

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

Applicant: Yaroslav Knyaz
890 Folly Road
Warrington, PA 18976

Owner: Same.

Subject Property: Tax Parcel No. 51-014-032, which is located at 875 West Bristol Road, Warminster, PA 18974.

Requested Relief: Applicant proposes to subdivide the Subject Property into two (2) lots. Lot #1 is to support an existing nonconforming single-family dwelling and two accessory structures. Lot #2 is proposed as a vacant lot for future development. Applicant seeks the following variances from §195-16.B(1)(a)[2] of the Warwick Township Zoning Ordinance ("Ordinance") to accomplish the subdivision:

1. to allow a minimum lot area of 15,000 sf instead of the 20,000 sf required (Lot #1);
2. to allow minimum lot width of 66.00 ft instead of the 100.00 ft required (Lot #1 and Lot #2);
3. to allow impervious surface coverage of 55.00% instead of the 30.00% allowed (Lot #1);
4. to allow a minimum side yard set back of 10.00 ft instead of the 20.00 ft required (Lot #1).

Hearing History: The application was filed in Warwick Township on July 2, 2020. The hearing was held on September 1, 2020 at the Warwick Township Building, 1733 Township Greene, Jamison, PA 18929.¹

Appearances: Applicant, Pro Se

Mailing Date: October 16, 2020

¹ Applicant did provide a waiver of the timeframes contained within MPC §908(1.2) to allow the first hearing to be held greater than 60 days from the filing of the application.

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 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 RR, Restricted Residential Zoning District of Warwick Township.
4. The following exhibits were marked, admitted, and considered by the Zoning Hearing Board:

ZHB Exhibits:

- ZHB-1: Application dated July 2, 2020 with attachments including: a plot plan, prepared by Carroll Engineering Corporation, dated June 3, 2020; a list of adjacent property owners; a list of 4 variances requested; correspondence prepared by Yaroslav Knyaz to Warwick Township Zoning Officer.
- ZHB-2: Legal notice (proof of publication; posting; mailing).
- ZHB-3: Warwick Township Zoning Ordinance.
- ZHB-4: Waiver of 60 day first hearing provisions of MPC §908(1.2).

Applicant Exhibits:

- A-1: Deed to the Subject Property, recorded December 1, 2016, in favor of Grantee, Yaroslav Knyaz.
 - A-2: Neighboring lot comparisons, reflecting multiple existing nonconforming lots in the area of the Subject Property.
5. The plot plan prepared by Carroll Engineering reflects a lot area of 37,021 square feet (roughly .85 of an acre (1 acre being 43,560 square feet)).
 6. The 37,021 square foot property is presently being utilized to support an existing B1 single-family detached dwelling and accessory buildings.
 7. Applicant proposes the following subdivision:

§195-16.B[2] Area and Dimensional Requirements				
Required	Required	Existing	Lot #1	Lot #2
Minimum Lot Area (SF)	20,000	37,021	15,244	21,776
Minimum Lot Width (FT)	100.00	160.29	66.00	94.29
Maximum Building Coverage (%)	20.00	4.88	11.86	0.00
Maximum Impervious Surface (%)	30.00	23.59	51.09	4.33
Building Setbacks				
Minimum Front Yard (Ft)	40.00	14.21	14.21	N/A
Minimum Side Yard (Ft)	20.00	22.72	10.34	N/A
Minimum Rear Yard (Ft)	25.00	177.85	177.85	N/A
Minimum Height (Ft)	35.00	<35.00	<35.00	N/A

8. In order to accomplish the subdivision, creating an undersized lot with multiple dimensional deficiencies, Applicant seeks the following variances:

Variances Requested
§195-16.B(1)(a)[2]. To allow a minimum lot area of 15,000 sf instead of the 20,000 sf required (Lot #1)
§195-16.B(1)(a)[2]. To allow minimum lot width of 66.00 ft instead of the 100.00 ft required (Lot #1 and Lot #2)
§195-16.B(1)(a)[2]. To allow impervious surface coverage of 55.00% instead of the 30.00% allowed (Lot #1)
§195-16.B(1)(a)[2]. To allow a minimum side yard set back of 10.00 ft instead of the 20.00 ft required (Lot #1).

9. The Zoning Hearing Board does acknowledge, that based upon the evidence presented, the existing dwelling is located 14.21 feet from the ultimate right-of-way of Bristol Road. A 40 foot front yard setback is required by §195-16.B(1)(a)[2]. The front yard setback to the existing single-family dwelling is a legally preexisting nonconformity.

10. John L. Koutsouros, Professional Engineer with Carroll Engineering Corporation, testified in support of the application. Mr. Koutsouros prepared the June 30, 2020 plot plan at issue.

