

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

**Docket No.:** Z-22-23

**Applicant:** Brixmor Property Group  
200 Ridge Pike, Suite 100  
Conshohocken, PA 19428

**Owners:** Tax Parcel No. 09-014-037-002  
Kranzco Realty Trust  
2424 Ridge Road  
Rockwall, TX 75087

Tax Parcel No. 09-014-037-003  
KRT Property Holdings, Inc.  
c/o Ryan LLC  
500 E. Broward Boulevard, Suite 1130  
Fort Lauderdale, FL 33394

**Subject Property:** Tax Parcel No. 09-014-037-002 and 09-014-037-003, which are located at 1745 S. Easton Road, Doylestown Township.

**Requested Relief:** Applicant seeks to redevelop the Property, informally known as the Barn Plaza shopping center. In so doing, Applicant proposes to redevelop the former theater and Applebee's spaces with six (6) proposed restaurants, four (4) proposed retail shops and one (1) proposed medical office use, along with new and additional signage. Applicant seeks to maintain certain preexisting lawful dimensional nonconformities regarding location of buildings, paving, and buffering, consistent with §175-112.B(4) of the Doylestown Township Zoning Ordinance ("Ordinance"). In addition, or in the alternative, Applicant seeks variances from the bulk dimensional provisions of §175-72.A and §175-21 of the Ordinance to accommodate the new buildings, parking, increased impervious surface coverage, and maintaining existing buffering. Applicant further seeks variances from §175-111.2.F(1) to exceed the number, size, and height of permitted signage; a variance from §175-109.C(3), to permit two (2) proposed pylon signs to be erected on Route 611 with a setback from the street line of 5 feet, instead of the required 10 feet; a special exception under, or a variance from, §175-112.B(3) to exceed the permitted 50% impervious surface coverage; and a variance from §175-16.E(6)(c) to reduce the allowance for drive through vehicle stacking.

**Hearing  
History:**

The application was filed in Doylestown Township on November 27, 2023. The hearings were held on December 18, 2023 and January 25, 2024 at the Doylestown Township Building, 425 Wells Road, Doylestown, PA 18901.

**Appearances:**

Applicant by: Gregg I. Adelman, Esq.  
Kaplin Stewart  
910 Harvest Drive  
Blue Bell, PA 19422

**Mailing Date:**

March 11, 2024

**DECISION**

**FINDINGS OF FACT:**

1. The Zoning Hearing Board of Doylestown Township (“ZHB”) 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 following evidence and witnesses were presented:

- ZHB-1: Initial application filed 11/15/2023 with the following attachments:
  - a. Deed to the Subject Property (08/13/1994) in favor of Kranzco Realty Trust.
  - b. Deed to the Subject Property (11/25/1992) in favor of KRT Property Holdings, Inc.
  - c. Plan set three (3) sheets prepared by Langan Engineering, dated 11/10/2023.
  - d. Schematics and illustration of pylon sign.

ZHB-2: Amended application filed 11/27/2023 with the same attachments as ZHB-1.

ZHB-3: Legal notice of hearings held (12/18/2023 hearing opened and continued to a date certain, to wit, 01/25/2024).

- ZHB-4: Three (3) previous Doylestown Township Zoning Hearing Board Decisions pertaining to the Subject Property.
  - a. 02/26/1987 (granting sign relief).
  - b. 06/19/1987 (denying sign relief).
  - c. 12/29/2006 (granting a variance for natural resources in relation to redeveloping adjacent parcel).

ZHB-5: Continuance request and waiver related to 12/18/2023 hearing.

- A-1: Amended application dated 11/21/2023 (duplicate of ZHB-2)
- A-2: *Curriculum Vitae* Brian Conlon, P.E. (Project Engineer)
- A-3: Aerial of Existing Conditions
- A-4: Zoning Plan
- A-5: Conceptual Renderings and Elevations
- A-6: Overlay of Zoning Plan and Existing Plan
- A-7: Comparison: Proposed vs. Existing Pylon Sign
- A-8: Proposed Pylon Sign Design

Witnesses:

Brian Conlon, P.E., Langan Engineering (Project Engineer)

Bill Greimel, Vice President Re/Development, Brixmor Property Group

3. The Applicant is Brixmor Property Group (200 Ridge Pike, Suite 100, Conshohocken, PA 19428). The Owner of Tax Parcel No. 09-014-037-002 is Kranzco Realty Trust, 2424 Ridge Road, Rockwall, TX 75087 (“Kranzco”). The Owner of Tax Parcel No. 09-014-037-003 is KRT Property Holdings, Inc., c/o Ryan LLC, 500 E. Broward Boulevard, Suite 1130, Fort Lauderdale, FL 33394 (“KRT”). The Applicant is the parent/operating company of Kranzco and KRT, and therefore is possessed of the requisite standing to make application to this Board.

4. The Subject Property is located in the C-2, Commercial Zoning District of Doylestown Township. The Property consists of two (2) parcels and is comprised of approximately 31.043 +/- total acres of land at 1745 S. Easton Road in Doylestown Township (Tax Parcel Nos. 09-014-037-002 and 09-014-037-003) (“Property”). The Property is commonly known as the “Barn Plaza” shopping center.

