

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

Application No. Z-4-2020

Applicant: Edward Devlin
304 Bunker Hollow Road
Doylestown, PA 18901

Owner: Same.

**Subject
Property:** Tax Parcel No. 09-020-099 which is located at the address of the Applicant set forth above.

**Requested
Relief:** Applicant seeks to construct an in-ground swimming pool with customary amenities. Construction of the pool, as proposed, will result in impervious surface coverage on the subject lot in excess of the 20% allowed under §175-38 of the Doylestown Township Zoning Ordinance (“Ordinance”). Applicant seeks a variance accordingly.

**Hearing
History:** The application was filed in Doylestown Township on June 4, 2020. The hearing was held on June 25, 2020 at the Doylestown Township Building, 425 Wells Road, Doylestown, PA 18901.

Appearances: Applicant, Pro Se'

Mailing Date: August 7, 2020

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. It accommodates the Applicant's single-family detached dwelling.

4. The Land Development Plan for the development in which the Subject Property is located was prepared, reviewed and approved under a stipulated Court Order dated March 20, 1986. The stipulated Court Order did address certain bulk requirements for the properties within the development. Impervious coverage was not addressed in the Court Order.

5. Applicant testified that he and his family live at the Subject Property. The family would like to have installed an in-ground swimming pool. Applicant contemplates a fiberglass swimming pool. Applicant prepared his own impervious surface calculations and presented a Google Earth image, but no formal site plan.

6. Based upon the Applicant's testimony, the Board finds, subject to further confirmation through the condition at the end of this Decision, that the property at issue carries no deed restrictions and no protected natural areas or preserved open space. Same is relevant to calculation of "net buildable site area" as the foundation for "impervious surface ratio."

7. Applicant indicated that by performing the calculations consistent with the Doylestown Township Zoning Ordinance, he concluded that the total property square footage was 15,752 square feet. He did not subtract any square footage for easements, deed restrictions, or open space, as above. 20% of the 15,752 square feet yields an allowable impervious surface coverage of 3,150 square feet. Applicant calculated the existing impervious surface as: house 1,723; driveway 1,024; sidewalks 162; patio 740; total 3,649 square feet (23.16% impervious surface ratio).

8. The existing impervious surface ratio on-site is 23.16% as a result of Applicant installing interlocking pavers. Applicant obtained a permit, but was not advised that he exceeded impervious surface coverage.

9. Applicant intends to add 720 square feet of impervious surface for a concrete pool area adding 720 to the total existing of 3,649 yields for 4,369 square feet of impervious surface (27.7% of 15,752 square feet). Accordingly, Applicant is requesting variance to exceed the 20% impervious surface coverage allowable by 7.7%.

10. Applicant indicated that there are no stormwater problems on this particular lot.

11. Several of the neighboring property owners offered testimony and comment. The comment essentially confirmed that a rather considerable stormwater swale runs across the rear of the Subject Property. The neighbor to the rear, Mr. Philip Iannuzzi, 322 Bunker Hollow Road, indicated that he does experience a wet lot as a result of the flow from the existing swale. Ms. Jane Blanchfield, 320 Bunker Hollow Road, is downhill from the Devlin property. Ms. Blanchfield suggests that the Zoning Hearing Board did not have enough information to conclude that an impervious surface variance was warranted. Ms. Blanchfield has lived in her home for 25 years. She is concerned regarding downhill stormwater flow. Mr. Ryan Morris, 312 Bunker Hollow Road, also testified regarding the stormwater flow through the neighborhood.

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

CONCLUSIONS OF LAW

1. The Subject Property has been developed and used as is permitted by right in the R-1 Zoning District.
2. The Doylestown Township Zoning Ordinance at §175-38, allows a maximum of 20% impervious surface coverage. Applicant calculates post-construction impervious surface coverage at 27.7%, after adding the pool.
3. Based upon the plans submitted, and the testimony offered, the Zoning Hearing Board assumes that the Owners, who appeared *Pro Se*, have calculated the percentage of impervious surface area using net buildable site area. The Zoning Hearing Board accepts the calculations as presented, subject to the condition which follows.
4. The Applicant has presented evidence of sufficient factors to warrant the grant of the dimensional variance requested.
5. 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. Important to this conclusion is the fact that Applicant has agreed to have a stormwater management plan reviewed and approved by the Township as part of the pool permitting process.
6. The evidence establishes that the relief sought by the Applicant is the minimum variance necessary. The Board observes that the Applicant is proposing a modest sized fiberglass swimming pool, adding as little impervious surface as possible.
7. The variance sought will not alter the essential character of the neighborhood or district in which the Subject Property is located. Applicant testified that placement of the pool would not impact existing stormwater flows to the rear of the property. This testimony will be addressed through a condition upon which relief is granted.
8. Accordingly, the Doylestown Township Zoning Hearing Board determined, unanimously, to grant relief to the Applicant and the Subject Property as is set forth hereafter.

ORDER

Upon consideration and after hearing, the Zoning Hearing Board of Doylestown Township hereby GRANTS a variance from §175-38 of the Doylestown Township Zoning Ordinance in order to permit the Applicant to construct an in-ground swimming pool on the Subject Property with an impervious surface coverage of up to 27.7%, where 20% permitted.

