

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

Applicants: Kate Hodder
1133 Ferry Road
Doylestown, PA 18901

Owners: Same.

Subject Property: Tax Parcel No. 09-004-034-001, which is located at the address of the Applicant set forth above.

Requested Relief: Applicant seeks to construct a one-story addition to the existing single-family dwelling. The addition is proposed to serve as an accessory family apartment. Applicant seeks a special exception under §175-37.B of the Doylestown Township Zoning Ordinance ("Ordinance") to permit the accessory family apartment. Applicant further seeks a variance from the specific criteria of §175-16 H-12 of the Ordinance to permit the accessory family apartment to occupy greater than 25% of the total usable floor area of the principal dwelling.

Hearing History: The application was filed in Doylestown Township on May 3, 2022. The first hearing was held on June 20, 2022, and was continued to July 18, 2022 at the Doylestown Township Building, 425 Wells Road, Doylestown, PA 18901.

Appearances: Applicant, *Pro Se*

Mailing Date: August 31, 2022

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. The lot area is 1.5 acres. The property accommodates the Applicant's single-family dwelling.
4. Applicant seeks to construct a one-story addition to the existing single-family dwelling. The addition is proposed to serve as an accessory family apartment. Applicant seeks a special exception under §175-37.B of the Doylestown Township Zoning Ordinance ("Ordinance") to permit the accessory family apartment. Applicant further seeks a variance from the specific criteria of §175-16 H-12 of the Ordinance to permit the accessory family apartment to occupy greater than 25% of the total usable floor area of the principal dwelling.
5. The useable floor area of the principal residence, after modifications is 2,923 square feet.
6. 25% of the useable floor area of the principal residence is 730 square feet.
7. 730 square feet is insufficient area to serve as a full in-law suite (accessory family apartment).
8. Applicant proposes a 976 square foot Accessory Family Apartment, consistent with the Variance Plan, dated 04/18/2022, prepared by Peter J. Gilles, Jr. Architect.
9. An accessory family apartment is permitted within the R-1 Residential Zoning District by special exception under §175-37.B of the Ordinance.
10. The provisions of the Ordinance defining an accessory family apartment are found at §175-16.H(12), and read as follows:

H-12. Accessory family apartment. One accessory dwelling unit to a single-family detached dwelling shall be permitted as a residence by family members or a family caregiver, provided that the conditions set forth in this section are met, and further provided that the accessory use, in all respects, complies with this chapter

relating to the zoning district wherein the proposed accessory dwelling unit is to be constructed or to be used. [Added 5-4-1993 by Ord. No. 224; amended 2-16-2021 by Ord. No. 401]

- (a) The accessory family apartment shall occupy no more than 25% of the total usable floor area of the principal residence, not including any garage.
- (b) Accessory family apartments shall be part of the principal residence or may be contained in the existing accessory structure such as a garage.
- (c) The required off-street parking for the principal dwelling plus one additional off-street parking space for the accessory family apartment shall be provided.
- (d) There shall 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. Manufactured homes, industrialized housing, recreational vehicles, travel trailers, and any other wheeled or transportable structure shall not be used as an accessory family apartment.
- (e) No more than one accessory family apartment shall be permitted per single-family detached dwelling.
- (f) A maximum of two occupants are permitted in such units. Accessory family apartment shall be occupied by family members or a family caregiver.
- (g) Each accessory family apartment shall be registered with the Township Zoning Officer, who shall keep a record of its use to ensure compliance with this chapter. A fee shall be imposed by the Township Board of Supervisors for the registration of said use, which said fee shall be fixed periodically by the Board of Supervisors by resolution. Registration of an accessory family apartment shall expire upon conveyance of the property, at which time the new property owner may reregister said use if warranted.
- (h) A certification shall be received from the Bucks County Board of Health or other regulatory agency certifying that the wastewater facilities are adequate to accommodate the single-family dwelling as well as

the accessory family apartment as defined in this subsection.

- (i) The record owner of the property shall grant a deed restriction limiting such use in accordance with the foregoing provisions in favor of the Township, which agreement shall contain the following provisions:

- [1] A description of the dimensions and location of accessory use.

- [2] Being in a recordable document acceptable to the Township for filing with the Bucks County Recorder of Deeds Office. All costs for the preparation and recording of the foregoing document are the responsibility of the applicant for the accessory use.

- [3] The rental of an accessory family apartment shall not be permitted, nor shall it be used in any way as an income property.

11. Applicant meets or will comply with all specific requirements, but for the 25% requirement.

12. Applicant requires a variance from the single provision of the Ordinance in order to obtain a special exception to permit the H12 Use.

13. No one spoke in opposition to the application.

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

CONCLUSIONS OF LAW:

1. The Subject Property has been developed and used consistent with the requirements of the Ordinance.

2. An accessory family apartment , as defined under section 175-16 H-12 of the Ordinance, represents a reasonable use of the subject property.

3. An accessory family apartment is a permitted use within the zoning district provided Applicant meets all specific requirements of the use. See, §175-37.B.

4. Applicant is unable to meet all requirements of the use because the accessory family apartment, as proposed, exceeds 25% of the useable floor area of the primary dwelling.

5. Applicant seeks a variance in order to meet the specific requirements, then seeks a special exception for the permitted use as modified.

6. The Applicant has presented evidence of sufficient factors to warrant the grant of the dimensional variance requested under the relaxed variance standard applicable to dimensional variance cases, as articulated by the Pennsylvania Supreme Court, in Hertzberg v. Zoning Board of Adjustment of the City of Pittsburgh, 554 Pa. 249, 721 A.2d. 43 (1998).

7. The grant of the requested variances satisfies Appellant's burden to meet the objective criteria set forth in the Ordinance for a special exception. New Bethlehem Borough Council v. McVay, 78 Pa. Commw. 167, 467 A.2d 395 (Pa. Cmwlt. 1983). A use permitted by special exception is presumptively consistent with the public health, safety and welfare; the denial of a special exception can be based only on proof that the use would create an adverse effect on the public welfare in a way not normally associated with proposed use. Kern v. Zoning Hearing Board of Tredyffrin Township, 68 Pa. Cmmw. 396, 449 A.2d 781 (1982). Here, there were no objecting witnesses to present proof that the proposed use would present a substantial threat of harm to the health, safety and welfare of the community. Abbey v. Zoning Hearing Board of the Borough of East Stroudsburg, 126 Pa. Commw. 235, 559 A.2d 107 (PA. Cmwlt. 1989).

8. 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.

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

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

11. Accordingly, the Doylestown Township Zoning Hearing Board determined, unanimously, to grant 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 GRANTS a variance from §175-16 H-12 of the Doylestown Township Zoning Ordinance to permit construction of a one-story addition to the existing single-family dwelling to serve as an accessory family apartment. The Board GRANTS Applicant's special exception under §175-37.B of the Doylestown Township Zoning Ordinance ("Ordinance") to permit the accessory family apartment, and further GRANTS Applicant's variance from the specific criteria of §175-16 H-12 of the Ordinance to permit the accessory family apartment to occupy greater than 25% of the total usable floor area of the principal dwelling, subject to following specific conditions:

1. Applicant must comply with the Bucks County Board of Health regulations;
2. Applicant must comply with the building permit plan process, including preparing an erosion and sedimentation control plan to the satisfaction of the Township professionals and staff; and,
3. Applicant must comply with all other applicable governmental ordinances and regulations.

**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