5. Applicant seeks to redevelop the property, informally known as the Barn Plaza shopping center. In so doing, Applicant proposes to redevelop the former theater and Applebee’s spaces with six (6) proposed restaurants, four (4) proposed retail shops and one (1) proposed medical office use, along with new and additional signage. Applicant seeks to maintain certain preexisting lawful dimensional nonconformities regarding location of buildings, paving, and buffering, consistent with §175-112.B(4) of the Doylestown Township Zoning Ordinance (“Ordinance”). In addition, or in the alternative, Applicant seeks variances from the bulk dimensional provisions of §175-72.A and §175-21 of the Ordinance to accommodate the new buildings, parking, increased impervious surface coverage, and maintaining existing buffering. Applicant further seeks variances from §175-111.2.F(1) to exceed the number, size, and height of permitted signage; a variance from §175-109.C(3), to permit two (2) proposed pylon signs to be erected on Route 611 with a setback from the street line of 5 feet, instead of the required 10 feet; a special exception under, or a variance from, §175-112.B(3) to exceed the permitted 50% impervious surface coverage; and a variance from §175-16.E(6)(c) to reduce the allowance for drive through vehicle stacking.

6. Applicant described the existing parcel and the existing development thereon, including the previous use as the Barn Cinema Theater. The Property has a number of preexisting dimensional nonconformities. In redeveloping the Property, Applicant has attempted to reuse existing building footprints and parking areas so as to reuse existing nonconformities where possible and request the least additional variance from the Ordinance as possible.

7. Applicant did address the fact that the Property consists of two lots. The Ordinance requires a shopping center to be located on one lot and not subdivided. Applicant indicated that the existing two lot condition is essentially a “financial” subdivision, and as a result of certain financing circumstances, Applicant would not be in a position to merge the two lots.

8. The existing theater structure is nonconforming as to rear yard setback. The building is setback at 36.1 feet from the rear lot line. The proposed medical office building is setback at 35.4 feet and the proposed Restaurant E/Retail D/Restaurant F building is setback at 52 feet. The required rear yard setback under §175-72.A(5)(c) is 75 feet.

9. The existing front paving setback for the Property is nonconforming at 5.5 feet. The proposed front paving at the new curb line is 13.2 feet and the proposed minimum front paving setback is 5.9 feet at the existing curb line. The existing rear paving setback is nonconforming at 8.3 feet and will remain. Under §175-23.C(13) of the Zoning Ordinance, the required front, rear and side yards for nonresidential uses may be utilized for the sole purpose of locating parking and accessways thereto to the extent of 50% in distance from the ultimate right-of-way or lot line, except that the parking areas may not occupy the 50% in distance closest to the ultimate right-of-way or lot line. Within the C-2 District only, parking areas may occupy a required rear yard up to 10 feet from the lot line, provided that the use or district does not abut a residential use or residential district; or there is no buffer required pursuant to § 175-21 for the C-2 use.

10. The existing minimum residential buffer is nonconforming at 8.3' and will remain in the Proposed Redevelopment. §175-21.0 of the Zoning Ordinance requires a 30-foot buffer.

11. The existing spaces for the theater parcel are 10' x 18'. §175-23.A.(2) of the Zoning Ordinance permits a theater use in the C-2 Zoning District to reduce the total length of the parking space size from 20 feet to 18 feet for 50% of the total spaces required for the theater use. Parking space width of 10 feet shall be required, however, for all spaces. §175-23.A.(1) of the Zoning Ordinance requires all parking spaces to be 10' x 20'.

12. §175-111.2.F.(1) of the Zoning Ordinance permits one pylon sign along each street frontage of a property. Here, there are two (2) lots, one with frontage on Almshouse Road and Route 611 and the other with frontage on Route 611. Therefore, under §175-111.2.F.(1), a total of three (3) pylon signs are permitted. Currently, there are three (3) pylon signs for the shopping center (two (2) are existing shopping center pylon signs (one (1) on Almshouse Road and one (1) on Route 611) and one (1) Regal Cinema pylon sign on Route 611. However, both of the Route 611 pylon signs are located on the same lot, which is nonconforming. The Applicant proposes to replace the three (3) existing pylon signs. The proposed pylon signs are 30' in height with approximately 300 square feet of signage on each face, approximately 240 square feet of which identifies tenants in the shopping center and approximately 60 square feet of which identifies the shopping center. The maximum sign area for each face under §175-111.2.F of the Zoning Ordinance is 250 square feet.

13. §175-109.C(3) of the Zoning Ordinance requires all signage to be setback from the street line the greater of ten (10) feet of the distance of the height of the sign. The existing pylon sign on Almshouse Road is setback 26.9' feet from the street or property line. The proposed pylon sign on Almshouse Road will maintain that setback. The two (2) proposed pylon signs to be erected on Route 611 will be setback 5' from the street or property line.

14. The existing impervious surface coverage on the Property is 73.1%. §176-72.A(3) of the Zoning Ordinance permits a maximum impervious of 50%. Applicant seeks a special exception under §175-112.B(3) of the Zoning Ordinance or a *de minimis* variance to increase the total impervious coverage by 0.8% to permit a maximum impervious surface coverage of 73.9%.

