on the subject property.

21. Variance # 8 seeks relief from the lot area and dimensional requirements of §175-39. As to the Parking Parcel, the Board finds that the lot area of 1.24 acres, instead of the required 5 acres, has existed as a condition on the subject property since prior to the enactment of the Township's first Zoning Ordinance.

22. As to the Manufacturing Parcel, the lot area of 4.77 acres similarly exists in non-conformity to the 5 acre minimum lot area requirement.

23. Further, the existing non-conforming setbacks and lot widths do not require variances as they are validly non-conforming to those dimensional requirements.

24. Variance # 9 seeks relief from Ordinance §175-106.F to allow a freestanding sign on the Parking Parcel to be located at a 4' setback distance from the ultimate right-of-way line of Pine Run Road, instead of the required front yard setback distance of 100 feet.

25. The sign is located at the northeast corner of the intersection of the access to the parking field, south of Pine Run Road, and directly across the street from a substantially similar sign that identifies the manufacturing and warehousing use. The evidence indicates that placing such sign at 100' setback from Pine Run Road would make it useless. The credible evidence establishes that it is located at the most logical point along Pine Run Road so as to allow safe way-finding to the parking field for Penn Color for those unfamiliar with the area.

26. Variance # 10 seeks relief from Ordinance §175-109.C.4 to permit a freestanding sign on the Parking Parcel to exceed 12 square feet in size, which is the maximum permitted in the R-1 Residential District. Were the use appropriately located in a limited industrial district, the size of the proposed sign would be permitted to be 32 square feet.

27. In order to complement the existing sign to the north Pine Run Road, the proposed sign is to be located on a 16" wide concrete block wall with stucco finish. The wall is proposed to be 3 feet, 2 inches high and 12 feet in length. The words "Penn Color" will appear on the wall. Pursuant to Ordinance definition of the area of a sign contained at §175-106.M, the smallest rectangular area which encompasses all of the proposed letters consists of an area of 10.4 square feet.

28. Doylestown Township took no position with regard to this application.

CONCLUSIONS OF LAW

1. The use of the subject property is lawfully non-conforming to the use requirements of §175-37 of the Ordinance.

2. The evidence establishes that there will be no structural additions on the subject property and that the parking field for the non-conforming use will be redesigned to meet Ordinance requirements for off-street parking, as well as relocated so as to improve sight line distances at its intersection and buffering from neighboring roads and uses.

3. The Board concludes that the Plan proposed will not only have no negative impacts upon surrounding properties or uses, but actually improves the existing condition with regard to safety and buffering issues and the number of off-street parking spaces provided.

4. The Board concludes the credibility of the witnesses presented by the Applicant and, based upon the testimony of those witnesses, and the evidence presented, determines the Applicant's request for relief as set forth hereafter.

5. Variance # 1, from §175-16.H.3.d.1, is not necessary as the existing residential accessory structure is located at a 5' setback distance from its nearest property line. This is an existing lawful non-conformity.

6. Variance # 4 requested, from §175-23.B.2, is not necessary as the existing parking areas are not separated from the ultimate right-of-way line of fronting streets. The proposed setback of parking areas of 10' from the ultimate right-of-way line represents an improvement over the existing lawful non-conformity.

7. Variance # 5, from Ordinance §175-23.C.13, is not necessary as the existing front, rear and side yard setback distances for parking represents a lawful non-conformity. The Plan suggests a lessening of the non-conformity on the Parking Parcel by providing an 10' parking setback from the ultimate right-of-way lines; a 10' setback from the side lot lines; and a 10' setback from the rear property line.

8. Variance # 6 is a request for a use variance from §175-37. This variance is not necessary as the manufacturing, warehousing and office uses on the subject property have preceded the enactment of Doylestown Township's first Zoning Ordinance and are lawfully non-conforming thereto.

9. Variance # 7 is not necessary as the subject property is non-conforming to the impervious surface coverage ratios mandated by §175-38. The Plan represents, and this Board concludes, a non-conformity impervious surface coverage ratio of 40% on the Manufacturing Parcel, and 80% on the Parking Parcel, instead of the maximum permitted 20%.

10. Variance # 8 seeks relief from the lot area and dimensional requirements in the R-1 Zoning District. As to the Manufacturing Parcel, the proposed lot area of 4.77 acres, although less than the required minimum lot area of 5 acres, represents a

lessening of the non-conformity on this lot and therefore no variance is necessary. Similarly, the structures and their non-conforming setback distances will not be altered and will continue to exist at those lawfully non-conforming setbacks. Further, the lot widths that exist are lawfully non-conforming and no variance is required.

11. However, as to the Residential Parcel, the proposed lot area is 33,150 square feet instead of the required 40,000 square feet for a single family detached dwelling use. To require an increase in the size of the Residential Parcel in order to meet Ordinance criteria would serve as a hardship on the development of the Parking Parcel to provide sufficient off-street parking spaces. The Board concludes that that hardship justifies the dimensional variance requested from §175-39 as to the Residential Parcel.

