

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

Application No. Z-4-2012

Applicant: Joanne Ellinger
 552 W. Swamp Road
 Doylestown, PA 18901

Owner: Carol Stevens
 5883 Route 202
 Lahaska, PA 18931

**Subject
Property:** Tax Parcel No.9-6-32, which is located at the address of the
 Applicant set forth above.

**Requested
Relief:** The Applicant desires to operate her accounting business out of
 her home as a home based business accessory use as defined at
 §175-16.H-1 of the Doylestown Township Zoning Ordinance
 ("Ordinance"). Accordingly, she requests a special exception for
 that accessory use, pursuant to §175-37.B. Additionally, she
 requests the following variances from §175-16.H-1:

1. from subsection (h) to permit a business sign that will be
 6 square feet in size, instead of the maximum permitted 2 square
 feet;
2. from subsection (h) to permit two business signs on the
 property, instead of the maximum permitted one sign;
3. from subsection (t) thereof, to allow the parking spaces
 for the home based business to be located in front of the principal
 residence, instead of to its side or rear; and
4. from subsection (t) thereof, to eliminate the requirement
 for a 10 foot wide planted buffer.

**Hearing
History:** The application was filed in Doylestown Township on August 13,
 2012. The hearing commenced on September 27, 2012 but was
 continued, at the request of the Applicant, because she had not
 requested all zoning relief necessary to obtain the special
 exception. The hearing was rescheduled to occurred on October

15, 2012 but continued once again, at the Applicant's request, as she had not yet formulated all of the variance relief she desired. The hearing concluded on November 19, 2012. All hearings were held at the Doylestown Township Building, 425 Wells Road, Doylestown, PA. 18901 on April 16, 2012.

Appearances: Applicant Pro Se'

Date of Issuance: December 18, 2012

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 lessee of the subject property and has evidenced approval of the property owner or lessor to seek the zoning relief requested. Accordingly, she is 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 approximately .97 acres in size and accommodates the Applicant's single family detached dwelling and attached two car garage with a typical access driveway and walkways.
4. The Applicant is an accountant who desires to operate a home office for that purpose in a "breezeway" type structure that attaches the home to the garage. As depicted on Exhibit "A-2", a sketch of the property, the proposed office space will be 11' 8" x 10' in size. (approximately 117.5 square feet)
5. A "Home-based Business" is permitted by special exception in the R-1 Zoning District in which the subject property is located.
6. The Applicant has credibly established that she wishes to conduct a business as an accessory use secondary to her residence which will involve some client traffic, typical of a tax preparation office.
7. §175-16.H-1 requires compliance with a number of criteria, in order to obtain a special exception.

8. The Applicant's credible evidence establishes compliance with the criteria set forth therein, with the exception of those from which variances are sought as follows:

- a. the accounting business will be an accessory to the residence and carried on entirely 10 doors, incidental and subordinate to its use for residential purposes by the Applicant;
- b. the accounting business is compatible with the residential use of the property and surrounding properties and its structures meet the dimensional requirements of the R-1 District;
- c. the structure on the property is a single family detached dwelling;
- d. there will be no use of show windows for display or advertising by variance;
- e. There will be no exterior storage of materials;
- f. there will be no commercial vehicles in connection with the use;
- g. there will be no alteration of the residential structure;
- h. the sign proposed by the Applicant identifying the accounting business is proposed to be 2' x 3' (6 square feet) and located, as depicted on Exhibit "A-2", more than 10 feet from the cartway of the subject property's fronting street. In addition, a second identification sign, no greater than 2 square feet in size, will be placed on the wall of the structure at the entrance door to the proposed office. This subsection prohibits signage greater than 2 square feet in size and limits the property to only one such sign;
- i. no article shall be sold or offered for sale;
- j. there will be no stockpiling, storage, or inventory of products of substantial nature;
- k. there will be no commodities sold or services rendered that require deliveries other than those typical of residential communities;
- l. the Applicant will conduct the accounting business and will have no employees;
- m. the floor area to be devoted to the accounting business occupies less than 25% of the ground floor of the principal residential structure;
- n. there will be no prohibited adverse impacts of the accounting practice on the subject property and there will be no equipment or process that will produce them;

