

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

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**Calendar No.** Z-5-2013

**Applicant:** RJA Investment Fund V, LP  
249 Glenmoor Road  
Gladwyne, PA 19035

**Owner:** Estate of Herbert E. Everett  
360 Old Dublin Pike  
Doylestown, PA 18901

**Subject Property:** Tax Parcel Nos. 9-48-10 and 9-48-23, which are collectively located at 360 Old Dublin Pike in Doylestown Township, PA.

**Requested Relief:** The Applicant proposes to develop the subject property for “single-family attached dwelling units in conjunction with use of historic structures” as defined at §175-16.B-15 of the Doylestown Township Zoning Ordinance (“Ordinance”) and, in order to do so, requests the following variances from the Ordinance:

- (1) from §175-16.B-15.g.4 so as to permit a minimum tract width of 204 feet along Pine Run Road, instead of the required 300 feet;
- (2) from §175-16.B-15.g.5 to permit a gross site area of 9.133 acres, in lieu of the 10 acre minimum base site area required; and
- (3) from §175-16.B-15.g.6 so as to permit a maximum density of 2.053 dwelling units per acre, instead of the maximum net density of 2.0 dwelling units permitted per acre.

**Hearing History:** The application was filed in Doylestown Township on May 16, 2013. The hearing was held on June 27, 2013, at the Doylestown Township Building, 425 Wells Road, Doylestown, PA 18901.

**Appearances:** Applicant by: Edward F. Murphy, Esq.  
Wister Pearlstine, LLP  
301 N. Sycamore Street  
PO Box 1186  
Newtown, PA 18940-3808

Michael Donaher, Pro Se’  
111 Sandy Knoll Drive  
Doylestown, PA 18901

**Date of Issuance:** August 5, 2013

## 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 equitable owner of the subject property pursuant to a valid agreement of sale and, as such, is possessed of the requisite standing to make application to this Board.

3. Michael Donaher is the owner of residential property located contiguous to the subject property. As such, he was granted standing as a party in this hearing. Mr. Donaher is opposed to the development of the property as proposed.

4. The subject property is located in the R-1, Residential Zoning District of Doylestown Township. It consists of two tax parcels, namely: TPN 9-48-10, which fronts on Pine Run Road; and TPN 9-48-23, which fronts on Old Dublin Pike. The Applicant proposes the consolidation of these tax parcels to permit the development of the subject property as proposed.

5. The subject property is 9.133 acres in size (gross). Its base site area, according to the Ordinance, is 8.767 acres, as described in the "Site Plan" prepared by Gilmore and Associates, Inc., dated 5/14/13, received into evidence as Exhibit B-1.A (the "Site Plan").

6. Jeffrey L. Marshall, the President of the Heritage Conservancy, testified on behalf of the Applicant with regard to a "Historic Architectural Analysis" that he prepared after his research into the subject property, received into evidence as Exhibit A-1 (the "Historic Analysis"). Mr. Marshall was qualified to testify as an expert in the field of historic preservation.

7. Marshall identified several of the structures on the subject property as historic. He concludes that the house on the property, a 2 ½ story stone structure containing a 5 bay center hall and main core in the Vernacular federal style of architecture, was "transformed" in the early 20<sup>th</sup> Century, as a result of the architectural design of a respected Doylestown architect, A. Oscar Martin, into a "Colonial Revival show place".

8. Marshall concludes that the assemblage of structures on the property reflect a Colonial Revival influence. The two main buildings, the house and the barn, appear to date from circa 1811 and 1814 respectively. "The original house and barn are above average in quality and size and reflect high architectural merit. The Colonial Revival additions to the house, although later alterations, can be considered as contributing to the history of the property", in his expert opinion.

9. The Board finds that Marshall competently identified several historic structures on the subject property, worthy of preservation. Upon examination of the Site Plan, Marshall opined that the clusters of the additional residential units proposed in the

application have been located so as to give context to the historic buildings, and preserve their view from Old Dublin Pike.

10. The Applicant proposes to develop the subject property with additional single-family attached dwelling units while preserving the historic structures, as defined in Ordinance §175-16.B-15.

11. That Ordinance section, at subsection (j) states as follows:

“This use shall only be permitted if the tract contains a structure or structures identified as eligible historic resources in accordance with the provisions of §175-30A of the Doylestown Township Codified Zoning Ordinance of 1988, and said historic structure or structures must be preserved as part of the use. The detached historic structure may remain as a single-family dwelling although the balance of the tract may be developed utilizing Use B-15.”

12. Development of this type is permitted by conditional use in the R-1 Zoning District, pursuant to Ordinance §175-36.D.1.b.

13. Marshall testified that the subject property is included in Doylestown Township’s list of historic resources.

14. Accordingly, the Board finds that the subject property is appropriate for development under Use B-15.

15. Gregory Glitzer was qualified to testify as an expert in civil engineering on behalf of the Applicant.

16. As depicted in the Site Plan, the Applicant proposes a total of 9 dwelling units on the subject property, including the existing home on a parcel that will be approximately 2 acres in size; the existing barn, after adaptive reuse to a residential structure, on a lot of approximately 1 acre in size; and 7 townhouses, each 40’ x 70’ in size, clustered into 3 locations on the subject property. Additional historic outbuildings will be preserved on the property although its 2 garage structures, as well as some less important outbuildings, will be demolished as part of the proposed development.

