

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

Applicants: Joseph and Janet Solana
2171 Warwick Road
Warrington, PA 18976

Owners: Same.

Subject Property: Tax Parcel No. 51-007-014, which is located at 1400-1410 Old York Road in Warwick Township.

Requested Relief: Applicants appeal the January 23, 2020 determination of the Zoning Officer which denied a Use and Occupancy Permit for a Use D3 Community Center use proposed for the subject site within an H16 Flex Space use within the C-1 Local-Commercial District in which the property is located. The basis for the denial cited is §195-10 of the Warwick Township Zoning Ordinance ("Ordinance") which provides that only one principal use shall be permitted on any property, and §195-16(16) Use H16 Flex Space, which does not include Use D3 Community Center. In the alternative, Applicants seek a variance from §195-16(16) of the Ordinance to allow the additional use.

Hearing History: The application was filed in Warwick Township on February 25, 2020. The hearing was held on July 7, 2020 at the Warwick Township Building, 1733 Township Greene, Jamison, PA 18929.¹

Appearances: Applicants by: J. Todd Savarese, Esq.
Savarese Law Office
80 North 2nd Street Pike
Churchville, PA 18966

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 Applicants are the Owners of the Subject Property and therefore possessed of the requisite standing to make application to this Board. The primary witness is the tenant of the Subject Property, Ms. Deborah Como, Member and Treasurer of AA, District 22 Chapter.

3. The following exhibits were marked and admitted during the hearing held:

ZHB Exhibits:

ZHB-1: Application received February 25, 2020 with attachments including:

- a. Aerial photo of the property; and
- b. Site Plan (Final Record Plan), prepared by Gilmore & Associates, Inc., last revised November 30, 1999, and a Floor Plan.

ZHB-2: Legal advertisement of the hearing scheduled for July 7, 2020 (proof of publication; posting; mailing).

ZHB-3: Notice pursuant to 2020 ACT-15, tolling the timeframe for the first hearing and waivers signed by Applicants (first hearing to take place no later than July 9, 2020).

ZHB-4: Two previous Zoning Hearing Board Decisions referable to the Subject Property at 12-04 (August 23, 2012) and 13-11 (January 22, 2014).

ZHB-5: January 23, 2020 Notice of Violation; January 23, 2020 Denial of Use and Occupancy Permit.

ZHB-6: Warwick Township Zoning Ordinance.

Applicant Exhibits:

A-1: Lease Agreement signed July 1, 2019, providing for the tenant to host AA meetings, the space being referred to as "Premises"... 1414 Suite ("C"), Warminster, Bucks County, PA, signed by Joseph Solana, Jr., July 17, 2019

and Deborah Como Arnone, Hartsville Courtyard Group, July 17, 2019.

- A-2: ZHB Decision 09-07 (permitting a G6 Service Business).
- A-3: ZHB Decision 11-01 (permitting a G3 Retail Store Use).
- A-4: ZHB Decision 12-04 (permitting a G5 Village Oriented Shop).
- A-5: ZHB Decision 13-11 (permitting the G5 Village Oriented Shop to be expanded).
- A-6: Warwick Township Zoning chart excerpt.

4. No one requested party status.

5. The Subject Property is located in the C-1, Local-Commercial Zoning District of Warwick Township. It has a gross site area of 3.81 acres. Net site area is 3.10 acres.

6. On April 3, 2000, the Owner of the Subject Property received approval from Warwick Township to develop the Subject Property as a multi-tenant Flex Space use as defined at §195-16 Use H(16) of the Ordinance.

7. A Flex Space use is defined as, “Building space designed for use as either office, light manufacturing, assembling, warehousing, or repair shop.” §195.H(16)(a).

8. Pursuant to the above approval, the Subject Property was developed with a two-story structure containing five (5) rental units, labeled “A-E”, of varying sizes.

9. Unit A had previously been used as a G6, Service Business under the Ordinance, permitted by a decision of the Warwick Township Zoning Hearing Board, dated March 15, 2010, under Docket No. 09-07, to allow that use within a Flex Space building, when such use is not permitted by the Ordinance as a Flex Space use. Unit A is presently vacant.

10. Unit B was previously approved as a Use G5, Village Oriented Shop, and occupied by the Uncorked Artist, an entity providing “entertaining paint studio that will accommodate painting sessions, birthdays, showers and parties, running classes several times per week, as well as open studio hours for painting time.”

11. Unit B is approximately 1,489 square feet in size. Unit C is 1,270 square feet in size. It accommodates two rooms, one of which was used exclusively for storage of materials and the other shared use for storage of artwork and small classes or gatherings. The Uncorked Artist conducted classes or hosted gatherings averaging 12-15 people each. Those events generally occurred between 7:00 PM and 9:30 PM Monday-Saturday, with some weekend parties. The number of guests in the Uncorked

Artist facility at any one time would generally be 30. The Uncorked Artist has since vacated Unit C.

12. Unit D is occupied by a landscaper.

13. Unit E is occupied by Bucks County Bakery. The Bakery is a 3:30 AM – 7:00 AM operation which ships fresh baked goods to retailers.