15. The Zoning Hearing Board is not clear on how Applicant obtained permission to produce 73.1% impervious. A variance will be needed to obtain authority to produce 73.9% impervious surface coverage.

16. Applicant seeks a variance from §175-16.E(6)(c) of the Zoning Ordinance to permit 9 cars in a drive-thru/in stacking lane (for proposed Restaurants B & D) where a minimum of 10 cars is required.

17. Applicant's Exhibit A-4, the Existing Aerial Conditions for the Barn Cinema Property (Figure 1) and the surrounding area including the Barn Cinema Property (Figure 2) illustrate how the existing buildings and nonconformities are reflected on the Subject Property. Applicant points out that the self-storage building located along Route 611 north of the existing theater is actually closer to Route 611 than the existing theater building. See Exhibit A-4.

18. With regard to parking, Applicant indicated that the existing building coverage is 237,688 square feet requiring 1,494 parking spaces, where the proposed application provides 237,132 square feet of building coverage requiring a corresponding 1,465 parking spaces. Applicant complies with the reduced number of parking spaces based upon the square footage calculation, in large part because the theater use required a greater number of parking spaces.

19. Applicant provided renderings of the proposed buildings (Exhibit A-5). Applicant superimposed the proposed buildings onto the Redevelopment Zoning Plan prepared by Langan Engineering to reflect the retaining of certain nonconformities and the additional minor deviations from the Zoning Ordinance requested. See Exhibit A-6, Overlay of Zoning Plan and Existing Plan, prepared by Langan Engineering, 11/10/2023.

20. With regard to the restaurants proposed, Applicant was not in a position to identify the name of the certain restaurants, but did indicate that there would be a combination of café and sit down restaurants as well as restaurants with drive-thru service.

21. Applicant is aware that the Property is adjacent to a floodplain area. Applicant is proposing no encroachment into the floodplain and no development within the floodplain area.

22. Several members of the public did offer comment regarding the proposed development. Much of the commentary spoke to potential environmental impacts including stormwater management, flooding, climate change, and use of solar panels. Other public comment spoke to traffic safety.

23. Applicant indicated that after obtaining the zoning relief, Applicant would be in a position to address additional site concerns through the land development process, as appropriate. Applicant emphasized its understanding that there would be additional review by the Township and County Planning Commissions, by the Township Board of Supervisors, and by other agencies and entities having jurisdiction over various aspects of the proposed redevelopment plan.

24. 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 but for, and including, a number of dimensional nonconformities

2. In order to redevelop the Subject Property, Applicant seeks confirmation of a number of the existing legal nonconformities and in the alternative requests multiple dimensional variances.

3. No use variances have been requested. All variances requested are dimensional.

4. §175-112.B(4) of the Ordinance provides that,

Within the C-2 District only, a structure containing a conforming use but which is nonconforming with respect to front yard setback requirements may be demolished and rebuilt at the existing nonconforming setback line provided:

- (a) The new structure shall be located no closer to the street line at any point than the prior structure was located; and,
- (b) The total square footage of floor area that lies within the required front yard setback shall be no greater after reconstruction than the square footage of floor area that was located within the required front yard setback prior to removal.

5. The nonconformity provision speaks to the front yard setback for the existing Barn Cinema building and the redevelopment of buildings Retail C/Retail D at 80.4 feet and Restaurant E/Retail D/Restaurant F building at 80.6 feet. The Barn Cinema structure is located 63.9 feet from the ultimate right-of-way. The tower is 39 feet. Accordingly, Applicant is improving this preexisting nonconformity.

6. Applicant is improving a number of other legally preexisting nonconformities, as identified in the Order which follows.

7. 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).

8. 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. The project at issue represents reuse of the existing shopping center as a shopping center.

9. The evidence establishes that the relief sought by the Applicant is the minimum variance necessary. The plans submitted by Applicant clearly illustrate Applicant's attempt to redevelop the site in conformity with existing conditions, improving them where possible, and requesting the least variances necessary for overall redevelopment.

10. The variance sought will not alter the essential character of the neighborhood or district in which the Subject Property is located, for the reasons stated herein.

11. 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 zoning relief requested by Applicant, to permit Applicant to redevelop the Property, formerly known as the Barn Plaza Shopping Center, replacing the former theater and Applebee's spaces with six (6) proposed restaurants, four (4) proposed retail shops and one (1) proposed medical office use, along with new and additional signage, as follows:

### Relief Granted:

1. Front Yard Setback Request.

Applicant seeks a variance from §175-72.A and §175-21, with regard to front yard setbacks. The Zoning Hearing Board finds the request moot in that the ZHB considers the setbacks existing nonconformities (existing theater structure is nonconforming with the 39 foot front yard setback at the tower and 63.9 feet at the main building). The proposed redevelopment of Buildings Retail C/D is 80.4 feet; and the Restaurant E Retail D and Restaurant F Building is at 80.6 feet. Accordingly, Applicant is improving a preexisting nonconformity.

