

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

Applicant: ABH Builders, Inc.
775 Penllyn Blue Bell Pike
Blue Bell, PA 19422

Owners: Glenn J. and Pamela A. Gianni
418 Pebble Hill Road
Doylestown, PA 18901

Subject Property: Tax Parcel No. 09-009-078, which is located at the address of the Owners set forth above.

Requested Relief: Applicant seeks to construct a single-family dwelling upon an existing lane lot. In order to construct the dwelling, Applicant seeks relief from the maximum impervious coverage requirement and minimum lane lot front and side yard setback requirements of the Doylestown Township Zoning Ordinance (“Ordinance”). Specifically, §175-38 permits up to 20% impervious surface coverage. Applicant proposes 26% and requests a variance accordingly.¹ §175-17G requires a front yard setback of 100 feet and side yard setback of 50 feet on each side of the dwelling for flag lots. Applicant seeks variances from the setback provisions of §175-17G of the Ordinance. Applicant further asserts that the lot is lawfully nonconforming as to lot size, minimum lane lot width, and minimum lot width at the building setback line.

Hearing History: The application was filed in Doylestown Township on September 6, 2022. The hearing was held on October 17, 2022 at the Doylestown Township Building, 425 Wells Road, Doylestown, PA 18901.

Appearances: Applicant by: Kimberly A. Freimuth, Esq.
Spruce Law Group, LLC
1622 Spruce Street
Philadelphia, PA 19103

¹ While the application requested a proposed 26% impervious surface coverage ratio, Applicant’s Sketch Plan calculated the impervious surface ratio based upon the net buildable site area following the addition of 4,695 square feet in impervious surface coverage at 30.9%. Applicant seeks a variance consistent with the calculations contained within Exhibit A-5, the Sketch Plan prepared by Holmes Cunningham, dated August 4, 2022.

Michelle Wass &
Franklin Caldwell by:
TMP: 09-009-073
412 Pebble Hill Road
Doylestown, PA 18901

G. Michael Carr, Esq.
Eastburn and Gray, P.C.
60 E. Court Street
Doylestown, PA 18901

Nicholas Jasionis,
TMP: 09-009-074
410 Pebble Hill Road
Doylestown, PA 18901

Pro Se

Mark & Meghan Lindenmuth,
TMP: 09-009-076
408 Pebble Hill Road
Doylestown, PA 18901

Pro Se

Theresa & Fergus Castree,
TMP: 09-009-073-001
411 Pebble Hill Road
Doylestown, PA 18901

Pro Se

Seth Fisher & Kelly Kampf,
TMP: 09-009-077
416 Pebble Hill Road
Doylestown, PA 18901

Pro Se

Mailing Date: December 1, 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 equitable Owner of the Subject Property under Agreement of Sale and therefore possessed of the requisite standing to make application to this Board.

3. The following exhibits were marked and admitted:

Zoning Hearing Board Exhibits:

ZHB-1: Application filed September 6, 2022, with Sketch Plan, prepared by Kristin Holmes, P.E., of Holmes Cunningham LLC, dated August 4, 2022.

- ZHB-2: Legal notice of the October 17, 2022 hearing.
- ZHB-3: Doylestown Township Zoning Ordinance.

Applicant Exhibits:

- A-1: Deed to the Subject Property in favor of Glenn J. Yanni and Pamela A. Yanni (husband & wife).
- A-2: First and last page of Agreement of Sale for the Property, between ABH Builders and Glenn J. Yanni and Pamela A. Yanni.
- A-3: C.V. of Ben Barland, P.E., Holmes Cunningham LLC.
- A-4: Aerial Plan of the Property (Google Map).
- A-5: Sketch Plan, prepared by Holmes Cunningham LLC, dated August 4, 2022.
- A-6: Prior Deed from Packer to Fratrick (1971).
- A-7: Sanitary Sewer Easement in favor of Mary E. Fratrick, 416 Pebble Hill Road (Grantee).
- A-8: PaDEP Sewer Approval Letter (indicating in part: “The project will be connected to the Bucks County Water and Sewer Authority collection system and will generate 250 gallons of sewage per day to be treated at the Bucks County Water and Sewer Authority’s Green Street Wastewater Treatment Facility.”)
- A-9: Access Easement.
- A-10: Rendering of proposed dwelling.

