

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

Application No. Z-4-2015

Applicant: Dawn Hojnacki
49 Brinker Drive South
Doylestown, PA 18901

Owners: Walt and Dawn Hojnacki
49 Brinker Drive South
Doylestown, PA 18901

Subject Property: Tax Parcel No. 9-42-128 which is located at the address of the Applicant set forth above.

Requested Relief: The Applicant proposes to construct a residential addition to accommodate an in-law suite on the Subject Property and, in order to do so as proposed, requests the following relief from the Doylestown Township Zoning Ordinance (“Ordinance”):

1. a special exception pursuant to §175-37.B, to permit the occupation and use of a portion of the Subject Property as an in-law suite; and
2. a variance from §175-16.H-12.a, to allow the in-law suite floor area to exceed 25% of the total usable floor area of the principal residence.

Hearing History: The application was filed in Doylestown Township on July 10, 2015. The hearing was held on August 27, 2015 at the Doylestown Township Building, 425 Wells Road, Doylestown, PA 18901.

Appearances: Applicant, Pro Se’

Mailing Date: September 11, 2015

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 one of the Owners of the Subject Property and 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 accommodates the Owners' single-family detached dwelling with typical residential access walkways and a driveway as well as an in-ground swimming pool.

4. The Applicant proposes the construction of a one-story attached residential addition that is designed to accommodate her elderly parents, Don and Judy Pfender. It is proposed to be 1,200 square feet in size. As depicted on Exhibit B-1.B, a floor plan, it will contain a living room, kitchenette, two bedrooms and two bathrooms.

5. The Applicant credibly testified that Exhibit B-1.B displays an open floor plan that will provide handicapped accessibility to all of the rooms proposed. She testified that she anticipates the need for physical therapists to assist her parents within the proposed structure and proposes the two bedrooms in order to allow each of her parents, when necessary, to enjoy an individual handicapped accessible bedroom.

6. An in-law suite is permitted in the R-1 Zoning District of Doylestown Township by special exception pursuant to Ordinance §175-37.B.

7. In-law suites are defined at Ordinance §175-16.H-12. In order to obtain the special exception, the Applicant must satisfy the Board that the proposed addition will comply with all of the criteria set forth therein.

8. Based upon the competent and credible evidence presented during the hearing, the Board finds, relative to those criteria, as follows:

- a. The Applicant submitted a sketch plan, received into evidence as Exhibit B-1.A, which depicts the existing features on the Subject Property as well as the proposed addition. Based upon that sketch plan and the Applicant's testimony, the addition will meet all of the bulk and dimensional criteria of the Ordinance if located as depicted, except for the provision from which Ordinance relief is sought.
- b. The in-law suite is proposed for related family members to the Owners of the Subject Property who understand that they are prohibited from creation of for-profit apartments.

- c. The credible evidence indicates that the total usable floor area of the principal residence, not including the garage, is 4,500 square feet on two stories.
- d. Accordingly, the addition proposed will represent 26.7% of the total usable floor area. §175-16.H-12.a limits the size of in-law suites to 25% of the total usable floor area, accordingly, a variance from this subsection is sought, as will be discussed hereafter.
- e. The in-law suite will contain separate cooking, sleeping, living and bathroom facilities.
- f. The in-law suite addition will be part of the principal residence. No new separate structure is proposed. It will not be located in cellar areas.
- g. Ordinance §175-22.E requires two off-street parking spaces for the existing residential use which cannot be located within the garage. The evidence establishes that there will be a total of four off-street parking spaces available in the wider portion of the driveway on the Subject Property as depicted on the sketch plan.
- h. The in-law suite will be occupied only by related family members related to the Owners and occupants of the principal residence.
- i. There will be no changes to the exterior of the residence which suggests that the dwelling unit is other than a single-family dwelling.
- j. The Applicant understands that only one in-law suite is permitted on the Subject Property.
- k. The Applicant agrees to register the in-law suite with the Township Zoning Officer and bear the annual fee fixed for such use by the Doylestown Township Supervisors.
- l. The Subject Property is served by public water and sewer.

9. The evidence therefore establishes that the proposed addition will comply with all of the criteria necessary to obtain a special exception, except for the limitation on the size set forth in §175-16.H-12.a.

10. The area of the in-law suite, in order to meet the 25% restriction, shall be no larger than 1,125 square feet. The variance request suggests the addition of 75 square feet which is necessitated by the desire to accommodate separate bedrooms for the Applicant's elderly parents.

11. The Board finds that, with the grant of a variance from §175-16.H-12.a, the proposed addition will have met all of the criteria necessary to support the special exception application.

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

CONCLUSIONS OF LAW

1. The Subject Property has been developed and used as is permitted by right in the R-1 Zoning District.

2. The proposed in-law suite use on the Subject Property is permitted by special exception pursuant to §175-37.B.

3. As to the variance request from the size limitation set forth at §175-16.H-12.a, the Board concludes that the additional 75 square feet proposed that exceeds the limitation of this section is necessary to accommodate separate handicapped accessible bedrooms for the Applicant's parents.

4. Further, the Board concludes that the additional 75 square feet proposed represents a de minimis variance from this Ordinance section.

5. Having concluded that the variance from §175-16.H-12.a is warranted, the Board concludes that the Applicant has met all of the criteria set forth at §175-16.H-12 necessary to obtain the requested special exception.

6. Ordinance §175-138 requires the Board to consider additional factors in connection with any special exception. The Board concludes compliance with all of the applicable factors to be considered and determines that the special exception will not result in any threat to public safety or extraordinary public expense, will not create a nuisance, will not cause fraud or victimization of the public, or conflict with local laws or ordinances, as required by §175-138.C.

7. Accordingly, the Board determined, unanimously, to grant relief to the Applicant and the Subject Property as is set forth hereafter:

ORDER

Upon consideration and after hearing, the Zoning Hearing Board of Doylestown Township hereby GRANTS the following relief from the Doylestown Township Zoning Ordinance in order to permit the construction of an in-law suite addition to the residence on the Subject Property as depicted on the sketch plan (Exhibit B-1.A):

1. a special exception pursuant to §175-37.B, to permit the occupation and use of a portion of the Subject Property as an in-law suite; and
2. a variance from §175-16.H-12.a, to allow the in-law suite floor area to represent 26.7% of the total usable floor area of the principal residence as defined in the Ordinance, instead of the maximum permitted 25%.

The relief herein granted is subject to compliance with all other applicable governmental ordinances and regulations.

**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.