2. Rear Yard Setback Request.

- a. The required rear yard setback under §175-72.A(5)(c) is 75 feet. Applicant requests a variance to permit the proposed medical office building setback at 35.4 feet. The existing theater structure is nonconforming at 36.1 feet. The ZHB considers the request *de minimis* and the variance is granted as such.
- b. The proposed Restaurant E/Retail D/Restaurant F is proposed at 52 feet from the rear lot line. The ZHB considers the variance request moot in that the Board considers the request subsumed by the existing nonconformity.

3. Paving/Parking Setback Request.

- a. Existing front paving setback is nonconforming at 5.5 feet. The proposed front paving at the new curb line is 13.2 feet. The ZHB considers same an existing nonconformity and permits the 13.2 feet setback.
- b. The proposed minimum front paving setback is 5.9 feet at the existing curb line. The ZHB considers same an existing nonconformity.
- c. The existing rear paving setback is nonconforming at 8.3 feet and will remain so. 10 feet is required. The ZHB considers same an existing nonconformity and permits same.
- d. Under §175-23.C(13) of the Ordinance, the required front, rear, and side yards for nonresidential uses may be utilized for the sole purpose of locating parking and accessways thereto to the extent of 50% in distance from the ultimate right-of-way line except that the parking areas may not occupy the 50% in distance closest to the ultimate right-of-way line. Applicant is not increasing an existing nonconformity. Therefore, the encroachment is permitted.



4. Residential Buffer Request.  
The required residential buffer under §175-21.C of the Ordinance is 30 feet and 50 feet respectively. The existing buffer is a nonconforming 8.3 feet, which Applicant proposes to retain. The ZHB permits same as a preexisting nonconformity.
5. Parking Spaces.  
§175-23.A(1) of the Ordinance requires all parking spaces to be 10' x 20'. The parking spaces supporting the preexisting theater use were permitted, by Ordinance, at 10' x 18'. Applicant seeks to maintain the 10' x 18' parking spaces which presently exist and are reflected on the plan. The Board grants the requested variance relief.
6. Proposed Pylon Signage
  - a. §175-111.2.F(1) of the Ordinance permits one (1) pylon sign along each street frontage of a property. For the Subject Property, there are two lots, one with frontage on Almshouse Road and Route 611, and the other with frontage on Route 611. Applicant seeks to retain the three (3) pylon signs for the parcel (both lots). The ZHB considers same a preexisting nonconformity permitting the three (3) pylon signs on the combined two parcels.
  - b. Under §175-111.2.F of the Ordinance, a pylon sign may have a maximum sign area of 250 square feet. Applicant requests 300 square feet for each. In addition, Applicant requests that the signs be 30 feet in height. The ZHB grants this variance relief.
7. Proposed Pylon Signage Setback  
§175-109.C(3) of the Ordinance requires all signage to be setback from the street line the greater of 10 feet or the distance of the height of the sign. The existing pylon sign on Almshouse Road is 26.9 feet from the street line. Applicant seeks to maintain that nonconformity. The two proposed pylon signs to be erected on Route 611 will be setback 5 feet from the street or property line. The existing theater sign is 16 feet. The other sign is actually located within the right-of-way. The ZHB grants variances for the two signs on Route 611. The ZHB considers the Almshouse Road sign a preexisting nonconformity and permits same.
8. Impervious Surface Coverage.  
Applicant seeks a special exception or a variance to permit a total of 73.9% impervious surface coverage. §175-72.A(3) of the Ordinance permits a maximum impervious surface coverage of 50%. Existing impervious surface coverage is 73.1%. The record is unclear how Applicant came to cover the property with 73.1% impervious surface coverage. Applicant asserts that 75.77% was previously approved in conjunction with construction of the Barn Cinema. That evidence is not of record. Accordingly, the ZHB considers the Applicant's request for a variance. The ZHB grants the variance to permit the 73.9% impervious surface coverage.
9. Driving and Stacking Lane  
§175-16.E(6)(c) of the Ordinance requires 10 car space stacking for the drive-thru uses. Two of the three drive-thru uses proposed for the site show 9 car stacking (Restaurants B and D). Applicant seeks a variance accordingly. The Zoning Hearing Board grants a variance relief.

All relief granted is subject to the following specific conditions:

1. The tract currently consists of two tax parcels held under separate ownership by subordinate companies to Applicant, Brixmor Property Group. Use E14 of the Doylestown Township Zoning Ordinance requires that a shopping center use be one tract not to be subdivided. The current parcels, comprising the current tract, must remain under control of a single entity, whether the parcels remain under separate ownership or not, in order to comply with the Ordinance requirement that Use E14 consists of a single tract. The tract may not be further subdivided.
2. Consistent with Use E14, subsection e, the shopping center must be improved and constructed “in accordance with an overall plan and designed with a single architectural style approved by the Board of Supervisors”.
3. Applicant shall proceed through the land development process to address issues including stormwater management controls, traffic circulation (interior and exterior), lighting, landscaping, and other land development issues. The stormwater management controls must, at a minimum, address the increase of impervious surface from 72.36% (as indicated on Applicant’s plans as permitted by way of a 1980 Agreement allowing same) to 73.9% (the impervious surface coverage represented as resulting from the present development).
4. Compliance with all other applicable governmental ordinances and regulations.

