

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

**Applicant:** Cynthia Scott  
91 Rogers Road  
Furlong, PA 18925

**Owner:** Same.

**Subject  
Property:** Tax Parcel No. 09-022-137, which is located at the address of the Applicant set forth above.

**Requested  
Relief:** Applicant seeks to use an accessory structure (barn) for a home based business teaching art classes. §175-37.B H-1 of the Doylestown Township Zoning Ordinance ("Ordinance") permits a home based business within the R-1 Residential Zoning District by special exception. Applicant seeks a special exception accordingly. In addition, Applicant seeks variances from the conditions defining the H-1 home based business use, found at §175-16 H-1 of the Ordinance, including allowing the business to locate in the barn instead of the primary dwelling structure, and to allow the area for the use to exceed 500 square feet.

**Hearing  
History:** The application was filed in Doylestown Township on February 24, 2022. The hearing was held on March 21, 2022, at the Doylestown Township Building, 425 Wells Road, Doylestown, PA 18901.

**Appearances:** Applicant, *Pro Se*

**Mailing Date:** May 5, 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 approximately 2.0 acres in size. The property accommodates the Applicant's 926 square foot (foot print) single-family dwelling, and a three (3) story bank barn.

4. Applicant seeks to use a 720 square foot portion of the barn (the middle level) for a home based business teaching art classes.

5. §175-37.B H-1 of the Doylestown Township Zoning Ordinance permits a home based business within the R-1 Residential Zoning District by special exception. Applicant seeks a special exception accordingly.

6. In order to meet the specific criteria for the H-1 home based business, Applicant seeks variances from the conditions defining the H-1 home based business use, found at §175-16 H-1 of the Ordinance, including allowing the business to locate in the barn instead of the primary dwelling structure, and to allow the area for the use to exceed 500 square feet.

7. Applicant described the use, in part, as follows:

- a. Hours of operation are primarily "after school", from 4:30 – 6:00 pm; and again from 7:00 – 9:00 pm, Monday through Friday; and 1:00 – 3:00 pm Saturday.
- b. The classes generally contain six (6) to ten (10) students at one time, but up to twenty (20).
- c. Thirteen (13) parking spaces are available on site, but typically no more than six (6) or seven (7) are needed. Some students carpool. Some walk.
- d. Applicant teaches the classes, but at times uses one (1) or two (2) college students to assist.

8. The specific criteria for an H-1 home based business, as defined by §175-16 H-1 of the Ordinance, follow.

§175-16.H(1) Accessory uses.

- (1) H-1 Home-based business: a business or commercial activity administered or conducted as an accessory use which is clearly secondary to the use as a residential dwelling and which involves some customer, client or patient traffic, whether vehicular or pedestrian, pickup, meeting location, delivery or removal functions to or from the premises in excess of those normally associated with a residential use. The business or commercial activity must satisfy the following requirements:[Amended 6-1-1993 by Ord. No. 227; 6-26-2001 by Ord. No. 301; 11-18-2008 by Ord. No. 345]
- (a) The home-based business shall be accessory to a residence and carried on wholly indoors and within a dwelling or other structure accessory thereto and shall be clearly incidental and subordinate to its use for residential purposes by its occupants.
  - (b) The business activity shall be compatible with the residential use of the property and surrounding residential uses and shall meet the minimum and maximum area, height and dimensional requirements of the district in which the use is located.
  - (c) Such use shall be limited to single-family detached dwellings.
  - (d) There shall be no use of show windows, display or advertising visible outside the premises, except as provided for signs herein.
  - (e) There shall be no exterior storage of material or building material.
  - (f) There shall be no parking of commercial vehicles, except that parking of not more than one commercial vehicle exceeding a one-ton loading capacity and with no more than two axles or four wheels, whichever is less, including any construction or landscaping vehicles and trailers used for their transportation (i.e., front-end loaders, cranes, cement mixers, riding lawn mowers, etc.) shall be permitted only within a completely enclosed building.
  - (g) The appearance of the residential structure shall not be altered or the home-based business within the residence be conducted in a manner which would cause the premises to differ from the residential character by the use of colors, materials, construction, lighting, show windows or advertising visible on the premises to attract customers or clients, other than an identification sign not exceeding two square feet, notwithstanding any other provisions of this chapter.
  - (h) A sign displaying the name and address of the home-based business may be permitted, subject to the

following requirements: no more than one such sign shall be erected on the lot; the area of the sign shall not exceed two square feet in size; and the sign shall be either fixed flat on the main wall of the building or may be erected in the front yard, but not within 10 feet of the cartway.

