

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

**Docket No.:** Z-13-23

**Applicant:** Peter Fischer  
57 Houck Road  
Doylestown, PA 18901

**Owners** Same.

**Subject Property:** Tax Parcel No. 09-013-011, which is located at the address of the Applicant set forth above.

**Requested Relief:** Applicant seeks to construct a privacy fence to the side and rear of the single-family dwelling on the subject property. The fence is proposed to cross a Doylestown Township Municipal Authority easement in two locations. §175-16(3)(c)[3] of the Doylestown Township Zoning Ordinance ("Ordinance") prohibits fences across public easements. Applicant seeks a variance accordingly.

**Hearing History:** The application was filed in Doylestown Township on August 24, 2023. The hearing was held on October 26, 2023 at the Doylestown Township Building, 425 Wells Road, Doylestown, PA 18901.

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

**Mailing Date:** December 11, 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 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 45,418.3 square feet. The property accommodates the Applicant's existing single-family dwelling and customary residential amenities.

4. Applicant seeks to construct a privacy fence to the side and rear of the single-family dwelling on the subject property.

5. Along the north side of the property runs a 30 foot wide public easement through the side and rear yards substantially limiting the area in which a fence can be placed in that portion of the side and rear yards.

6. The east side of the property has heavy tree coverage in the rear and side yards. Applicant wishes to preserve the trees on his property since the area in the easement cannot have trees.

7. Applicant seeks the relief instead of cutting the trees down to make room for the fence.

8. The proposed fence will cross a Doylestown Township Municipal Authority easement in two locations.

9. §175-16(3)(c)[3] of the Doylestown Township Zoning Ordinance ("Ordinance") prohibits fences across public easements. Applicant seeks a variance accordingly.

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

11. Applicant is willing to have the fence installed in removable sections to accommodate access by the easement holder as needed.

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. The Board concludes that there are unique physical characteristics involved with the Subject Property that cause an unnecessary hardship which is not self-created by the Applicant and prohibits use of the Subject Property in strict compliance with the provisions of the Zoning Ordinance.

7. 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(3)(c)[3] of the Doylestown Township Zoning Ordinance to permit Applicant to construct a privacy fence to the side and rear of the single-family dwelling, on the subject property, which will cross a Doylestown Township Municipal Authority easement in two locations.

The relief granted is subject to the following conditions:

1. The fence must contain removable sections 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. Applicant bears the cost of removal and replacement of the fence sections to provide for Township maintenance access of the easement.
4. Applicant shall provide to the Township additional detail regarding the posts and gates for the fencing in relation to any physical structures supporting the storm sewer easement to assure that the fencing infrastructure does not interfere with the preexisting storm sewer infrastructure.
5. Applicant must obtain all appropriate permits prior to construction of the fence. This condition includes applying for a fence permit with Doylestown Township.
6. Applicant must comply with all other applicable governmental ordinances and regulations.

**ZONING HEARING BOARD  
OF DOYLESTOWN TOWNSHIP**

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By: /s/ William J. Lahr  
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/s/ Mitchell Aglow  
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Samuel Costanzo, Secretary