12. The Board concludes that the Applicant has justified its need for a variance from §175-18 to allow a clear sight triangle of 30' x 30' provided that the height of vegetation within this clear sight triangle shall not exceed 34" so as not to impede vehicular visibility. In order to insure that the vegetation will not impact safe visibility at the intersection, the Board will require, as a condition of approval, that the Applicant provide an annual report to the Zoning Officer, on or before June 30th of each year, depicting the height and nature of the vegetation in the sight triangle.

13. The Board concludes that a variance is necessary from the 30' wide buffer yard requirements of §175-21.C.2. If strict compliance with this buffer width requirement were required, the Applicant would be precluded from providing a parking field that would provide the Ordinance required number of parking spaces.

14. Further, the 10' buffer proposed will contain planting material (forsythia) that will adequately screen the Residential Parcel from the Parking Parcel.

15. The variance from §175-23.B.2, which requires, in this matter, a 50' wide barrier planting strip between the ultimate right-of-way line of fronting streets and the parking area, is necessary as compliance therewith will preclude the provision of the required number of off-street parking spaces and that the Plan represents an improvement over existing conditions by providing a 10 foot setback in green from the ultimate right-of-way lines.

16. The Applicant has established the necessity of a freestanding sign to be located at a 4' setback distance from the ultimate right-of-way line of Pine Run Road on the Parking Parcel so as to allow safe identification of the parking area by vehicular passersby.

17. The Applicant's request for variance # 10 results in the Board's conclusion that the sign area proposed for the freestanding sign on the Parking Parcel is 10.4 square feet, but that the wall proposed to support the freestanding sign may not exceed 3 feet, 2 inches in height and 12 feet in length.

18. The Board concludes that the grant of relief herein contained will have no negative impact upon surrounding properties or uses and will improve the aesthetics and safety, as well as utility of the subject property.

19. The Board concludes that the Applicant has presented evidence of sufficient factors to warrant the grant of the dimensional variances requested.

20. Accordingly, the Doylestown Township Zoning Hearing Board determined, unanimously, to grant the relief requested by the Applicant, as set forth hereafter.

WHEREFORE, the Zoning Hearing Board of Doylestown Township hereby determines the Applicant's requests for relief as follows:

1. Determines that the variance from Ordinance §175-16.H.3.d.1 is not necessary. This is an existing lawful non-conformity.

2. Grants a variance from §175-18 to permit a 30' x 30' clear sight triangle, as proposed in the Plan, provided that any vegetation planted therein shall not exceed 34 inches in height and that the Owner or Applicant are required to satisfy the Township Zoning Officer, on or before June 30 of each year, as to the nature and height of the vegetation.

3. Grants a variance from §175-21.C.2 to reduce the width of buffers yards between the employee parking area and an adjacent residential district to 10 feet and to be planted with forsythia.

4. Determines that the variance from §175-23.B.2 is not necessary as this represents an existing lawful non-conformity.

5. Determines that the variance from §175-23.C.13 is not necessary as this represents an existing lawful non-conformity.

6. Determines that the use variance from §175-37 is not necessary as the use is an existing lawful non-conformity.

7. Determines that the variance from §175-38 is not necessary as this represents an existing lawful non-conformity.

8. Determines that as to the Manufacturing and Parking Parcels, the lot areas, although different from existing, are increased so as to reduce the lot area non-conformities that lawfully exist presently. No variance is required as to these lots. However, it grants a variance from §175-39 in order to permit a lot area, on the Residential Parcel, of 33,150 square feet, instead of the required 40,000 square feet.

9. Grants a variance from §175-106.F to permit a freestanding sign on the Parking Parcel to be located at a 4 foot setback distance from the ultimate right-of-way line of Pine Run Road, instead of the required front yard setback distance of 100 feet, provided the sign is constructed as depicted in the Plan and Exhibits presented to this Board to contain a 10.4 square foot sign area on a wall structure that will not exceed 3 feet, 2 inches in height and 12 feet in length.

10. Grants a variance from §175-109.C.4, to any extent necessary, to permit the freestanding sign as set forth immediately above.

11. In addition to the conditions imposed upon the specific grants of relief set forth above, the relief herein granted is subject to compliance with all other applicable governmental ordinances and regulations, and to the condition that the zoning relief granted is conditioned upon the continued common ownership and use of the Manufacturing and Parking Parcels.

**ZONING HEARING BOARD OF
DOYLESTOWN TOWNSHIP**

By: /s/ W. Andrew McPherson
W. Andrew McPherson, Chairman

/s/ William J. Lahr
William J. Lahr, Vice Chairman

/s/ Richard K. Gaver
Richard K. Gaver, Secretary

IMPORTANT NOTE: Pursuant to §175-136 and §175-137 of the Doylestown Township Zoning Ordinance, the relief granted herein shall expire five (5) years from the date of this decision.