- (i) No articles shall be sold or offered for sale except such as may be produced on the premises.
- (j) There shall be no stockpiling, storage or inventory of products of a substantial nature.
- (k) There shall be no commodities sold or services rendered that require receipt or delivery of merchandise, goods or equipment by other than passenger motor vehicle or by parcel or letter carrier mail service using vehicles typically employed in residential deliveries.
- (l) The home-based business shall be carried on only by inhabitants of the dwelling and not more than two additional employees.
- (m) The floor area devoted to a home-based business shall not occupy more than 25% of the ground floor of the principal residential structure or 500 square feet, whichever is less; all portions of the floor area to be used for the home-based business shall be accessible to employees and clients without having to enter or walk through the areas of the residence devoted to solely residential use, and all areas to be used for employees and client visits shall be in one location and not separated by rooms or hallways which are used for residential purposes.
- (n) No equipment or process shall be used in a home-based business which creates discernible noise, vibration, glare, fumes, odors or electrical interference at the property line, and no equipment or process shall be used which creates visual or audible interference in any radio or television receiver off the lot or causes fluctuations in line voltage off the lot.
- (o) No manufacturing, repairing or other mechanical work shall be performed in any open area. All such activities shall be conducted in such a manner that they are not detectable or noticeable at or beyond the property line.
- (p) The business activity may not generate any solid waste or sewage discharge, in volume or type, which is not normally associated with residential use in the neighborhood.
- (q) The maximum number of off-street parking spaces shall be limited to six parking spaces, which shall not include any garage spaces and shall be designed to

comply with the appropriate provisions of Article V of this chapter.

- (r) No more than one home-based business shall be permitted per residential dwelling.
- (s) The hours of operation shall be limited to Monday through Saturday, and activities shall occur between the hours of 8:00 a.m. to 9:00 p.m.
- (t) Parking spaces required by the home-based business in addition to those required for the residential use must be located to the side or to the rear of the principal residence and must be separated from adjoining properties by a ten-foot-wide planted buffer.
- (u) The business may not involve any illegal activity.

9. Other than the two variances requested, Applicant meets the definition of, and the specific criteria for, an H-1 home based business.

10. No one spoke in opposition to the application.

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

#### **CONCLUSIONS OF LAW:**

1. The Subject Property has been developed and used primarily as a single family residential dwelling consistent with the requirements of the Ordinance.

2. The Subject Property has also been used for pre-existing legally non-conforming uses since circa 1950, including most recently a wholesale floral shipping business.

3. Applicant seeks to use an accessory structure (barn) for a home based business teaching art classes. §175-37.B H-1 of the Doylestown Township Zoning Ordinance ("Ordinance") permits a home based business within the R-1 Residential Zoning District by special exception. Applicant seeks a special exception accordingly. In addition, Applicant seeks variances from the conditions defining the H-1 home based business use, found at §175-16 H-1 of the Ordinance, including allowing the business to locate in the barn instead of the primary dwelling structure, and to allow the area for the use to exceed 500 square feet.

4. The legal standard for the grant of variances is found at Sections 175-136 and 175-138 of the Ordinance, and section 910.2 of the Municipalities Planning Code (MPC).

5. The legal standard for the grant of special exceptions is found at Sections 175-137 and 175-138 of the Ordinance, and section 912.1 of the Municipalities Planning Code (MPC).

6. The Applicant has presented evidence of sufficient factors to warrant the grant of the dimensional variances requested under the relaxed variance standard applicable to dimensional variance requests, 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 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.

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

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

10. 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. Cmwlth. 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 was no objecting witness testimony 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. Cmwlth. 1989).

11. Accordingly, the Doylestown Township Zoning Hearing Board determined, unanimously, to grant the Applicant's request for relief, subject to certain conditions, as set forth hereafter.

**ORDER**

Upon consideration and after hearing, the Zoning Hearing Board of Doylestown Township hereby GRANTS a special exception pursuant to §175-37.B H-1 of the Doylestown Township Ordinance to use an accessory structure (barn) for a home based business teaching art classes; and GRANTS variances from §175-16 H-1 to allow the business to locate in the barn instead of the primary dwelling structure, and to allow the area for the use to exceed 500 square feet. The relief herein granted is subject to the following specific conditions:

1. Applicant is to use no more than 720 square feet of the barn for the home based business;
2. The use is limited to no more than 20 students at one time;
3. Parking for the use shall not exceed nine (9) vehicles at one time;
4. Applicant is to prepare a parking plan, within 45 days of the present decision. The plan is to illustrate a buffer as required by Ordinance, and delineate the paved parking spaces, to the satisfaction of Township Staff;
5. Applicant is to connect to public sewer (in the main house), when it becomes available;
6. 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

/s/ Samuel D. Costanzo  
Samuel D. Costanzo