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**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**

**Docket No.:** Z-22-23

**Applicants:** Peter & Donna Acquavella  
2038 Country Club Drive  
Doylestown, PA 18901

**Owners:** Same.

**Subject  
Property:** Tax Parcel No. 09-057-053, which is located at the address of the Applicants set forth above.

**Requested  
Relief:** Applicants seek to have constructed an in-ground swimming pool accessory to the existing single-family dwelling. The impervious surface coverage on the subject lot, post construction, is proposed at 30.1%. §175-38 of the Doylestown Township Zoning Ordinance (“Ordinance”) permits a maximum of 20% impervious surface coverage within the R-1 Residential Zoning District. Applicants seek a variance accordingly.

**Hearing  
History:** The application was filed in Doylestown Township on December 20, 2024. Hearings were held on January 25, 2024, and February 22, 2024, at the Doylestown Township Building, 425 Wells Road, Doylestown, PA 18901.

**Appearances:** Applicants, *Pro Se*

**Mailing Date:** April 8, 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 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 R1, Residential Zoning District of Doylestown Township. The lot area is 18,578 square feet (gross). The property accommodates the Applicants' single-family dwelling with usual and customary residential improvements.

4. Applicants seek to have constructed an in-ground swimming pool, in the rear yard, accessory to the existing single-family dwelling. The impervious surface coverage on the subject lot, post construction, is proposed to exceed 20%. §175-38 of the Doylestown Township Zoning Ordinance permits a maximum of 20% impervious surface coverage. Applicants seek a variance accordingly.

5. "Impervious surface ratio" is a defined term within the Ordinance. The term is defined as, "The total area of all impervious surfaces divided by the net buildable site are, as defined in Article V." see, Ordinance §175-9.

6. "Impervious surface is a defined term within the Ordinance. The term is defined as, "Any surface which does not absorb rain; all buildings, parking areas, driveways, roads, sidewalks, and any areas in concrete, asphalt, packed stone or other equivalent surfaces." see, Ordinance §175-9.

7. "Net buildable site area an impervious surface ratio" is addressed in Ordinance §175-27.E, as follows

E. Net buildable site area and impervious surface ratio.

- (1) Net buildable site area is calculated for the purpose of determining allowable impervious surface and land permitted to be developed. Net buildable site area equals total lot area contained in the subdivision or land development application:
  - (a) Minus ultimate rights-of-way of existing streets;
  - (b) Minus land which is not contiguous or which is separated from the site by a road or railroad;
  - (c) Minus land shown on previous subdivision or land development plans as reserved for open space or other uses which restrict it from development;
  - (d) Minus all land restricted by easements or covenants; and

(e) Minus land required to be left open for resource protection or to meet minimum open space requirements of this chapter.

(2) Impervious surface permitted to be developed = net buildable site area x impervious surface ratio required by this chapter.

8. Applicants testified to the on-site features, including steep slopes to the rear of the lot. The pool is being located to the rear of the dwelling, and the slopes will therefore be affected.

9. Applicants provided a revised engineered Pool Plot Plan, prepared by Integrated Engineering, LLC, dated 11/2/9/2023, last revised 02/14/2024, which reflected calculations to arrive at net buildable site area, and therefore the appropriate impervious surface coverage calculation. The plan supports the existing gross site area of 18,578 sf, and the existing natural resources to be protected, pursuant to Ordinance §175-27.E, 3,423 sf, resulting in net buildable site area of 15,155 sf.

10. Applicants propose adding 1,052 sf of impervious surface coverage as part of the pool project.

11. The additional 1,052 square feet of impervious coverage increases the impervious surface coverage on site to 4,558, for a total of 30.1% impervious surface ratio (4,558 impervious coverage / 15,155 net buildable site area).

12. The ZHB observes that the existing impervious surface coverage exceeds 20% (at 23.1%), without existing stormwater management controls.

13. An in-ground swimming pool is a reasonable residential amenity.

14. As part of the present project, Applicants have prepared a stormwater management plan which will reduce impervious surface coverage to an “effective rate” of 20% by managing stormwater runoff for impervious surface coverage greater than 20%.

15. No one spoke in opposition to the application.

16. 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, but for an existing impervious surface ratio in excess of the permitted 20%, without corresponding storm water management best management practices or controls.

2. Applicants seek to have constructed an in-ground swimming pool, in the rear yard, accessory to the existing single-family dwelling. The impervious surface coverage on the subject lot, post construction, is proposed at 30.1%. §175-38 of the Doylestown Township Zoning Ordinance permits a maximum of 20% impervious surface coverage. Applicants seek a variance accordingly.

3. The Applicants have 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).

4. 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. The ZHB has imposed certain conditions in an attempt to address any possible negative impacts.

5. The evidence establishes that the relief sought by the Applicants is the minimum variance necessary.

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

7. 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 variance from §175-38 of the Doylestown Township Zoning Ordinance to permit construction of an in-ground swimming pool and related improvements in which post construction impervious surface coverage is 30.1% where a maximum of 20% is otherwise allowed.

