

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

Docket No.: Z-21-23

Applicant: Annemarie Kieser
7 Greenway Drive
Doylestown, PA 18901

Owner: Same.

**Subject
Property:** Tax Parcel No. 09-004-083-004, which is located at the address of the Applicant set forth above.

**Requested
Relief:** Applicant seeks to place a fence within a stormwater easement. §175-16H-3(c)(3) of the Doylestown Township Zoning Ordinance prohibits fences within public or private easements. Applicant seeks a variance accordingly.

**Hearing
History:** The application was filed in Doylestown Township on November 16, 2023. The hearing was held on December 18, 2023 2023 at the Doylestown Township Building, 425 Wells Road, Doylestown, PA 18901.

Appearances: Applicant, *Pro Se*

Mailing Date: February 1, 2024

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 R2B, Residential Zoning District of Doylestown Township. The lot area is 19,918.2 square feet. The property accommodates the Applicant's single-family dwelling with customary residential amenities.
4. Applicant seeks to place a fence within a stormwater easement.
5. Along the side property line runs a 20 foot wide storm sewer easement, 10 feet on Applicant's property and 10 feet on the adjacent property. The easement accommodates an underground water quality infiltration inlet which runs perpendicular to the side lot line.
6. The proposed fence along the side lot line runs directly through the middle of the easement lengthwise as far as the easement runs toward the rear corner of Applicant's yard.
7. §175-16H-3(c)(3) of the Doylestown Township Zoning Ordinance prohibits fences within public or private easements. Applicant seeks a variance accordingly.
8. Applicant testified that fencing the rear yard would provide for greater use of the rear yard and access to the rear yard.
9. Applicant is willing to have the fence installed in removable sections to accommodate access by the easement holder as needed.
10. Applicant testified that other property owners in the area have similar fences within the easement, including Applicant's neighbor.
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 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.H(3)(c)[3] of the Doylestown Township Zoning Ordinance to permit Applicant to place a fence in the rear yard of the single-family dwelling encroaching upon the storm sewer easement running along the side lot line and toward the rear of the property perpendicular to that lot line, subject to the following specific 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 install the fence with adequate space, to be determined by the Township, between the existent fence and the proposed fence for access by landscaping maintenance services.
6. Applicant must obtain all appropriate permits prior to construction of the fence. This condition includes applying for a fence permit with Doylestown Township.
7. Compliance with all other applicable governmental ordinances and regulations.

Thomas E. Panzer, Esq.
Michael A. Luongo, Esq.
Solicitors
Doylestown Township
Zoning Hearing Board
High Swartz LLP
116 East Court Street
Doylestown, PA 18901
(215) 345-8888
E-Mail: tpanzer@highswartz.com
mluongo@highswartz.com

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