11. Mr. Koutsouros indicated that the original deed reflected that the property was in fact two separate parcels at one point in time. Mr. Koutsouros offered a document showing that other lots along Bristol Road contained lot width nonconformities with lot widths less than the required 100 feet.

12. Mr. Koutsouros emphasized that the Applicant seeks to subdivide in order to build on the resulting lot with less than the required amount of frontage (94.29 feet, where 100 feet is required), but leaving a substantially undersized (15,244 square feet, where 20,000 is required), narrow (66 feet, where 100 feet is required), lot with excess impervious surface coverage (51.09%, where a maximum of 30% is allowed).

13. Applicant had been asked to propose the present plan to the Warwick Township Planning Commission before proceeding to the Zoning Hearing Board to assess any preliminary subdivision and/or land development issues. Applicant knowingly chose to skip the Planning Commission sketch plan step and go directly to the Zoning Hearing Board seeking the present relief.

14. Ms. Peggy Bergey, 883 Bristol Road, offered comment on the application. Ms. Bergey lives immediately adjacent to the Subject Property, and directly next to the proposed undersized lot with proposed impervious surface coverage of 51.9%. Ms. Bergey testified to stormwater runoff issues from the Subject Property as a result of the impervious surface area supporting not only the existing dwelling, but the outbuildings to the rear. Ms. Bergey further testified that of the buildings reflected on the plan, one of the accessory structures had been removed, but the area upon which it stood remains impervious.

15. Ms. Bergey opposed the request for zoning relief.

16. Applicant acknowledged that subdivision and land development would require stormwater management assessment and possible remediation.

17. Warwick Township took no formal position with regard to this application.

CONCLUSIONS OF LAW:

1. The Subject Property currently conforms with the dimensional aspects of the RR, Restricted Residential Zoning District of Warwick Township, but for a legal preexisting nonconforming front yard setback of 14.21 feet from the ultimate right-of-way, where 40 feet is required under §195-16.B(1)(a)[2] of the Ordinance. The front yard nonconformity relates to the existing B1 single-family dwelling on the Subject Property.

2. Applicant seeks to subdivide the dimensionally compliant lot, creating two noncompliant lots.

3. Lot #1 would be undersized, too narrow, considerably in excess of the allowable impervious surface coverage, and would also carry a side yard less than the 20 feet required.

4. Lot #2 would be too narrow. Building coverage, impervious surface coverage, and building setbacks would be determined at a later date when Applicant identified the proposed structure to be placed on Lot #2.

5. The Zoning Hearing Board concludes that the Applicant has demonstrated no hardship. The existing lot is fully compliant but for the minimum front yard setback, which is a legally preexisting nonconforming dimension. Applicant seeks to create two dimensionally nonconforming lots.

6. To the extent Applicant argues that the lots were, at one time, two separate lots, the Zoning Hearing Board concludes that subdividing the existing lot, even to return the lots to their former nonconforming status, is a clear example of a self created hardship. The lot was conforming at the time of Applicant's acquisition. §910.2 of the Municipalities Planning Code identifies the standards for the grant of a variance, as follows:

Section 910.2. Zoning Hearing Board's Functions; Variances.

(a) The board shall hear requests for variances where it is alleged that the provisions of the zoning ordinance inflict unnecessary hardship upon the applicant. The board may by rule prescribe the form of application and may require preliminary application to the zoning officer. The board may grant a variance, provided that all of the following findings are made where relevant in a given case:

(1) That there are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property and that the unnecessary hardship is due to such conditions and not the circumstances or conditions generally created by the provisions of the

zoning ordinance in the neighborhood or district in which the property is located.

- (2) That because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of the zoning ordinance and that the authorization of a variance is therefore necessary to enable the reasonable use of the property.
- (3) That such unnecessary hardship has not been created by the appellant.
- (4) That the variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, nor substantially or permanently impair the appropriate use or development of adjacent property, nor be detrimental to the public welfare.
- (5) That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least modification possible of the regulation in issue.

7. §195-117 of the Warwick Township Zoning Ordinance contains similar provisions.

8. In the present matter, the Zoning Hearing Board not only concludes that there is no hardship, but if a hardship does exist, it is self created by Applicant in its attempt to subdivide leaving two nonconforming lots.

9. The Zoning Hearing Board further concludes that the Applicant has not demonstrated that the relief being requested is the minimum amount of relief from the Ordinance.

10. Accordingly, the Warwick Township Zoning Hearing Board determined, unanimously, to deny the Applicant's request for relief.

ORDER

Upon consideration and after hearing, the Zoning Hearing Board of Warwick Township hereby DENIES the Applicant's request for relief, consistent with the Findings of Fact and Conclusions of Law addressed herein.

**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