The relief granted is subject to the following conditions:

1. Applicants shall provide to the Township an as-built survey plan illustrating the 30.1% impervious surface coverage to close out the permit process, to the satisfaction of the Township.
2. Applicants 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%, thereby creating an “effective impervious surface ratio” of 20%.
3. Applicants must comply in all other respects with all other applicable governmental ordinances and regulations, including obtaining a pool permit.

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**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**

**Docket No.:** Z-1-24

**Applicants:** Russell H. and Jeroldine A. Lutz  
25 Stony Lane  
Warrington, PA 18976

**Owners:** Same.

**Subject  
Property:** Tax Parcel No. 09-042-077, which is located at the address of the Applicants set forth above.

**Requested  
Relief:** Applicants seek a special exception to construct a Use H-12 Accessory Family Apartment, consistent with §175-37.B. H-12 of the Doylestown Township Zoning Ordinance (“Ordinance”). Applicants also seek a variance from §175-16.H(12)a to permit the accessory family apartment use to exceed 25% of the total usable floor area of the principal residence, not including any garage.

**Hearing  
History:** The application was filed in Doylestown Township on January 8, 2024. The hearing was held on February 22, 2024 at the Doylestown Township Building, 425 Wells Road, Doylestown, PA 18901.

**Appearances:** Applicants, *Pro Se*

**Mailing Date:** April 8, 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 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 R1, Residential Zoning District of Doylestown Township. The lot area is 48,351 square feet (1.11 acres). The property accommodates the Applicants' 2,296 sf single-family residential dwelling, along with other residential amenities.

4. Applicants seek a special exception to construct a Use H-12 Accessory Family Apartment, consistent with §175-37.B. H-12 of the Doylestown Township Zoning Ordinance. Applicants also seek a variance from §175-16.H(12)a to permit the accessory family apartment use to exceed 25% of the total usable floor area of the principal residence, not including any garage.

5. The provisions of the Ordinance defining an accessory family apartment are found at §175-16.H(12), and read as follows:

H-12. Accessory family apartment. One accessory dwelling unit to a single-family detached dwelling shall be permitted as a residence by family members or a family caregiver, provided that the conditions set forth in this section are met, and further provided that the accessory use, in all respects, complies with this chapter relating to the zoning district wherein the proposed accessory dwelling unit is to be constructed or to be used.

[Added 5-4-1993 by Ord. No. 224; amended 2-16-2021 by Ord. No. 401]

(a) The accessory family apartment shall occupy no more than 25% of the total usable floor area of the principal residence, not including any garage.

(b) Accessory family apartments shall be part of the principal residence or may be contained in the existing accessory structure such as a garage.

(c) The required off-street parking for the principal dwelling plus one additional off-street parking space for the accessory family apartment shall be provided.

- (d) There shall be no changes to the exterior of the residence which suggests that the dwelling unit is other than a single-family dwelling or which would otherwise detract from the single-family character of the neighborhood. Manufactured homes, industrialized housing, recreational vehicles, travel trailers, and any other wheeled or transportable structure shall not be used as an accessory family apartment.
- (e) No more than one accessory family apartment shall be permitted per single-family detached dwelling.
- (f) A maximum of two occupants are permitted in such units. Accessory family apartment shall be occupied by family members or a family caregiver.
- (g) Each accessory family apartment shall be registered with the Township Zoning Officer, who shall keep a record of its use to ensure compliance with this chapter. A fee shall be imposed by the Township Board of Supervisors for the registration of said use, which said fee shall be fixed periodically by the Board of Supervisors by resolution. Registration of an accessory family apartment shall expire upon conveyance of the property, at which time the new property owner may reregister said use if warranted.
- (h) A certification shall be received from the Bucks County Board of Health or other regulatory agency certifying that the wastewater facilities are adequate to accommodate the single-family dwelling as well as the accessory family apartment as defined in this subsection.
- (i) The record owner of the property shall grant a deed restriction limiting such use in accordance with the foregoing provisions in favor of the Township, which agreement shall contain the following provisions:
  - [1] A description of the dimensions and location of accessory use.
  - [2] Being in a recordable document acceptable to the Township for filing with the Bucks County Recorder of Deeds Office. All costs for the preparation and recording of the foregoing document are the responsibility of the applicant for the accessory use.
  - [3] The rental of an accessory family apartment shall not be permitted, nor shall it be used in any way as an income property.

6. Applicants offered testimony satisfying each of the specific and general criteria for the accessory family apartment, except for the 25% size limitation.

7. If Applicants were to comply with the 25% size limitation, the Accessory Family Apartment would be limited to 572 sf (2,296 x .25).

8. Applicants propose two bedrooms, one and one half bathrooms, a living room, utility room, and a kitchen. The Accessory Family Apartment would be accessible through an interior access from the principal dwelling, as well as direct exterior access.

9. Applicants testified that limiting the size of the Accessory Family Apartment to 572 square feet would be impractical and therefore not logically possible.

10. Applicants indicated that other Accessory Family Apartments exist in the neighborhood and general vicinity.

11. Applicants offered that in order to comply with the requirements of the Accessory Family Apartment Use, Applicants would be connecting to public water and public sewer.

12. No one spoke in opposition to the application.

13. 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. Applicants have requested a dimensional variance to permit a proposed Accessory Family Apartment to exceed 25% of the total usable floor area of the principal residence, not including any garage.

