

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

Docket No.: Z-7-23

Applicant: Mark Roszkowski
1815 Pinnacle Drive
Warrington, PA 18976

Owner: Same.

Subject Property: Tax Parcel No. 09-022-110-002, which is located at the address of the Applicants set forth above.

Requested Relief: Applicant seeks to construct a single-family dwelling on the subject lot. In order to facilitate construction, Applicant seeks the following variances from the Doylestown Township Zoning Ordinance: (1) from §175-33, to allow an impervious surface ratio of 19.5% for a single-family dwelling; (2) from §175-34 (via §175-16.H(3)(d)[2] and §175-17.F(1)), to permit a 12.57 foot side yard setback for the residential accessory structure; (3) from §175.27.D(6)(b)[1], to allow for more than 40% of the total area of slopes of 15% to 24% to be developed and/or regraded; and, (4) from §175-27.D.(6)(b)[2], to allow for more than 15% of the total area of slopes in excess of 25% to be developed and/or regraded.

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

Appearances: Applicant by: Paul R. Cohen, Esq.
Curtin & Heefner, LLP
1040 Stony Hill Road, Suite 150
Yardley, PA 19067

Mailing Date: October 6, 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 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-1A, Residential Zoning District of Doylestown Township. The lot area is 1.936 acres (gross). The lot size represents a pre-existing lawful non-conformity. Two (2) acres is required in the R-1A District. The property is presently vacant.
4. Applicant seeks to construct a single-family dwelling on the subject lot. In order to facilitate construction, Applicant seeks the following variances from the Doylestown Township Zoning Ordinance: (1) from §175-33, to allow an impervious surface ratio of 19.5% for a single-family dwelling; (2) from §175-34 (via §175-16.H(3)(d)[2] and §175-17.F(1)), to permit a 12.57 foot side yard setback for the residential accessory structure; (3) from §175.27.D(6)(b)[1], to allow for more than 40% of the total area of slopes of 15% to 24% to be developed and/or regraded; and, (4) from §175-27.D.(6)(b)[2], to allow for more than 15% of the total area of slopes in excess of 25% to be developed and/or regraded.
5. The Subject Property is oddly shaped, resulting in awkward side yards. It borders a riparian corridor reducing the available building envelope. It has steep slopes within the building envelope.
6. Based upon the existing features of the property, the Zoning Hearing Board finds that the property could not be reasonably developed for a permitted single-family dwelling while fully complying with all aspects of the Doylestown Township Zoning Ordinance.
7. To the west of the Subject Property is another residential tract (approximately ten acres in size). To the east is open space. The other two lot lines are bordered by the Unami Creek and Pebble Hill Road respectively.
8. The lot is partially forested.
9. Net buildable site area after removing land within the road and ultimate right of way, as well as land containing resource protection, is 0.728 acres, as calculated by Applicant and reflected on the zoning variance exhibit plan dated June 6, 2023 prepared by Urwiler & Walter Inc.
10. The property contains multiple steep slopes. As a result of the site constraints, Applicant has placed the proposed single-family dwelling, with a footprint

of 1,538 square feet, and the adjacent proposed detached garage (640 square feet) to the center of the site with a macadam driveway leading to the structures and a septic area to the rear of the structures. A small lawn has been constructed for one side of the proposed dwelling.

11. Applicant has attempted to reduce disturbances by compacting the improvements to as small a footprint as practicable.

12. Applicant indicated that disturbance via grading for the improvements will not produce negative impacts on neighboring properties.

13. Applicant has proposed construction of the detached garage in an area where the side lot line between the proposed garage and the neighbor's property is heavily buffered.

14. During the course of the hearing, there was discussion regarding a channel on the lot. The Board questioned whether the channel represented a stream or regulated water course. Applicant indicated that the channel was an erosion channel, but was not on any riparian map.

15. Applicant's experts indicated that the placement of the structures is the only possible area for such placement. Applicant characterized the footprint of the structures as "modest".

16. Next door neighbor, Mr. Christopher Bertelo, discussed significant stormwater concerns. Mr. Bertelo's home is located on the adjacent parcel, but some 600-800 feet from Pebble Hill Road, and behind a barn located on the plan. Accordingly, the Zoning Hearing Board considered the existing vegetative buffer a reasonable screen between the two residential properties.

17. No one spoke in opposition to the application.

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

CONCLUSIONS OF LAW:

1. The Subject Property is a vacant lot, non-conforming to site area. Doylestown Township Zoning Ordinance §175-31 requires a two (2) acre gross site area minimum. The gross site area for the lot is 1.936 acres.

2. Applicant seeks to construct a single-family dwelling on the Subject Lot. A single-family dwelling is permitted by right within the R-1A Residential Zoning District, pursuant to §175-32.A. Similarly, a residential accessory structure (detached garage), is permitted pursuant to §175-16.H(3) of the Ordinance.

3. As mentioned above, Applicant requires variance relief for impervious surface coverage, side yard setback relief for the detached garage and steep slope disturbance variances.

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 existing natural features onsite produce hardships which make compliance with the Ordinance impractical.

6. 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.

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

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

9. 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 the requested variances to permit Applicant to construct a single-family dwelling on the subject lot. Specifically, the Zoning Hearing Board grants the following variances: (1) from §175-33, to allow an impervious surface ratio of 19.5% for a single-family dwelling; (2) from §175-34 (via §175-16.H(3)(d)[2] and §175-17.F(1)), to permit a 12.57 foot side yard setback for the residential accessory structure; (3) from §175.27.D(6)(b)[1], to allow for more than 40% of the total area of slopes of 15% to 24% to be developed and/or regraded; and, (4) from §175-27.D.(6)(b)[2], to allow for more than 15% of the total area of slopes in excess of 25% to be developed and/or regraded. The relief granted is subject to the following specific condition(s):

1. The Township Engineer is to review the plan, at Applicant's expense, to assure that the township road master is not overburdened by stormwater discharge at Pebble Hill Road. (A professional services agreement and escrow may be required.)
2. Due to the reduced side yard setback, Applicant is to maintain a vegetative buffer no less than as shown on the plan (along the Bertelo lot).
3. Applicant shall have an environmental consultant evaluate the presence or absence of regulated waters or wetlands on the property.
4. Applicant is to obtain and review a title report to determine the presence or absence of additional easement areas or covenants which would affect development.
5. Applicant shall otherwise comply with all rules and regulations of those entities having jurisdiction.

Thomas E. Panzer, Solicitor
Doylestown Township
Zoning Hearing Board
High Swartz LLP
116 East Court Street
Doylestown, PA 18901
(215) 345-8888

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

/s/ Mitchell Aglow
Mitchell Aglow, Vice Chairman

/s/ Samuel Costanzo
Samuel Costanzo, Secretary