The relief herein granted is subject to the following conditions:

1. Applicant must have prepared a stormwater management plan, by a licensed professional, to be reviewed by the Township Engineer, to account for and manage the stormwater for the impervious surface greater than 20%.
2. Compliance with all other applicable governmental ordinances and regulations.

By: /s/ William J. Lahr
William J. Lahr, Chairman

/s/ Mitchell Aglow
Mitchell Aglow, Vice Chairman

/s/ Samuel Costanzo
Samuel Costanzo, 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.

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

Application No. Z-1-2020

Applicant: Mark Neill
2609 Pickertown Road
Warrington, PA 18976

Owner: Same.

Subject Property: Tax Parcel No. 09-017-058 which is located at 1846 S. Easton Road, Doylestown, PA 18901.

Requested Relief: The Applicant seeks to use the existing building, located in the C-1 Commercial District, as a residential duplex. The Doylestown Township Zoning Ordinance (“Ordinance”) provides for a use “B-3 Two-family detached dwelling (duplex)”, but not within the C-1 Commercial District. Applicant seeks a variance from §175-67.A, to allow the use.

Hearing History: The application was filed in Doylestown Township on February 27, 2020. The hearing was held on June 25, 2020 at the Doylestown Township Building, 425 Wells Road, Doylestown, PA 18901.¹

Appearances: Applicant, Pro Se'

Mailing Date: August 7, 2020

¹ Applicant was provided with an Act 15 notice, among other things, notifying Applicant that the hearing timeframes under MPC §908(1.2) were tolled or suspended as a result of the COVID-19 emergency declaration. Applicant further signed a waiver of the first hearing timeframes to accommodate the stay at home orders and social distancing protocols of the COVID-19 health emergency.

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 C-1, Commercial Zoning District of Doylestown Township.
4. The property is 100.28 feet in width at the front lot line, and in excess of 245 feet in depth, slightly irregularly shaped. The property is currently improved by a dwelling, which Applicant represents has been used as a two unit residential rental, along with an existing macadam driveway and a garage to the rear of the existing driveway.
5. Applicant testified that the building on-site was previously used as two residential units, with four parking spaces available. The present building is in disrepair. The present building is served by public water, and an on-lot sewage system.
6. Applicant owns the building next door to the Subject Property, at 1844 S. Easton Road.
7. Applicant indicated that the area has multiple residential duplexes, including the present property at 1846 S. Easton Road, and 1840, 1850, and 1852 S. Easton Road.
8. Applicant indicates that he has spoken to his neighbors. No neighbor voiced opposition. Applicant did submit several letters corroborating his representation.
9. Applicant is aware that he will be required to address building code and fire code issues with regard to obtaining a Use and Occupancy Permit for a two unit residential building.
10. Discussion ensued regarding a detached garage, measuring approximately 105' x 20' to the rear of the dwelling and macadam driveway. The Zoning Hearing Board insisted that the garage use be limited to personal use, and not commercial rental space.
11. No one spoke in opposition to the application.
12. Doylestown Township took no position with regard to this application.

CONCLUSIONS OF LAW

1. The Subject Property is located within the C-1 Commercial Zoning District.
2. A B-3 two-family detached dwelling (duplex) is not permitted within the C-1 Commercial District. Applicant seeks a variance from §175-67.A to allow the B-3 duplex use.
3. A B-3 use is defined as “Two-family detached dwelling (duplex). Such uses shall be served by public water and public centralized sewage systems.” (§175-16.B(3)). The property at issue is served by public water, but an on-lot sewage system and not a public centralized sewage system. Applicant seeks a variance from this provision of the Ordinance.
4. The Applicant has presented evidence of sufficient factors to warrant the grant of the variances requested.
5. 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. In so concluding, the Zoning Hearing Board observes that multiple other residential duplexes are located in the area immediately adjacent to the Subject Property.
6. The variance sought will not alter the essential character of the neighborhood or district in which the Subject Property is located. In so concluding, the Zoning Hearing Board observes that multiple other residential duplexes are located in the area immediately adjacent to the Subject Property.
7. The evidence establishes that the relief sought by the Applicant is the minimum variance necessary. In so concluding, the Zoning Hearing Board observes that the request for relief essentially ratifies the status quo. Through conditions, which follow, the Zoning Hearing Board has mitigated potential impact of the variances granted.
8. Accordingly, the Doylestown Township Zoning Hearing Board determined, unanimously, to grant relief to the Applicant and the Subject Property as is set forth hereafter.

ORDER

Upon consideration and after hearing, the Zoning Hearing Board of Doylestown Township hereby GRANTS the following variances from the Doylestown Township Zoning Ordinance in order to permit the Applicant to use the existing building located in the C-1 Commercial District as a residential duplex:

1. from §175-67.A, to allow the B-3 duplex use within the C-1 Commercial District; and
2. to allow the B-3 duplex use without being served by a public centralized sewage system.

The relief herein granted is subject to the following conditions:

1. Prior to issuance of a building permit, Applicant must obtain certification from the Bucks County Health Department as to the suitability of the on-lot septic system to serve the two units and four rooms at issue.
2. The accessory storage building shall be limited to personal use, and not used as a commercial rental storage unit.
3. Compliance 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, Vice Chairman

/s/ Samuel Costanzo
Samuel Costanzo, 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.