

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

Docket No.: Z-14-23

Applicants: Diana DeVries & Michael Kypreos
527 Caddy Drive
Doylestown, PA 18901

Owners: Same.

Subject Property: Tax Parcel No. 09-057-015, which is located at the address of the Applicants set forth above.

Requested Relief: Applicants seek to place a fence across a stormwater easement. Applicants request a variance from §175-16 H-3(c)3 of the Doylestown Township Zoning Ordinance, accordingly.

Hearing History: The application was filed in Doylestown Township on August 25, 2023. The hearing was held on September 28, 2023 at the Doylestown Township Building, 425 Wells Road, Doylestown, PA 18901.

Appearances: Applicants, *Pro Se*

Mailing Date: November 10, 2023

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 Applicants are 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. The lot area is 0.31 acres. The property accommodates the Applicants' single-family dwelling with customary residential amenities.

4. Applicants seek to place a fence across a stormwater easement with runs parallel to the side lot line.

5. §175-16 H-3(c)3 of the Ordinance prohibits fences which encroach on public or private easements. Applicants seek a variance accordingly.

6. Applicants testified that fencing the rear yard would provide for greater use of the rear yard and access to the rear yard.

7. Applicants are willing to have the fence installed in removable sections, or a 10 foot wide gate across the easement area, to provide easy access by the easement holder as needed.

8. Applicants testified that other property owners in the area have similar fences.

9. Applicants' neighbor, on the affected side, was present for the hearing. Mr. Bryan Stuckert, an eight year resident of the adjacent property, indicated that his rear yard is fenced, and the stormwater easement in question similarly runs the length of his side yard, encumbering 10 feet from the property line into the interior of his yard. When Mr. Stuckert fenced his rear yard, he placed the fence to the interior of the yard from the easement, so as not to encroach upon the easement.

10. Applicant sought to connect her rear yard fence to the Stucker rear yard fence. Regrettably, the Stuckert property was not the subject of the present application. Accordingly, the Board indicated that they would address relief on Applicants' property but if the 10 foot easement encumbering the Stuckert property was to be encroached upon by a fence, Mr. Stuckert would be required to file an application seeking such relief.

11. It is the Board's understanding that Mr. Stuckert has filed an application.

12. No one spoke in opposition to the application.

13. 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. 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).

3. 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.

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

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

6. 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-3(c)3 of the Doylestown Township Zoning Ordinance to permit Applicants to place a fence across the stormwater easement extending 10 feet from the side lot line towards the center of the Subject Property and running the entire depth of the Property. The relief in question does not extend to the adjacent property, which will be addressed separately.

The relief granted is subject to the following conditions:

1. The fence must contain removable sections, or a 10 foot gate, where the fence crosses the easement area to facilitate removal in the event the easement area needs to be accessed.
2. Applicant is required to maintain, replace and repair the fence as needed.
3. Applicants bear the cost of removal and replacement of the fence sections to provide for Township maintenance access for the easement.
4. Applicants shall provide to the Township additional detail regarding the posts and gates for the fencing in relation to any physical structures supporting stormwater easement to assure that the fencing infrastructure does not interfere with the preexisting storm sewer infrastructure.
5. Applicants must obtain all appropriate permits prior to construction of the fence. This condition includes applying for a fence permit with Doylestown Township.
6. Applicants must comply with all other applicable governmental ordinances and regulations.

ZONING HEARING BOARD OF DOYLESTOWN TOWNSHIP

Thomas E. Panzer, Solicitor
Doylestown Township
Zoning Hearing Board
High Swartz LLP
116 East Court Street
Doylestown, PA 18901
(215) 345-8888

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

/s/ Mitchell Aglow
Mitchell Aglow, Vice Chairman

/s/ Samuel Costanzo
Samuel Costanzo, Secretary