3. The Applicants have 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). To this end, the ZHB finds and concludes that the proposed Accessory Family Apartment is a reasonable residential use, but that, under the particular circumstances of these facts, the resulting 572 sf use would not be practical.

4. 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.

5. The evidence establishes that the relief sought by the Applicants is the minimum variance necessary.

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

7. The grant of the requested variances satisfies Appellant's burden to meet 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, the objecting witnesses failed 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).

8. 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 variance from §175-16.H(12)a of the Doylestown Township Zoning Ordinance and a special exception pursuant to §175-37.B. H-12 to construct a Use H-12 Accessory Family Apartment, exceeding 25% of the total usable floor area of the principal residence, not including any garage (maximum size of Accessory Family Apartment is not to exceed 1,040 sf), subject to compliance with the following conditions.

1. The in-law suite shall comply with §175-16 H-12 of the Ordinance, except for the 25% size limitation.
2. Construction of the accessory structure shall be consistent with testimony provided by Applicants during the hearing held and further subject to the plans provided.
3. Applicants are to provide a post-construction “As-Built” Plan to confirm for Doylestown Township that the project was developed without need for additional zoning relief.
4. Applicants must comply with the building permit plan process, including preparing an erosion and sedimentation control plan to the satisfaction of the Township professionals and staff, if necessary.
5. Applicants shall grant a deed restriction in accordance with §175-16(H)(12)(i).
6. Applicants must comply with all other applicable rules, regulations and governmental ordinances.

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**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**

**Docket No.:** Z-2-24

**Applicant:** Expedite The Diehl LLC  
6487 Hilliard Drive  
Canal Winchester, OH 43110

**Owner:** KRT PROP HLDGS INC  
c/o Ryan Property Tax Dept  
200 E. Broward Boulevard, Suite 1410  
Fort Lauderdale, PA 33301

**Subject Property:** Tax Parcel No. 09-014-037-003, which is located at the address of the Applicants set forth above.

**Requested Relief:** Applicant seeks variances for size and number of signs to be placed on a single proposed retail use within a shopping center.<sup>1</sup>

**Hearing History:** The application was filed in Doylestown Township on January 23, 2024. The hearing was held on February 22, 2024, at the Doylestown Township Building, 425 Wells Road, Doylestown, PA 18901.

**Appearances:** Applicant, *Pro Se*

**Mailing Date:** April 8, 2024

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<sup>1</sup> The matter was originally advertised requesting approval for number of signs and location of signs. Specifically requesting two (2) wall signs for the proposed building location, where one (1) wall sign is permitted (a variance from §175-111.2.B(1)(b) of the Doylestown Township Zoning Ordinance (“Ordinance”)), and (seeking 82.08 square feet (sf) of signage for the west elevation of the building, and total sign area for both building elevations of 307.08 sf (a variance from §175-111.2.B(1)(a) of the Ordinance). During the course of testimony, Applicant clarified and reduced the scope of relief.

## 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 authorized representative of the lessee of the retail space within the shopping center located upon 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-2, Commercial Zoning District of Doylestown Township. The Application indicates that the lot area is 25.749 acres. The property supports an existing shopping center, currently under repair, renovation, and reuse. The leased premises at issue is proposed for the end retail unit, on the northern end of the existing shopping center building.

4. Applicant proposes a sign package for the space leased by “honeygrow”, a retail food establishment featuring “wholesome and simple” prepared foods, like customizable stir-frys, salads, and honeybars.

5. Applicant submitted exhibits with the Application and discussed same during the course of the hearing held. The exhibits showed general location and orientation of the leased space on the subject site, and provided sign detail, as follows.

- a. The shopping center property is located with frontage on both Almshouse Road and Easton Road (SR 611), wrapping around the property located directly at the northeast corner of Almshouse and Easton Roads.
- b. The leased space at issue, within the shopping center, is located at the northern corner of the existing shopping center building (closest to the previous “Barn Cinema”).
- c. The building is not oriented perfectly parallel to Easton Road, but it does have considerable frontage along Easton Road.
- d. The exterior of the leased space is undergoing renovation to include an “architectural feature” which will rise above the general façade of the existing shopping center and be placed at an angle to the existing building (that is perpendicular to neither the front façade, nor the side façade).

6. Applicant’s exhibit (Exhibit D2 to ZHB-1) represents that the front façade of the leased space is 30.0 linear feet. The sign for the front façade, advertising “honeygrow” “stir-fry \* salad \* honeybar”, to be located on the proposed architectural feature, is proposed at 75.83 sf in area. A variance is required in that allowable area is 1.5 times linear frontage, or 45 square feet.

7. Applicant's exhibit (Exhibit D5 to ZHB-1) represents that the proposed blade sign measures 6.25 sf, containing the "HG" honeygrow logo and projects perpendicular to the wall. The sign is to be illuminated. The Township has suggested that this sign be treated as a directional sign. The Zoning Hearing Board finds that the blade sign proposed does not meet the definition of a "Directional sign", in that it does contain a "commercial message"; is greater than "four square feet in area"; and, is illuminated. Applicant requires a variance for the proposed blade sign. See, §175-106.