17. The proposed residences will be accessed by means of a cul-de-sac from Old Dublin Pike at a proposed intersection to be aligned with Trafalgar Road, the main access road to the Charing Cross residential development, which is located directly across Old Dublin Pike from the subject property.

18. Ordinance §175-16.B-15.g.4 requires a “minimum tract width” of 300 feet. Glitzer pointed out that the term “tract width” is not defined in the Ordinance. Accordingly, in his best civil engineering judgment, he applied the Ordinance defined “lot width” to determine the road frontages. Using that definition, the subject property has a “tract width” along Pine Run Road, of 204 feet, and, along Old Dublin Pike, of 347 feet.

19. As required by current land use practice, out of an over abundance of caution, the Applicant has sought a variance from this provision since the tract width along Pine Run Road is less than the required 300 feet.

20. The Board interprets this Ordinance provision as being designed to insure that a proposed development of multiple residential units of this size contains sufficient road frontage to permit adequate and safe access to the development. As the only access to the development will be from Old Dublin Pike, as proposed in the Site Plan, the Board finds that the proposed plan meets the Ordinance requirement and, to any extent necessary, a variance therefrom is to be considered de minimis in nature.

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21. The minimum base site area for a B-15 Use is defined at §175-16.B-15.g.5, as 10 acres. The base site area of the subject property is 8.76 acres.

22. Based upon the credible evidence, the Board finds that the base site area of the subject property cannot be increased so as to conform to the minimum 10 acre requirement.

23. Notwithstanding, the additional residential structures proposed will comply with all perimeter setback requirements as well as individual lot setback distances for the attached dwelling units.

24. Ordinance §175-16.B-15.g.6 limits “net density” to 2.0 dwelling units per acre in the R-1 Zoning District.

25. To develop the subject property with 9 dwelling units as proposed, resultant “net density” will be 2.053 dwelling units per acre. This represents a deviation from Ordinance requirements of approximately 2.5%.

26. Mr. Donaher did not establish, in his testimony, that there were any impacts of the proposed development, or the zoning relief sought, and are not contemplated by this permitted type of development in the R-1 Zoning District, that will adversely affect the enjoyment of his property.

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

## CONCLUSIONS OF LAW

1. Although development of the subject property for “single-family attached dwelling units in conjunction with use of historic structures” defined at §175-16.B-15 of the Ordinance, requires conditional use approval from the Doylestown Township Board of Supervisors, it is considered a use that is permitted in the R-1 Zoning District by law.

2. Based upon competent evidence, the Board concludes that, exactly as intended by the Ordinance provision, a reasonable residential development of the property is necessary to preserve the significant historic structures on it.

3. The expert civil engineering testimony presented by Mr. Glitzer, and his interpretation of Ordinance §175-16.B-15.g.4, leads this Board to conclude that sufficient road frontage exists on Old Dublin Pike to establish compliance with the tract width requirements of that Ordinance section. Accordingly, this Board determines that no variance therefrom is necessary to permit the development of the subject property as proposed in the Site Plan.

4. The Board concludes that the subject property is sufficiently sized to accommodate the number of dwelling units proposed, in consideration of the restoration and preservation of the historic structures.

5. Since the proposed use is permitted in the R-1 Zoning District, the Board considers this variance to be dimensional in nature and concludes that the Applicant has presented evidence of sufficient factors to warrant a variance therefrom to permit the proposed development on the subject property with a base site area of 8.767 acres.

6. Further, the Board views the variance requested from the net density provision of §175-16.B-15.g.6, given the size of the subject property, to be de minimis in nature, requiring no finding of hardship.

7. The zoning relief sought is necessary to accomplish a permitted development of the subject property as a result of the rehabilitation and preservation of the historic structures on it.

8. The Board concludes that the Applicant seeks the minimum variance necessary to afford the relief requested.

9. The evidence indicates that the grant of the relief requested will have no negative impact upon surrounding properties or uses.

10. Accordingly, the Doylestown Township Zoning Hearing Board determined, unanimously, to grant the Applicant’s request for relief as set forth hereafter.

WHEREFORE, the Zoning Hearing Board of Doylestown Township grants the following variances from the Doylestown Township Zoning Ordinance in order to permit the development of the subject property as proposed in the Site Plan, upon conditional use approval from the Doylestown Township Board of Supervisors, as follows:

- 1) from §175-16.B-15.g.5, to permit a base site area of 8.767 acres, instead of the required minimum base site area of 10 acres; and
- 2) from §175-16.B-15.g.6, so as to permit the proposed development to result in a net density of 2.053 dwelling units per acre, instead of the maximum permitted 2.0 per acre.

Subject to compliance with all other applicable governmental ordinances and regulations, including the requirement of the preservation of the identified historic structures on the subject property, and further conditioned upon the elimination of the existing driveway to the structures on it.

The Board determines that the variance sought from §175-16.B-15.g.4 of the Ordinance was not necessary.

**ZONING HEARING BOARD OF  
DOYLESTOWN TOWNSHIP**

**By:** /s/ W. Andrew McPherson  
W. Andrew McPherson, Chairman

/s/ William J. Lahr  
William J. Lahr, Vice Chairman

/s/ Richard K. Gaver  
Richard K. Gaver, 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.