Protestant Exhibit:

- P-1: Six photographs of forested area to the rear of the Subject Property as taken from the adjacent Caldwell property looking toward Route 202 through the wooded area to the rear of the Subject Property.

4. The Subject Property is located in the R-1, Residential Zoning District of Doylestown Township. Gross lot area is 32,775 square feet. The property is currently vacant.

5. Applicant seeks to construct a single-family dwelling upon an existing lane lot. In order to construct the dwelling, applicant seeks relief from the maximum impervious coverage requirement and minimum lane lot front and side yard setback requirements of the Doylestown Township Zoning Ordinance. Specifically, §175-38 permits up to 20% impervious surface coverage. Applicant proposes 30.9% and requests a variance accordingly. §175-17G requires a front yard setback of 100 feet (not including the lane) and side yard setback of 50 feet on each side of the dwelling for flag/lane lots. Applicant seeks variances from the setback provisions of §175-17G of the Ordinance.

6. Applicant further asserts that the lot is a lawful preexisting nonconforming lane lot as to lot size, minimum lane lot width, and minimum lot width at the building setback line.

7. The relevant portions of the Ordinance defining “lane lot” follow:

175-17 Dimensional requirements.

G. Flag or lane lots (lots which do not have frontage directly on a public road but which have access by means of a strip of land or lane connecting the lot to the road) shall not be permitted, except under the following conditions:

[Amended 11-22-1994 by Ord. No. 242]

(1) Lane lots will be permitted for single-family detached units only.

(2) The minimum lot size shall be 80,000 square feet with at least 100 feet, 50 feet and 100 feet front, side and rear yards, respectively, regardless of the minimum lot requirements which may apply to the district in which the lot is located, unless the requirements require a larger lot, then the larger lot size requirement shall apply.

[Amended 4-14-2004 by Ord. No. 317]

(3) The minimum lot area is exclusive of the area of the lane or pole.

...

(6) Each lane lot shall have its own lane which shall be owned by the lot owner in fee.

...

(8) The width of the lane portion of the lot may not be less than 50 feet.

...

(10) The front yard setback for a lane lot shall be a distance equal to the front yard requirements for the district in which the lot is located and shall be measured from the point where the lot first obtains the minimum required lot width.

8. The lane width is 20.05 feet, where 50 feet is required under §175-17G of the Ordinance. The lot width at the building line is 80 feet, where 150 feet is required by §175-17G of the Ordinance. Gross lot area is 32,775 square feet, where 80,000 square feet is required under §175-17G of the Ordinance

9. The chain of title addressed during the hearing held, illustrates that the property was created in 1949, prior to the enactment of the Doylestown Township Zoning Ordinance in its present configuration. Lot area, lane lot width and lot width at the building setback line represent lawful preexisting nonconformities.

10. The property is surrounded by residential properties. It takes access from Pebble Hill Road by way of the aforementioned lane. The rear of the lot is wooded. To the other side of the woods is Route 202, a state highway. (See Exhibit A-4, Aerial Plan of the property; and A-5, Sketch Plan, prepared by Holmes Cunningham LLC, dated August 4, 2022).

11. Applicant proposes a single-family dwelling with a pool and patio and sanitary sewer connection. See Exhibit A-5, Sketch Plan.

12. Arthur B. Herling, owner of ABH Construction testified in support of the application. Mr. Herling is the equitable owner of the property. Mr. Herling spent considerable time during his testimony talking about a sanitary sewer easement in favor of the Subject Property (see Exhibit A-7, Sanitary Sewer Easement). Mr. Herling also discussed the prospect of connecting to public sewer through an existing stub above grade. Mr. Herling discussed his understanding of the history of the “shared” sewer line.