o. there will be no manufacturing, repairing or other mechanical work performed in any open area on the subject property;

p. the accounting practice will not generate any solid waste or sewage discharge in excess of that normally associated with residential uses;

q. there will be less than 6 off-street parking spaces on the subject property;

r. this will be the only home based business proposed for the subject property;

s. the hours of operation of the accounting business will be limited to Monday through Saturday, between the hours of 8:00 a.m. to 9:00 p.m.;

t. the additional parking spaces for the home based business are located in a parking area along the driveway in the front of the house as depicted on Exhibit "A-2". The Applicant credibly established that providing ordinance conforming parking would require the construction of additional impervious surface on the subject property that will be inaccessible and inconvenient due to the existing structures on the property. Although the evidence does not indicate that there is a 10 foot wide buffer yard along the borders of the property, there is existing mature vegetation, which effectively buffers this use to any extent that might be necessary; and

u. the accounting business does not involve any illegal activity.

9. The proposed free-standing sign along Swamp Road is depicted in Exhibit "A-1". As proposed, it is 6 square feet in size. The credible evidence establishes that Swamp Road, at its location in front of the subject property, is a heavily traveled and high speed highway that has impacted the neighborhood to such an extent that many of the former single family residential homes in the neighborhood have been converted to commercial uses and accommodate signage nonconforming to the size limitations of the Ordinance.

10. The second sign proposed identifies the office entrance and distinguishes it from the residential entrance so as to avoid confusion. Its size will be conforming to the 2 square foot limitation of the Ordinance.

11. None of the notified neighboring property owners appeared at the hearing in opposition to, or in favor of, the application.

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

CONCLUSIONS OF LAW

1. An accessory use of the Applicant's single family home as a home based business, in the nature of an accounting office, is permitted by special exception in all residential districts of Doylestown Township.

2. The Applicant has established compliance with all criteria necessary to obtain a special exception, with the exception of those from which variances are sought.

3. As the neighborhood in which the subject property is located has changed over the years to a commercial one with heavy traffic and high speeds on its fronting street, the size of the free-standing sign proposed along Swamp Road is necessary and will insure that intended clients can safely identify the location of the accounting office and execute the vehicular maneuvers necessary enter the property in a safe manner.

4. The small sign proposed at the entranceway of the accounting office is reasonable and is necessary to designate and distinguish the office entrance from the residential entrance.

5. Given the commercial uses in the neighborhood, there will be no adverse impact of the parking area located to the front of the residence, as opposed to its side or rear.

6. The buffering requirement from which the variance is sought is not necessary as the uses of surrounding properties are similar to that proposed by the Applicant.

7. The grant of the relief requested will have no negative impact upon surrounding properties or uses.

8. The Board concludes that the Applicant has presented evidence of sufficient factors to warrant the grant of the dimensional variances requested.

4. Accordingly, the Doylestown Township Zoning Hearing Board determined, unanimously, to grant the Applicant's request as set forth hereafter.

WHEREFORE, the Zoning Hearing Board of Doylestown Township GRANTS a special exception pursuant to §175-37.B of the Doylestown Township Zoning Ordinance to permit the use of a portion of the structure on the subject property, as depicted on Exhibit "A-2", as a home based business in the nature of an accounting office. Additionally, the Board grants the following variances from §175-16.H-2 to enable that use:

1. from §175-16.H-1(h), and to the extent necessary from (g) to permit a free-standing sign at an Ordinance conforming location along the Swamp Road frontage to be 6 square feet in size and to permit a second identification sign, no greater than 2 square feet in size, at the entrance to the accounting office; and

2. from §175-16.H-1(t), to permit parking for the accessory office to be located in the parking area provided along the driveway as depicted in Exhibit "A-2", in front of the residence, instead of to its side or rear; and to eliminate the requirement for the installation of a 10 foot wide planted buffer.

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

**ZONING HEARING BOARD OF
DOYLESTOWN TOWNSHIP**

By: W. Andrew McPherson
Andrew McPherson, Chairman
William J. Lahr
William J. Lahr, Vice Chair
Richard K. Gaver
Richard K. Gaver

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.

