

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

Application No. Z-5-2018

Applicant: Matthew Nicastro
149 Old New Road
Doylestown, PA 18901

Owners: Matthew and Marie Nicastro
149 Old New Road
Doylestown, PA 18901

Subject Property: Tax Parcel No. 09-007-088-002, which is located at the address of the Applicant set forth above.

Requested Relief: The Applicant seeks to improve the existing single-family dwelling by creating an “in-law suite”. In-law suites are permitted by special exception pursuant to §175-37.B.H-12 of the Doylestown Township Zoning Ordinance (“Ordinance”). Applicant seeks a special exception accordingly.

Hearing History: The application was filed in Doylestown Township on March 8, 2018. The hearing was held on April 16, 2018 at the Doylestown Township Building, 425 Wells Road, Doylestown, PA 18901.

Appearances: Applicant, Pro Se'

Penny Larrisey, Pro Se'
150 Old New Road
Doylestown, PA 18901

Mailing Date: May 24, 2018

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 is 2.48 acres in size and accommodates the Owners' single-family detached dwelling with typical residential access walkways and a driveway.

4. Adjacent property owner, Ms. Penny Larrisey, 150 Old New Road, Doylestown, PA 18901, did request and received party status.

5. Applicant resides in the home. He is in the process of moving his mother into the home to assist in her "downsizing" and to provide full daily assistance. As such, Applicant is constructing a 1,245 square foot in-law suite, within the existing dwelling, to support that use. The site and dimensions of the proposed in-law suite are contained within a non-dated drawing which has been marked as Exhibit ZHB-1.A.

6. The in-law suite (use H-12) is permitted by special exception in the R-1, Residential Zoning District.

7. In order to obtain a special exception for the proposed use, the Applicant must establish compliance with Ordinance §175-16.H-12. The intent of the in-law suite provisions, according to the Ordinance, is to allow for related family members to reside on the premises but to prohibit the creation of for-profit apartments in districts where multi-family housing is not otherwise permitted.

8. Relative to the objective criteria of §175-16.H-12, the Board finds that the credible evidence from the Applicant establishes the following:

a. As described in Exhibit ZHB-1.A, the proposed in-law suite will occupy an area of 1,245 square feet. The usable floor area of the principal residence, not including the garage or the lower level, is 6,300 square feet. Total square footage including the lower level is 7,545 square feet of usable floor area. Using the smaller of the two numbers, the area of the in-law suite represents 19.76% (1,245 square feet compared to 6,300 total usable floor area). 25% is allowable;

b. The in-law suite will contain separate cooking, sleeping, living and bathroom facilities;

c. The in-law suite is to be part of the principal residence and no new separate structures will be built. The in-law suite will not be located in the cellar area;¹

d. There is adequate parking available in compliance with the provisions of this Section;

e. The in-law suite will be occupied only by related family members, at this point Applicant's mother;

f. There will be no changes to the exterior of the residence which suggests that the dwelling unit is other than a single-family dwelling or which would otherwise detract from the single-family character of the neighborhood;

g. The Applicant understands that no more than one in-law suite is permitted per single-family detached dwelling;

h. The Applicant will register on an annual basis with the Township Zoning Officer to ensure compliance with these criteria;

i. A certification has been received from the Bucks County Board of Health that the waste water facilities presently supporting the site are adequate to accommodate the single-family dwelling as well as the in-law suite use. See Exhibit ZHB-1.E.

9. The Board finds that the Applicant meets the definition of in-law suite, and therefore the use is permitted.

10. Adjacent property owner Penny Larrisey, 150 Old New Road, spoke in opposition to the application. Ms. Larrisey was concerned about noise and construction activity both past and proposed. She was further concerned about odors from construction equipment. She had more complaints regarding the ongoing nature of Mr. Nicastro's continuing construction and improvement of the single-family dwelling than the proposed in-law suite. Those concerns were answered by the Township Zoning Officer during the course of the hearing, and have been addressed through the conduct of normal business outside of the present Zoning Hearing. Ms. Larrisey did offer two photographs of the Nicastro property as seen from her property next door.

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

¹ In light of a letter from the Bucks County Health Department dated February 5, 2018, a considerable amount of discussion was held whether the in-law suite, proposed for the lower level, was actually in a "cellar area" as defined by the Ordinance. The February 5, 2018 Health Department letter indicates that the in-law suite is to be located "in the basement area of the existing house." The "basement area" as discussed by the Applicant does not rise to the level of a "cellar area" as defined in the Ordinance. The "cellar area" is defined as "an area having half or more of its floor to ceiling height below the average level of the adjoining ground." H-12(c) Applicant's testimony indicates that the walkout basement/lower level, is not half or more below the average level of the adjoining ground.

CONCLUSIONS OF LAW:

1. The Subject Property has been developed and used as a single-family residence which 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. The Board concludes that the proposed in-law suite meets all of the objective criteria set forth at Ordinance §175-16.H-12. The Board concludes that the Applicant has demonstrated compliance with all of the applicable factors, as addressed through the Findings of Fact above, determines that the special exception will not result in any threat to public safety or extraordinary public expense and will not create a nuisance, will not cause fraud and victimization of the public, or conflict with local laws or ordinance as required by §175-138.C.
4. The creation of the in-law suite, provided compliance with the Ordinance criteria, will have no negative impact upon surrounding properties or uses.
5. Accordingly, the members of 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 special exception pursuant to §175-37.B of the Doylestown Township Zoning Ordinance, to permit the construction and use of an in-law suite on the Subject Property consistent with the requirements of §175-16.H-12, substantially as depicted on the Exhibit ZHB-1.A Floor Plan.

