

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

Applicant: Chris Oliver
149 Willow Lane
Warrington, PA 18976

Owner: Same.

Subject Property: Tax Parcel No. 09-039-025, which is located at the address of the Applicant set forth above.

Requested Relief: Applicant seeks to place an accessory structure within the 25 foot side yard setback requirement for primary structures within the R-1 Residential Zoning District. §175-16 H.3(b)(2) of the Doylestown Township Zoning Ordinance (“Ordinance”) requires that structures with a floor area of more than 144 square feet shall meet the setback requirement for principal buildings for the applicable zoning district. §175-39 of the Ordinance requires a side yard setback of 25 feet for principle buildings within the R-1 Residential District. Applicant seeks a variance accordingly.

Hearing History: The application was filed in Doylestown Township on May 28, 2020. Hearings were held on June 25, 2020 and August 17, 2020 at the Doylestown Township Building, 425 Wells Road, Doylestown, PA 18901.¹

Appearances: Applicant, Pro Se

Andreas and Beth Ann Haggmark, Pro Se
157 Willow Lane
Warrington, PA 18976

Doug and Teresa Ticson, Pro Se
162 Willow Lane
Warrington, PA 18976

Mailing Date: October 1, 2020

¹ Applicant did provide a waiver regarding the 45 day second hearing requirements from the MPC §908(1.2).

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 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.
4. Applicant is seeking to place an accessory structure greater than 144 square feet within the side yard setback of 25 feet. Applicant seeks a variance from §175-39 requiring the 25 foot setback, in conjunction with §175-16.H.3(b)(2).
5. The following exhibits were presented during the hearings held:

ZHB Exhibits:

- ZHB-1: Application received May 28, 2020 with hand drawn site plan.
- ZHB-2: Legal advertisement (proof of publication, mailing, and posting).
- ZHB-3: Doylestown Township Zoning Ordinance.
- ZHB-4: Correspondence from neighboring residential property owners objecting to the use and expressing concern over the potential commercial nature of the use.
- ZHB-5: Waiver of second hearing timeframes as contained within MPC §908(1.2).
- ZHB-6: Additional correspondence and comment by neighbors.

Applicant Exhibits:

- A-1: Construction drawings, schematics, and additional detail prepared by Shirk Pole Buildings, for Chris Oliver, 149 Willow Lane, Warrington, PA 18976.
- A-2: Packet of documents including deed to the Subject Property in favor of Christopher Oliver; Google Earth map of neighborhood surrounding 149 Willow Lane;

additional Google Earth image (close up of 149 Willow Lane and the adjacent properties); existing features plan; proposed barn plan (superimposed upon the existing features plan); photograph of Shirk Pole Barn (for style and aesthetics, not size); and Ordinance No. 15 adopted by the Board of Township Supervisors, August 20, 1956.

A-3: Packet of photographs (other detached garages in area).

A-4: Photograph (view from proposed pole barn location toward Haggmark home).

6. Mr. Oliver testified in support of the application. Using the Shirk Pole Buildings drawings marked as Exhibit A-1, Mr. Oliver described the proposed 30' x 32' pole barn with a concrete floor, which he requests be placed 15 feet from the side lot line. The pole barn has two garage doors, windows, and a man door. The height is less than 20 feet.

7. Mr. Oliver testified that he intends to use the pole barn for the parking of his personal vehicles and other personal items. Mr. Oliver indicates that he owns three cars.

8. In response to inquiries whether Mr. Oliver intends to use the pole barn as a mechanic garage, or for any other commercial purpose, Mr. Oliver indicated that he is in fact an automotive mechanic, but he does not intend to run or operate a business from the pole barn.

9. Mr. Oliver was asked why he was unable to move the pole barn toward the rear lot line and/or the center of the property.

10. Mr. Oliver was surprised by the level of concern for his project by the surrounding property owners. Accordingly, he did request a continuance of the June 25, 2020 hearing to return on August 17, 2020 with additional information. An appropriate waiver was signed by Mr. Oliver.

11. Mr. Oliver emphasized that the existing home, which he purchased from his mother and currently resides in with his wife and two children, was built by his father. Mr. Oliver indicated that there is limited storage in the house, thereby driving the need for the pole barn. Mr. Oliver does have an existing garage attached to the single-family dwelling.

12. Mr. Oliver testified to the Google Earth images contained within Exhibit A-2 presumably to reflect what he considers the rather generous spacing between the existing dwellings within the neighborhood.

13. Mr. Oliver did offer a collection of photographs to illustrate that there are multiple one, two, and three car detached garages within the neighborhood.

14. Mr. Oliver testified to the placement of the pole barn. Proposed placement of the pole barn aligns with the existing driveway, would reduce the amount of additional earth disturbance, and would reduce the amount of additional impervious surface coverage added to the property to support the use. Further, by remaining closer to the side lot line, Mr. Oliver testified that he was able to have the larger doors face the street, as opposed to facing the Haggmark's property. Mr. Oliver added that if he must abide by the 25 foot side yard, he would then necessarily need to face the big doors toward the Haggmark property.

