

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

Docket No. ZHB7-2010

Applicant: Glen Frater
4361 South View Lane
Doylestown, PA 18901

Owner of Premises: Jacob H. Frater, Jr. and
Jeannette Frater
110 Tedwill Road
Fountainville, PA 18923

Subject Property: Tax Parcel #09-6-21, which is located at 110 Tedwill Road, Fountainville, PA, in Doylestown Township

Prayer of Relief: The Applicant requests a special exception, pursuant to §175-37.B of the Doylestown Township Zoning Ordinance (“Ordinance”), to construct an in-law suite on the property. Additionally, he requests a variance from §175-16.H-12.a in order to exceed the limitation on the size of the in-law suite required thereby.

Hearing History: The application was filed in Doylestown Township on June 17, 2010. The hearing was held on July 19, 2010 at the Doylestown Township Building, 425 Wells Road, Doylestown, PA 18901.

Appearances: Applicant by: G. Michael Carr, Esquire
Eastburn and Gray, PC
60 E. Court Street
Doylestown, PA 18901

Issuance Date: September 1, 2010

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 hearings held.
2. The Applicant is the only child of the owners of the subject property. His father, Jacob Frater, is deceased and the Applicant is acting with the authority of his Mother to process this Application. Accordingly, the Applicant 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 30,000 sq. ft. in size and accommodates a small, two-story, single family home with attached garage.
4. The home is occupied by the Applicant's eighty-two (82) year old mother and his eight-five (85) year old aunt. The Applicant's testimony evidences that these two ladies are increasingly becoming dependent upon the care of others.
5. For that reason, the Applicant sought and received a permit to construct an addition to the home that would permit the Applicant's daughter, Erin, her husband and two children, to move into the home, thereby allowing his daughter a place to live and providing his elderly mother and aunt with a full-time caregiver.
6. The permitted addition is two-stories and constructed within the footprint of the original attached garage (736 sq. ft.).
7. The experience of the Applicant's family is that the original kitchen is so small that it cannot be utilized by the six (6) people who would be residing in the property so this application results from the family's desire to construct a second kitchen in the portion of the property to be occupied by the Applicant's daughter's family and to reallocate space within the structure so as to provide a separate in-law suite for the two elderly ladies that utilizes the original kitchen.
8. If approved, the structure on the property (including the addition) would provide 3,755 sq. ft. of livable area. The reallocation of space within the improved structure will allocate 1,213 sq. ft. of space to the in-law suite for the Applicant's mother and aunt. This constitutes approximately 32.3% of the livable area of the principal structure, according to Ordinance definition.
9. Pursuant to Ordinance §175-37.B, and in-law suite is permitted by special exception in the R-1 Zoning District.

10. §175-16.H-12 defines an in-law suite. The stated intent of this section is “...to allow for related family members to reside on the premises, but to prohibit the creation of for-profit apartments in districts where multi-family housing is otherwise permitted.”

11. This Ordinance section enumerates nine (9) conditions which must be met by the Applicant in order to justify the special exception sought for an in-law suite use.

12. The evidence presented by the Applicant satisfies the Board that he has met the conditions enumerated at §175-16.H-12.b-g inclusive.

13. Further, the Applicant agrees to the requirement of registration set forth for an in-law suite use in §175-16.H-12.h.

14. As to §175-16.H-12.i, the property is served by public water and sewer and, accordingly, certification from the Bucks County Board of Health is not required.

15. §175-16.H-12.a requires that the in-law suite be limited in size to 25% of the usable floor area of the principal residence, not including the garage. The Application proposes that the in-law suite constitute 32.3% of that area.

16. Mindful of his obligation to preclude the use of the in-law suite as a for-profit rental unit in the future, the Applicant has agreed that when the in-law suite is no longer necessary for use by his elderly relatives, the small original kitchen will be removed from the property so that the kitchen constructed as part of this proposal will be the only kitchen that will remain in the house for use by his daughter’s family.

17. Other than the variance sought, the proposed construction meets all other applicable requirements of the Ordinance.

18. Doylestown Township took no position with regard to this Application.

CONCLUSIONS OF LAW:

1. The use of a portion of a residential property as an in-law suite for related family members of the owners is encouraged by §175-16.h-12.

2. The Applicant has evidence compliance with eight (8) of the conditions necessary to meet the definition of an in-law suite.

3. The size of the in-law suite, at 1072 sq. ft., is logical and reasonable, and the minimum size that can accommodate the in-law suite given the location of the original kitchen.

4. The elevations submitted by the Applicant evidence that the aesthetic appearance of the home will be improved by the addition.

5. The variance, if approved, will permit an additional 133 sq. ft. of floor area for the in-law suite than permitted under the Ordinance, which will have no negative impact upon surrounding properties or uses.

6. As the subject property is located in a neighborhood of residential homes, the appearance of the structure, after the improvements, will remain to be that of a single family home and ultimately, when the in-law suite is no longer necessary, it will be converted to a single family home with only one (1) kitchen.

7. Accordingly, the Doylestown Township Zoning Hearing Board determined, unanimously, to grant the relief requested by the Applicant set forth hereafter.

WHEREFORE, on this 1st day of September, 2010, the Zoning Hearing Board of Doylestown Township GRANTS a special exception to the Applicant pursuant to §175-37.B of the Doylestown Township Zoning Ordinance, in order to allow a portion of the property to be utilized as an in-law suite. Further, it grants a variance from §175-16.H-12.a in order to exceed the 25% limitation on floor area of the in-law suite so as to permit the in-law suite to be 1,213 sq. ft. in size. All relief granted herein is subject to compliance to all other applicable Ordinances and regulations.

**ZONING HEARING BOARD OF
DOYLESTOWN TOWNSHIP**

Dated: September 1, 2010

By: W. Andrew McPherson, Isl
W. Andrew McPherson, Chairman

William J. Lahr, Isl
William J. Lahr

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.