13. At present, each adjacent property owner served by public sewer is responsible for his/her own line. Mr. Herling’s concept is to convey and dedicate the lines to the Bucks County Water and Sewer for maintenance responsibility. The nature and status of the sanitary sewer easement and the Herling concept has not been resolved at the time of the present hearing and the precise disposition of that issue is not necessary for disposition of the zoning question at issue. The Zoning Hearing Board has imposed a condition to the grant of the present relief requiring the property Owner to address the method of sewage disposal.

14. Adjacent property owner Michelle (Wass) Caldwell testified largely to identify potential conditions which would mitigate the impact of development of the nonconforming lot. Ms. Caldwell offered photographs which illustrate a rather dense forest buffer between her property and the State Route 202 immediately adjacent to the Subject Property. Ms. Caldwell indicated removal of this forested area would increase noise, create negative sight lines and possibly cause safety issues due to the proximity to State Route 202.

15. Due to the existing dimensions of the site, the nature of a flag lot as treated under the Doylestown Township Zoning Ordinance, and the physical features on the lot, strict compliance with the dimensional aspects of the Zoning Ordinance is not possible.

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

CONCLUSIONS OF LAW:

1. The Subject Property represents a lawful preexisting nonconforming lane lot as to lot area, lane lot width and lot width at the building setback line. *Cf.* §175-17G of the Ordinance.

2. Applicant seeks to construct a single-family dwelling upon the existing lane lot. In order to construct the dwelling, applicant seeks relief from the maximum impervious coverage requirement and minimum lane lot front and side yard setback requirements of the Doylestown Township Zoning Ordinance. Specifically, §175-38 permits up to 20% impervious surface coverage. Applicant proposes 30.9% and requests a variance accordingly. §175-17G requires a front yard setback of 100 feet and side yard setback of 50 feet on each side of the dwelling for flag lots. Applicant seeks variances from the setback provisions of §175-17G of the Ordinance. Applicant further asserts that the lot is lawfully nonconforming as to lot size, minimum lane lot width, and minimum lot width at the building setback line.

3. Due to the long narrow nature of the Subject Property, and the extensive “lane” from Pebble Hill Road to the rear of the Fisher/Kampf property, directly between Pebble Hill Road and the widest aspect of the Subject Property, and the heavily forested rear aspect of the lot, the Zoning Hearing Board considers the lot burdened by hardships driven by the physical features of the lot. Strict compliance with the lane lot provisions of the Ordinance to permit a single-family detached dwelling are impossible to meet. Impervious surface coverage is driven higher by the long lane and the undersized nature of the lot.

4. 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).

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.

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

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

8. 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 §175-38 and §175-17G of the Doylestown Township Zoning Ordinance to permit Applicant to construct a single-family dwelling upon the Subject Property. The relief granted includes a variance of up to 30.9% impervious surface coverage (as calculated consistent with Exhibit A-5, the Holmes Cunningham Sketch Plan, based upon net buildable site area of 20,119 square feet and the increase in impervious surface area of 4,695 square feet based upon those plans), where §175-38 of the Ordinance permits up to 20%, and a variance to permit side yard setbacks at 25.1 feet each, and a front yard setback of 65.4 feet. The Board further confirms that the lot is a lawfully nonconforming lane lot as to lot size, lane lot width, and minimum lot width at the building setback line. All relief is subject to the following conditions:

1. Applicant is to leave the rear aspect of the lot wooded as reflected on Exhibit A-5 to serve as a buffer for adjacent properties.
2. Applicant is to address the increase in impervious surface coverage as reflected on the plans submitted consistent with Doylestown Township regulations and further subject to Township approval. Applicant must mitigate stormwater to address all impervious surface coverage greater than 20%, using the site area calculations contained within Exhibit A-5, August 4, 2022 Holmes Cunnig Sketch Plan (gross site area 35,878 square feet; net buildable site area of 20,119 square feet; existing impervious surface coverage of 1,531 square feet; increase in impervious surface of 4,695 square feet, yielding total proposed impervious of 6,226 square feet; 30.9% of net buildable site area as calculated by Holmes Cunningham).
3. The house shape and location shall provide not less than 65.4 foot front yard (as measured from the rear lot line of the Fisher/Kampf property and not less than a 25.1 foot side yard (each side), consistent with Exhibit A-5).
4. The sanitary sewer line must be dedicated to Bucks County Water and Sewer or an alternative system must be approved by Bucks County Water and Sewer or the Bucks County Department of Health.
5. Applicant must comply in all other respects 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

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

Applicants: Vanessa Schmid & Jason Garretson
10 Bridle Drive
Furlong, PA 18925

Owners: Same.

**Subject
Property:** Tax Parcel No. 09-041-053, which is located at the address of the Applicants set forth above.

**Requested
Relief:** Applicants seek to convert an existing attached garage into an accessory family apartment. Accessory family apartments are permitted within the R-1 Residential Zoning District of Doylestown Township by special exception, pursuant to §175-37.B H-12 of the Doylestown Township Zoning Ordinance. Applicants seek a special exception accordingly.

**Hearing
History:** The application was filed in Doylestown Township on September 15, 2022. The hearing was held on October 17, 2022 at the Doylestown Township Building, 425 Wells Road, Doylestown, PA 18901.

Appearances: Applicants, *Pro Se*

Mailing Date: December 1, 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 Applicants are the Owners 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 47,132 square feet. The property accommodates the Applicants' single-family dwelling.
4. By Decision rendered August 01, 2022, the Doylestown Township Zoning Hearing Board granted Applicants' request to permit Applicants to construct a detached garage within one of the front yard set backs on the Subject Property. During the hearing to consider the dimensional relief, Applicants mentioned potentially converting the existing attached garage into an in-law suite. The ZHB specifically identified the issue, but took no action regarding the potential in-law suite in that the issue had not been properly or formally been placed before them. See Exh. ZHB-4 August 01, 2022, ZHB Decision..
5. Applicants now formally seek to convert the existing attached garage into an accessory family apartment. Accessory family apartments are defined at §175-16(12) of the Doylestown Township Zoning Ordinance, and are permitted within the R-1 Residential Zoning District of Doylestown Township by special exception, pursuant to §175-37.B H-12 of the Doylestown Township Zoning Ordinance. Applicants seek a special exception accordingly.
6. Applicants addressed each of the specific elements of §175-16(12) of the Ordinance, and verified compliance at present and in the future with those elements.
7. Applicants submitted a floor plan delineating the additional living space to be designated to the accessory family apartment.
8. The accessory family apartment is to be used by parents of the adult children living in the primary residence.
9. No one spoke in opposition to the application.
10. 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, and subject to the previous zoning relief granted.

2. Applicants have met their burden to satisfy 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. Cmwlt. 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 were no objecting witnesses to present proof 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. Cmwlt. 1989).

3. Accordingly, the Doylestown Township Zoning Hearing Board determined, unanimously, to grant the Applicants' request for relief, as is set forth hereafter.

ORDER

Upon consideration and after hearing, the Zoning Hearing Board of Doylestown Township hereby GRANTS a special exception permitted under §175-37.B H-12 of the Doylestown Township Zoning Ordinance subject to compliance with the specific criteria outlined in §175-16(12), subject to the following conditions.

1. The use shall be generally consistent with the testimony and documentary evidence presented during the hearing held.
2. Applicants must provide to the Township a more detailed floor plan, consistent with the testimony offered, in a recordable format to support the recording contemplated by §175-16(12).
3. Applicants shall comply, in all other respects, with the Rules and Regulations of the Township, County, and Commonwealth.

**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