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

**ZONING HEARING BOARD OF
DOYLESTOWN TOWNSHIP**

By: /s/ William J. Lahr
William J. Lahr, Chairman

/s/ Richard K. Graver
Richard K. Graver, Vice Chairman

/s/ Mitchell Aglow
Mitchell Aglow, Secretary

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



HAMBURG, RUBIN, MULLIN,
MAXWELL & LUPIN, PC
ATTORNEYS AT LAW

30441-000

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May 24, 2018

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Via First-Class Mail

Mr. and Mrs. John Shiver
350 W. Sandy Ridge Road
Doylestown, PA 18901

**RE: Doylestown Township Zoning Hearing Board
Application of John and Heidi Shiver (Z-4-2018)**

Dear Mr. and Mrs. Shiver:

Enclosed you will find the written Decision of the Doylestown Township Zoning Hearing Board on your above referenced application.

Very truly yours,

HAMBURG, RUBIN, MULLIN,
MAXWELL & LUPIN

By: 
CHRISTEN G. PIONZIO

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**LIMERICK
HARRISBURG**

CGP/dcbk
Enclosure

CC: Board Members (via email)
Township Staff (via email)

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

Application No. Z-4-2018

Applicant: John and Heidi Shiver
350 West Sandy Ridge Road
Doylestown, PA 18901

Owners: John and Heidi Shiver
350 West Sandy Ridge Road
Doylestown, PA 18901

Property: Tax Parcel No. 09-001-011-009 which is located at the address of the Applicant set forth above.

Requested Relief: The Applicant requests a variance from §175-34 of the Doylestown Township Zoning Ordinance (“Ordinance”), to permit an accessory building (a barn) at a distance less than the required 100 ft. front yard setback.

Hearing History: The application was filed in Doylestown Township on February 26, 2018. The hearing was held on April 16, 2018 at the Doylestown Township Building, 425 Wells Road, Doylestown, PA 18901.

Appearances: Applicant, Pro Se'

Mailing Date: May 24, 2018

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 Property and therefore possessed the requisite standing to make application to this Board.
3. The Property is located in the R1A, Residential Zoning District of Doylestown Township. It accommodates the Applicant's single-family detached dwelling, pool and pool house with typical residential access walkways, driveway and a deck.
4. The Property is a flag lot and approximately 10.125 acres in size.
5. The "pole" of the flag lot has approximately 100 ft. of frontage along Sandy Ridge Road and extends back to the point where the Property opens up into the flag portion of the lot which is primarily rectangular in shape.
6. Between the flag portion of the Property and Sandy Ridge Road exists 3 residential parcels, 2 of which border the front Property line.
7. The house is turned around on the Property so that the rear yard with pool, pool house and accessory improvements face the front Property line toward Sandy Ridge Road.
8. The Applicant proposes to construct an accessory structure – a barn. It is proposed to be located within the front yard setback area, 50 ft. from the front Property line and 50 ft. from the side yard of an adjoining property.
9. The Applicant testified that the barn would measure approximately 1,200 sq. ft. and would look substantially similar to the sample rendering submitted with the Application.
10. The Property contains groves of trees which prevent the barn being located outside the 100 ft. front yard setback.
11. The Applicant proposes to use the barn for gardening and other yard maintenance materials. The barn may contain water service. The Property is serviced by on-site well and septic.
12. The barn will contain electricity, however, whether or not it will be heated is uncertain.

13. There is a second floor loft contained in the barn which will be used partially for a work space for hobbies and crafts with the rest of it being utilized as storage.

14. The Applicant agreed that at no time will the barn contain living quarters and that it would not be rented or used by third persons.

15. The Applicant brought 3 letters of support from the adjacent neighbors.

16. The Board finds that the barn is located reasonably in an effort to avoid the removal of mature trees.

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

CONCLUSIONS OF LAW

1. The Property has been developed as a single-family residence which use is permitted by right in the R1A Zoning District in which it is located.

2. The construction of an accessory structure, such as a barn, is a use permitted in the R1A Zoning District.

3. There are significant tree groves on the Property which limit the location of an accessory structure on the Property.

4. The competent evidence presented leads the Board to conclude that, if the variance relief is granted, there will be no negative impacts upon surrounding properties or uses.

5. The evidence establishes that the relief sought by the Applicant is the minimum variance necessary.

6. The variance sought will not alter the essential character of the neighborhood or district in which the Property is located.

7. The Applicant has presented evidence of sufficient factors to warrant the grant of the dimensional variance requested.

8. Accordingly, the Doylestown Township Zoning Hearing Board determined, unanimously, to grant relief to the Applicant and the Property as is set forth hereafter.

ORDER

Upon consideration and after a hearing, the Zoning Hearing Board of Doylestown Township hereby **GRANTS** a variance from §175-34 of the Doylestown Township Zoning Ordinance in order to permit the location of an accessory structure with a 50 ft. front yard setback, as opposed to the required 100 ft. setback, in substantial compliance with the sketch of the building submitted with the Application and marked as Exhibit B-1. The relief herein granted is subject to the following conditions:

1. That the barn be used for personal use only and not as living quarters.
2. That the barn be used by the Owners of the Property and not by a third person.
3. That the barn will be constructed in substantial conformance with the testimony and exhibits presented at the Hearing.
4. In all other respects, Applicant will comply with all provisions of the statutes, laws, regulations, rules, codes and ordinances of the United States, Commonwealth of Pennsylvania, Doylestown Township and any other municipal entity having jurisdiction over this matter.

**ZONING HEARING BOARD OF
DOYLESTOWN TOWNSHIP**

By: /s/ William J. Lahr
William J. Lahr, Chairman

/s/ Richard K. Gaver
Richard K. Gaver, Vice Chairman

/s/ Mitchell Aglow
Mitchell Aglow, 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.