14. Applicant has been using the present site (Unit C) to host AA meetings. Warwick Township considers the use as a D3 Community Center use. A D3 Community Center use is not permitted within the C-1, Local-Commercial Zoning District of Warwick Township.

15. A D3 Community Center use is not one of the permitted uses within the H16 Flex Space.

16. Applicants request variances from each of those provisions, as well as the parking provisions for Use D3.

17. Deborah Como, Treasurer of the AA Chapter in question and signer of the Lease on behalf of the tenant, testified in support of the use. Ms. Como testified to 24 off-street parking spaces on the Subject Property and indicated that there are an additional 12-15 parking spaces on the street immediately adjacent or nearby the Subject Property.

18. Ms. Como was not aware of any specific complaints related to the AA use, despite the fact that the use has been in operation since July 2019. Ms. Como distinguished the use from a 9-5 office use.

Each of the AA meetings is one hour in duration with no congregation before or after. The schedule is essentially as follows:

7:30 AM	7-10 people
Noon	15-20 people
4:30 PM	7-10 people
6:30 PM	25-30 people
11:00 PM Friday Evenings	less than 10 people

19. Ms. Como indicated that the COVID-19 emergency declaration and temporary lifestyle changes have increased the challenges on sobriety and therefore increase the demand for the AA meeting support.

20. With regard to parking, Ms. Como indicated that the parking provisions of Warwick Township provide for one (1) parking space for each four (4) participants of the Community Center use. Based upon a maximum of 30 people, 8 spaces would be required. The parking requirements for use D3, as contained within §195-16.D3, provide:

Parking: one off-street parking space for each four seats provided for patron use, or at least one off-street parking space for each 50 square feet of total floor area used or intended to be used for service to customers, patrons, clients, or members, whichever requires the greater number of off-street parking spaces, plus one additional space for each employee. Parking areas shall be adequately screened when situated within 50 feet of land zoned for or in residential use.

21. The space at issue is 808 square feet (divided by 50 = 16) requiring 16 spaces. The maximum number of patrons is 30 (divided by 4 = 7.25, roundup to 8) requiring 8 spaces. The higher of the two is 16 spaces. 24 are located on-site.

22. The Applicant testified that there is no conflict with the existing use and the D3 Community use due to the timing of the meetings and the change in demand as indicated above.

23. The Zoning Hearing Board does observe that at present, all flex spaces are not fully occupied, and therefore the entire facility is not at maximum use. The Applicant may have difficulty meeting parking requirements in the future.

24. Several nearby property owners testified, including Mr. William Grove, 1186 Hart Lane, and Mr. Cliff Hamilton, 1425 York Road. Both individuals indicated that there were a considerable number of cars parking on the street, especially for the 6:30 PM meeting. In addition, Mr. Grove raised issues with regard to stormwater concerns.

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

CONCLUSIONS OF LAW:

1. The Applicant presently holds AA meetings in Unit C of the building on the Subject Property. The AA meetings are considered a D3 Community Center use. D3 is not permitted within the C-1, Local-Commercial Zoning District. The permitted use within the Zoning District is a H16 Flex Space use, with additional relief to allow a G6 Service Business (Decision 09-07), G3 Retail Store (Decision 11-01) and G5 Village Oriented Shop (Decisions 12-04 and 13-11 respectively), subject to conditions.

2. The structure on the Subject Property is suitable for multiple uses and is occupied as such.

3. A Flex Space use, as defined by Ordinance §195-16.(16), use H.16.a limits use, on the property, to either office, light manufacturing, assembly or warehousing. The D3 Community Center use of the Subject Property by the Applicant is not permitted within the C-1 Zoning District and is not one of the enumerated uses available under Flex Space use.

4. The competent evidence presented leads the Board to conclude that, by imposing conditions restricting parking, even if the variance relief is granted, there will be no negative impacts upon surrounding properties or uses. In fact, the decision may mitigate parking issues.

5. The evidence establishes that the relief sought by the Applicants is the minimum variance necessary. The ZHB perceives the use as generally fitting this particular Flex Space model, but also recognizes the 6:30 meeting is well attended and may strain the existing parking situation.

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

7. The Applicants have presented evidence of sufficient factors to warrant the grant of the dimensional variance requested.

8. Accordingly, the Warwick 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 Warwick Township hereby GRANTS the following variances from the Warwick Township Zoning Ordinance to permit the Applicants to use one of the units at 1733 Township Greene, as a D3 Community Center:

1. from §195-10, to permit greater than one (1) principal use on the Subject Property;
2. from §195-16(16) Use H16 Flex Space, to allow a D3 Community Center within that space; and
3. from §195-10 and §195-16(16), to allow the additional use without adding additional parking to the Subject Property.

The relief granted is subject to the following conditions:

1. There shall be no parking off-site on a public street for the D3 Community Center use (that is no parking on Old York Road or the surrounding streets);
2. Applicants and Applicants' tenant have the responsibility to inform members and participants of the D3 Community Center use of the parking restriction; and
3. Applicants shall comply in other respects 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.