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

Application No. Z-5-2012

Applicant: Brian Shadle
2246 Turk Road
Doylestown, PA 18901

Owner: Same

Subject Property: Tax Parcel No. 9-22-3-4, which is located at the address of the Applicant set forth above.

Requested Relief: The Applicant requests variances from §175-37.A and §175-16.H-3.d of the Doylestown Township Zoning Ordinance ("Ordinance"), to allow a storage shed to be located at a side yard setback distance of less than the 25 feet required by §175-39.

Hearing History: The application was filed in Doylestown Township on October 22, 2012. The hearing was held on November 19, 2012, at the Doylestown Township Building, 425 Wells Road, Doylestown, PA. 18901 on April 16, 2012.

Appearances: Applicant Pro Se'

Date of Issuance: December 18, 2012

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 is 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 approximately 1.5 acres in size and accommodates the Applicant's single family detached home, a swimming pool, and a typical access driveway and walkways.
4. The Applicant desires to install a 200 square foot storage shed on the subject property to be located 3 feet from its nearest side property line.
5. The proposed storage shed is, according to the Applicant, "Amish made" with wood sides and an asphalt roof. It is proposed as sized in order to allow for the storage of the Applicant's commercial sized lawn mower and swimming pool equipment.
6. The proposed location of the storage shed results from the Applicant's having personally constructed a 12' x 21' stone base and foundation for it, at a location only 3 feet from the side property line.
7. The Applicant testified that it was located there because the Amish contractors who sold him the storage shed and proposed to install it, told him that there was no necessity to apply for a permit for its construction at that location.
8. In fact, that location is prohibited by the Ordinance. §175-16.H-3.d permits the construction of a storage shed, with a floor area of 144 square feet or less, at a 7 foot distance from any property line. Structures with a floor area of more than 144 square feet must meet the setback requirement for principal buildings for the R-1 District.
9. §175-39 requires a side yard setback distance of 25 feet for structures in the R-1 District and, accordingly, the applicable required side yard setback distance for the proposed shed is 25 feet.
10. The Applicant credibly established that the conforming placement of the proposed shed would locate it at or about the middle of the back yard, adversely impacting the use of a portion of the property.
11. Doylestown Township took no position with regard to this application.

CONCLUSIONS OF LAW

1. The Board determines that the proposed size of the storage shed at 200 square feet is necessary to accommodate the storage of the Applicant's lawn equipment and pool supplies.
2. However, the Applicant presented no evidence that justifies the location of the foundation structure that has been constructed on the property at a 3 foot side

yard setback distance. In this regard, the Board concludes that the Applicant's misplaced reliance upon a contractor who sold the prefabricated shed does not justify even a dimensional variance and represents a self-created hardship.

3. The Board does conclude, however, that placement of this shed at a conforming 25 foot side yard setback distance adversely impacts the residential use of the property's backyard and determines that the Applicant has presented sufficient credible evidence to justify the location of the foundation structure at a 7 foot setback distance as is permitted by Ordinance for smaller storage sheds.




4. Based upon letters received from neighboring property owners, the Board determines that the location of a storage shed of this size at a 7 foot setback distance, instead of the required 25 feet, will not negatively impact surrounding properties or uses.

5. The Board therefore determined that the Applicant had presented evidence of sufficient factors to warrant the grant of a dimensional variance so as to permit a 7 foot side yard setback distance.

4. Accordingly, the Doylestown Township Zoning Hearing Board determined, unanimously, to grant the Applicant's request as set forth hereafter.

WHEREFORE, the Zoning Hearing Board of Doylestown Township GRANTS variances from §175-37.A and §175-16.H.3.d of the Doylestown Township Zoning Ordinance, in order to allow the construction of a 200 foot storage shed on the subject property and its installation on a foundation structure so that neither the foundation structure nor the shed itself shall be located less than 7 feet from its nearest side property line, subject to compliance with all other applicable governmental ordinances and regulations and a condition that the Applicant pay for all permitting fees necessary to allow its construction.

**ZONING HEARING BOARD OF
DOYLESTOWN TOWNSHIP**

By: 
Andrew McPherson, Chairman

William J. Laht, Vice Chair

Richard K. Gaver

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.