15. Following the June 25, 2020 hearing, Mr. Oliver indicated that he did speak with each neighbor who sent an email in opposition to the proposed project (see Exhibit ZHB-4). In response to the concerns offered by the neighbors, Mr. Oliver offered the following concessions: he could reduce the size of the building; make the building narrower; move the building further toward the center of the property; lower the height; remove eaves from the building design; lower the door from 10' wide x 10' high to 10' wide x 9' high; and agree to a row of arborvitae between the building and the side lot line.

16. Mr. Oliver indicated that there was an existing septic tank in the rear yard which inhibits his ability to move the building closer to the center line.

17. Andreas and Beth Haggmark testified in opposition to the plan. The Haggmark's concluded that by moving the building 25 feet from the side lot line leaves 4.7 feet to the septic tank. In addition, the Haggmark's observed that public sewer has recently been provided to the neighborhood and therefore the septic tank may not be required in the future.

18. The Haggmarks further opined that the proposed pole barn is greater in size than a normal two car garage, which they asserted is 20' x 20'. The Haggmarks further opined that the proposed building is simply too big for typical residential use. The Haggmarks believe that the structure, as proposed, will look like a house sized structure between two houses. They further assert that the proposed screening will not be sufficient.

19. Ms. Haggmark testified to the beauty of the open space to the rear of the properties and asserted that the house sized structure would provide a negative aesthetic impact. It would further negatively impact the view, breeze, and light. Ms. Haggmark characterized the proposed building as "commercial in size" as opposed to a "regular size" garage.

20. Nearby property owners offered written communications opposing and expressing concern over the proposed use. Among the themes in opposition were the thoughts that the pole barn would not be aesthetically in character with the rest of the neighborhood; may create stormwater issues; would reduce open space; and may be used for commercial purposes. (See Exhibit ZHB-4)

21. Following the June 25, 2020 hearing, additional communications were written to the Township, and admitted into evidence as ZHB-6. The comments within ZHB-6 were mixed. Neighbors were emphatic that their opposition did not speak to

personal relationships, but instead to zoning and aesthetics. At least one neighbor was not opposed to the plan.

22. Nearby property owners spoke during the public comment portion of the meeting. Mr. Joe Ikoniak and Mr. Robert Jackson, had no objection to the pole barn as proposed. Mr. Keith Wipplinger, was not concerned regarding the size, but did question the proposed location of the pole barn.

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

CONCLUSIONS OF LAW:

1. The Subject Property has been used as permitted by right within the R-1 Zoning District.

2. An accessory structure greater than 144 square feet in size must comply with the dimensional requirements of the zoning district in which the structure is placed. (See §175-16.H.3(b)(2) of the Doylestown Township Zoning Ordinance). The side yard setback for principal buildings in the R-1, Residential Zoning District is 25 feet. (See §175-39 of the Ordinance)

3. Applicant has proposed an accessory structure greater than 144 square feet to be placed on the Subject Property, and therefore must comply with the 25 foot side yard setback, or establish the legal basis for obtaining relief from the Ordinance.

4. The Zoning Hearing Board has considered the evidence presented by the Applicant and concludes that the Applicant has failed to establish the legal basis justifying a variance. The Board is not persuaded that the Applicant's intent on disturbing as little earth as possible, or adding as little impervious surface coverage as possible justifies the need for relief. To that point the Zoning Hearing Board suggests that the Applicant could have created a substantially smaller building than proposed. Accordingly, the Zoning Hearing Board is not convinced that the Applicant is requesting the minimal relief to be afforded.

5. The Zoning Hearing Board is similarly unpersuaded with regard to Applicant's argument that the physical circumstances or conditions of the property have made development in strict conformity with the Ordinance impossible. The Applicant has essentially conceded that the building could be placed elsewhere, or further reduced in size in order to reduce or eliminate the scope of relief. As such, the Board concludes that the Applicant has failed to establish the physical circumstances or conditions of the property drive the need for variance.

6. The Board has considered the Applicant's collection of photographs illustrating other accessory structures in the nature of one, two and three car detached garages. The Board accepts the Applicant's testimony that these detached garages do exist within the neighborhood. However, the Board does not consider the photographs as supporting the basis for a side yard variance on Applicant's property without additional competent evidence of specific property data and details.

7. Accordingly, the Doylestown Township Zoning Hearing Board determined, unanimously, to deny the Applicant's request for relief, as is set forth hereafter.

ORDER

Upon consideration and after hearing, the Zoning Hearing Board of Doylestown Township hereby DENIES the requested variances from §175-16.H.3(b)(2) and §175-39, of the Doylestown Township Zoning Ordinance, respectively.

**ZONING HEARING BOARD OF
DOYLESTOWN TOWNSHIP**

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

/s/ Mitchell Aglow
Mitchell Aglow, Vice Chairman

/s/ Samuel Costanzo
Samuel Costanzo, Secretary