8. Applicant's exhibit (D3 to ZHB-1) represents a proposed non-illuminated wall sign, consisting of the "HG" logo, on the side of the building, facing the north, with primary exposure to the northern parking area, as well as the signalized entryway to the shopping center from Easton Road. Exhibit D3 to ZHB-1 represents that the northern façade of the leased space measures 86.0 linear feet.

9. "Building sign" is a defined term within the Doylestown Township Zoning Ordinance. See, §175-106.

10. A building sign may be a "Wall" or "Fascia"/façade sign as opposed to a directional or blade sign. ("Blade sign" is the term used within Applicant's exhibits. The Ordinance provides for a "Projecting sign"). See, §175-106.

11. Applicant indicated that the additional signage is needed due to the existing orientation of the building, the unusual shape of the property, and the uneven topography, along with placement of the lot along a busy state road, Easton Road.

12. No one spoke in opposition to the application.

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



## **CONCLUSIONS OF LAW:**

1. The Subject Property has been developed and used as a shopping center, which is a permitted use within the C-2 Commercial Zoning District in which it is located. The premises at issue is a leased retail unit within the shopping center.

2. Applicant seeks variances, from §175-111.2.B(1) of the Doylestown Township Zoning Ordinance, for size and number of signs, within the commercial district, to be placed on the building facades of the leased space for the single proposed retail use within the shopping center.

3 §175-111.2.B(1) of the Doylestown Township Zoning Ordinance, reads as follows.

### **§175-111.2 Signs in Commercial and Industrial districts (C-1, C-2, C-3, C-4, Q, LI).**

The following types of signs and no others shall be permitted, contingent upon the securing of a sign permit, except where permits are specifically exempted by this article:

**B.** Building signs shall be permitted subject to the following regulations.

(1) Permanent sign(s).

(a) The total area of all building signs for non-residential uses shall be limited to 1.5 square feet per linear foot of building frontage that faces a public street or parking lot, subject to maximum size limitations. Where the nonresidential use is a multitenant establishment, the area of the signs for each establishment is limited to 1.5 square feet per linear foot of building frontage of each individual establishment and is subject to the same maximum size limitations.

(b) Number: one sign per tenant per street frontage, up to a maximum of two signs per tenant.

(c) Height: signs shall have a maximum height equal to the eave line.

4 Variance number one: Applicant requires relief to exceed the size of the primary building sign, located on the architectural feature, and advertising the name of the business. The sign is permitted. The location is permitted. But the sign is oversized when calculated pursuant to Ordinance (1.5 times linear square feet of street frontage of leased space (i.e. 30.0 linear feet x 1.5 yields 45 square feet of permitted signage)). Applicant seeks 75.83 square feet of signage.

5 Variance number two: Applicant requires relief for the blade sign, technically a projecting sign. While the sign may serve the general purpose of directing patrons to the use, the sign fails to meet the definition of “directional sign”, which would be exempt from the sign

standards. Applicant technically needs a variance for the sign itself (greater than one sign per tenant – with commercial messaging), the size of the sign (maximum 4.0 sf permitted. 6.25 sf requested), and illumination.

6 Variance number three: Applicant requires relief for the building sign proposed for the northern façade. A variance is required for greater than one sign per tenant. Once granted, the location is permitted, in that, a building sign may be placed facing a public street or parking lot. Applicant is also seeking a size variance. Applicant seeks a 176.62 sf sign. Based upon the linear square footage of that side of the leased space, the maximum permitted would be 129 sf.

7 The ZHB concludes that, but for the size of the second wall sign (on the northern side of the building), the Applicant has presented evidence of sufficient factors to warrant the grant of the dimensional variances 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).

8 The ZHB grants all variances requested except for the size of the wall sign on the northern wall. That sign will be permitted but limited to no greater than 129 sf in area.

9 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.

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

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

12 Accordingly, the Doylestown Township Zoning Hearing Board determined, unanimously, to grant the Applicant's request for relief, for the most part, as is set forth hereafter.

**ORDER**

Upon consideration and after hearing, the Zoning Hearing Board of Doylestown Township hereby GRANTS a variance from §175-111.2.B(1)(b) and §175-111.2.B(1)(a) of the Doylestown Township Zoning Ordinance to permit a wall sign package proposed for a proposed retail use within an existing shopping center, which exceeds number and size of signs permitted.

The relief granted permits Applicant to place the following signs on the corner retail space:

1. Front wall sign at 75.83 sf in size.
2. One (1) blade sign (projecting wall sign) under the covered shopping center promenade, illuminated, and 6.25 sf in area.
3. Side wall sign, limited to 129 sf total area, to support the proposed “honeygrow” logo mural, based upon Applicant’s representation, and further subject to confirmation, that the leased space along the side wall is 86 linear feet (north elevation – Exhibit ZHB-1-D3, sign C).

The relief granted is subject to Applicant complying with all other applicable governmental ordinances and regulations, including obtaining appropriate sign permits and confirming dimensions of wall space for the leased premises as part of the application process.

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**ZONING HEARING BOARD  
OF DOYLESTOWN TOWNSHIP**

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

/s/ Mitchell Aglow  
Mitchell Aglow, Vice Chairman

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