

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

Applicant: DaVinci Construction Services
801 E. Pennsylvania Blvd
Feasterville-Trevoise, PA 19053-7844

Owners: Adrienna & Dan Wilbourne
1801 Fairway Drive
Jamison, PA 18929

**Subject
Property:** Tax Parcel No. 51-018-068, which is located at the address of the
Owners set forth above.

**Requested
Relief:** Applicant seeks to remodel existing space within the single-
family dwelling to create an in-law suite. Applicant seeks a
special exception under §195-18C of the Warwick Township
Zoning Ordinance (“Ordinance”) to permit the Accessory Family
Apartment Use.

**Hearing
History:** The application was filed in Warwick Township on April 8,
2020. The hearing was held on July 7, 2020 at the Warwick
Township Building, 1733 Township Greene, Jamison, PA
18929.¹

Appearances: Applicant, Pro Se'

Gregory Mester, Pro Se'
1776 Fairway Drive
Jamison, PA 18929

Mailing Date: August 21, 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 Warwick 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 a contractor hired by 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 RA, Residential Agricultural Zoning District of Warwick Township.
4. The Subject Property measures approximately 12,100 square feet (121' x 100').
5. The Applicant seeks to remodel interior space, including converting the garage, to be used as an in-law suite.
6. An Accessory Family Apartment or Dwelling Unit is permitted by special exception in the RA, Residential-Agricultural Zoning District pursuant to §195-18.C.
7. In order to obtain a special exception, the Applicant must satisfy the Board that the in-law suite conforms to the Ordinance criteria defining that use found at §195-16.B.(8).
8. The proposed in-law suite is intended to allow for family members related by blood to the proposed owners of the principal residence to reside there.
9. The Owners acknowledge that the creation of a “for profit” apartment in the Zoning District is prohibited by the Ordinance.
10. Based upon the application, site plan and credible evidence presented, the Board finds that the applicant complies with all criteria set forth at §195-16.B.(8), as follows:

B8 Accessory Family Apartment or Dwelling Unit. One apartment or dwelling unit accessory to a single-family detached dwelling shall be permitted provided the following conditions are met. The intent of these provisions is to allow for family members related by blood or marriage to the owner of the principal residence to reside on the premises, but to prohibit the creation of for-profit apartments in districts where multifamily housing is not otherwise permitted.

- (a) Such use shall occupy no more than 50% of the total floor area of the primary living area of the principal residence, but in no event shall the accessory use exceed a total floor area of 800 square feet. The primary living area includes a living room, dining room, kitchen, one bathroom and the largest bedroom.
- (b) Occupancy of such use shall include only relatives of the family occupying the principal residence.
- (c) Such use may contain separate cooking, sleeping, living and bathroom facilities
- (d) Such use may be part of the principal residence or may be contained in an accessory structure or building existing at the date of this chapter. No new separate structures on the same lot with the principal residence shall be permitted to be constructed for this use, and the accessory family apartment or dwelling unit shall not be located in cellars or basements. Cellars are those areas having 1/2 or more of its floor to ceiling height below the average level of the adjoining ground.
- (e) Only one accessory family apartment shall be permitted per single-family detached dwelling and there shall be no changes to the exterior of the residence which suggests that the dwelling unit is other than a single-family detached dwelling.
- (f) This use may be permitted only by special exception to the Zoning Hearing Board.
- (g) The owner of the principal residence shall provide to the Township evidence of approval by the Bucks County Board of Health as to the adequacy of water and sewer facilities serving the site.
- (h) Parking: two off-street parking spaces shall be provided for the additional use.
- (i) The record owner of the property shall grant a deed restriction limiting such use in accordance with the foregoing provisions of this subsection in favor of Warwick Township. All costs related to the preparation and recording of the foregoing document shall be subject to the approval of the Township at the cost of the applicant.

11. Owners have indicated that there shall be no expansion of the building footprint as part of the building renovation. There will be exterior improvements, but the building envelope will remain the same.

12. The Owners understands that a deed restriction will be required.

Owners testified to parking sufficient for the single-family use plus the additional two parking spaces required for the additional use.

13. The Owner had her contractor, Mike Pelligrini of DaVinci Construction Services, present to address any technical questions.

14. Nearby property owner Greg Mester, 1776 Fairway Drive, did request and was granted party status. Mr. Mester was mainly concerned with how the Zoning Hearing Board would mitigate the likelihood that the grant of relief would result in a commercial rental, or stated alternatively, how the Zoning Hearing Board would grant relief yet retain the residential character of the neighborhood. The deed restriction provisions were explained to Mr. Mester.

15. Warwick Township took no position with regard to this application.

CONCLUSIONS OF LAW:

1. The use of the Subject Property as a single-family detached dwelling is permitted by right in the RA, Residential Agricultural Zoning District in which it is located.

2. An accessory family apartment, in the nature of an in-law suite, is permitted by special exception in the RA, Residential Agricultural Zoning District in which the Subject Property is located.

3. As set forth in the Findings of Fact, the Owners have evidenced compliance with all of the criteria necessary to establish its right to a special exception permitting an accessory family apartment use.

4. §195-118 of the Ordinance requires the Zoning Hearing Board to grant a special exception if the applicable Ordinance criteria are met. It also permits the Zoning Hearing Board to attach reasonable conditions and safeguards as it may deem necessary.

5. The Owners have agreed to each of the standards contained within §195-16.B.(8) of the Ordinance. The Board concludes that the standards required for the special exception approval have been met.

6. The grant of a special exception will result in no negative impacts upon surrounding properties or uses.

7. The site plan and competent evidence presented leads the Board to conclude that there will be no negative impacts upon surrounding properties or uses.

8. The relief sought will not alter the essential character of the neighborhood nor district in which the Subject Property is located.

9. The Applicant has presented evidence of sufficient factors to warrant the grant of the relief requested.

10. Accordingly, the Warwick 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 Warwick Township Zoning Hearing Board hereby GRANTS Applicant's request for a special exception under §195-18C of the Warwick Township Zoning Ordinance to permit an accessory family apartment use within the RA, Residential Agricultural Zoning District, subject to the following conditions:

1. The preparation and recording of a deed restriction in compliance with §195-16.B.(8)(i);
2. Applicant shall construct the interior modifications to the subject dwelling generally consistent with the Interior Alteration Plans prepared by Here's The Plan, LLC, dated March 16, 2020;
3. The Applicant will provide evidence of approval by the appropriate municipal entity, to wit, Warwick Water and Sewer Authority, as to the adequacy of water and sewer facilities serving the site at the time of building permit application; and,
4. Compliance with all other applicable governmental ordinances and regulations.

**ZONING HEARING BOARD OF
WARWICK TOWNSHIP**

By: /s/ Kevin J. Wolf
Kevin J. Wolf

/s/ Dave Mullen
Dave Mullen

/s/ Lorraine Sciuto-Ballasy
Lorraine Sciuto-Ballasy

IMPORTANT NOTE: Pursuant to §195-115 and §195-116 of the Warwick Township Zoning Ordinance, variances or special exceptions granted by the Zoning Hearing Board shall expire one (1) year from the date of the Decision, unless the applicant or owner or successor in interest has commenced construction within that time. Construction will be deemed commenced upon the issuance of a building and/or zoning permit for the approved use.