

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

- Applicant:** WarwickComl, LLC
301 Oxford Valley Road, Suite 501A
Yardley, PA 19067
- Owner:** Same.
- Subject Property:** Tax Parcel No. 51-003-055, which is located at 1770 Kendarbren Drive, Suite 200 in Warwick Township.
- Requested Relief:** Applicant seeks to use an existing 7,000 square foot office building, within the Warwick Office Park, as a Use C-3 School within a F4 Business Park. To accommodate the proposed use, Applicant seeks the following variances from the Warwick Township Zoning Ordinance ("Ordinance"):
1. from Article III, §195-16.F.(4)(c), to permit a use C3 School in a use F4 Business Park;
 2. from Article III, §195-16.C.(3), to permit a private school that will be constructed as a private, gainful business;
 3. from Article III, §195-16.C(3)(a), to permit a school that does not take access from an arterial or collector highway;
 4. from Article III, §195-16.C.(3)(b), to permit a school that does not meet the area and dimensional requirements of this Section so as to facilitate the ability of the school to be located within the Warwick Office Park, as proposed;
 5. from Article III, §195-16.C.(3)(d), to permit the establishment of a school in the Warwick Office Park without the necessity of compliance with the buffer requirements of §195-63; and
 6. from Article III, §195-16.C(3)(e), to permit the proposed school to utilize shared parking rather than establishing separate parking facilities in compliance with §195-16.C(3)(e).
- Hearing History:** The application was filed in Warwick Township on July 24, 2020. The hearing was held on September 1, 2020 at the Warwick Township Building, 1733 Township Greene, Jamison, PA 18929.

Appearances: Applicant by: John A. VanLuvanee, Esq.
Eastburn and Gray, PC
60 East Court Street
PO Box 1389
Doylestown, PA 18901

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

Mailing Date: October 16, 2020

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 VC, Village Commercial Zoning District of Warwick Township.
4. The application relates to the use of a 7,000 square foot building in the Warwick Office Park, known as 1770 Kendarbren Drive.
5. Warwick Office Park is comprised of four (4) tax parcels. Those parcels are identified as 51-003-055, 51-003-055-001, 51-018-017-004, and 51-018-017-010. Together, the four tax parcels comprise approximately 13.654 acres. The building that is subject to the present application is situate on Tax Map Parcel 51-003-055.
6. Applicant intends to lease 1770 Kendarbren Drive to Galena Autism and Behavioral Services (GABS). GABS proposes to establish a for-profit school to be known as GABS Academy. GABS Academy will provide schooling for students with Autism Spectrum Disorder (ASD). Students will be referred to GABS from local school districts, including Central Bucks School District, Penridge School District, Council Rock School District, and Centennial School District. GABS Academy will serve students who are pre-kindergarten and elementary school age (between ages 2 and 14 years old). The facility will be licensed by the Pennsylvania Board of Education.

7. Applicant presented the testimony of Naa Garrido, the owner of Galena Autism and Behavioral Services (GABS). Ms. Garrido has earned a Masters Degree in Applied Behavioral Analysis and carries additional licensing and certifications in the behavioral services fields. Ms. Garrido has experience working with children with autism in multiple school districts, primarily in New Jersey. Ms. Garrido confirmed that the GABS plan is to provide educational behavioral services to local school districts from 1770 Kendarbren Drive. Applicant offered multiple letters of support from local school districts (Exhibits A-11 through A-13) for GABS services.

8. The GABS plan is to lease the entire 7,000 square foot building to serve a maximum of 70 students. The average student staff ratio is 1:5, but in some cases the ratio is 1:1 and 1:2. The initial startup for GABS will be 8 staff and 10-20 students.

9. Students will be transported from the district sending the students. Sometimes parents transport as opposed to the district. Ms. Garrido offered her opinion that an arterial road is not optimal for pick up and drop off of autistic children because some autistic children are elopement risks and therefore proximity to an arterial road presents a safety hazard.

10. Ms. Garrido distinguished the requested use from a typical school use in that there are none of the typical full school activities. The hours are 7:30 AM to 4:30 PM. There are no after school activities or back to school nights.

11. GABS does have an additional office location on Swamp Road in Doylestown which will remain operational and in effect.

12. In order to meet the requirements of the Board of Education, an outdoor play area is proposed for the use on the Subject Property. The outdoor play area is proposed at 1,200 square feet. Applicant presented a plan showing the location of the outdoor play area located to the Kendarbren Drive side of the 7,000 square foot office building (as opposed to the parking lot side of the office building).

13. Applicant presented the testimony of Matthew Scanlan, 301 Oxford Valley Road. Mr. Scanlan is a member of WarwickComl, LLC. Mr. Scanlan testified that WarwickComl, LLC has been attempting to sell the condominium buildings built by a prior developer within the Warwick Office Park without success.

14. Mr. Scanlan testified to the physical site and presence of the 7,000 square foot single floor single user building located at 1770 Kendarbren Drive. Multiple plans and google earth images were referenced to support Mr. Scanlan's testimony. See Exhibits A-3 through A-8.

15. A considerable amount of time was spent discussing the outdoor play area. The play area would be on the order of 22' x 52', surrounded by vinyl fencing, and protective bollards to the exterior of the fence to protect the play area from traffic on Kendarbren Drive.

16. Additional time was spent with regard to parking. There are 64 available parking spaces in the immediate area of 1770 Kendarbren Drive. Present users of

existing buildings utilize 10-12 spaces, and require 20. The Applicant believes that 30 spaces will be sufficient to serve their needs. The 30 spaces are determined using a maximum faculty of 25, with one additional space for each two offices, for a total of 30.

17. In summary, Mr. Scanlan indicated that his company has been marketing the property for lease or sale for over 10 years and have been unsuccessful in finding a single user.

18. Ms. Garrido characterized the property as a perfect fit because it is safer for the children, drop off by vans and smaller transport buses is available on the parking lot side of the building as opposed to the Kendarbren Drive side of the building; and an outdoor space is available for construction of a play area.

19. Nearby property owner Gregory Mester spoke in opposition to the application. Mr. Mester requested party status and voiced opposition to granting a use variance. Mr. Mester emphasized the importance of requiring applicants to comply with the provision of the Zoning Ordinance.

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

CONCLUSIONS OF LAW:

1. The Subject Property is currently being utilized for a permitted F4 Business Park Use within the VC, Village Commercial Zoning District.

2. Applicant proposes a unique use for the Subject Property. The use does not squarely fit the Educational Use definitions within the Zoning Ordinance. The Zoning Hearing Board concludes that the use is most similar to C3 School Use.

3. The C3 School Use reads as follows:

C3 School. Religious, sectarian or nonsectarian, denominational private school or public school which is not conducted as a private gainful business; nursery schools operated as a private gainful business. Nursery schools or daycares with an enrollment of 100 students or more shall be considered a school under this definition.

[Amended 6-18-2018 by Ord. No. 2018-1]

(a) Access shall be taken from an arterial or collector highway.

(b) Dimensional requirements.

[1] Minimum lot area. The minimum lot area shall be as required by the Pennsylvania Department of Education, provided that in no event shall a C3 use be located on a site which is less than 10 acres in size.

[2] Minimum lot width: 100 feet.

[3] Minimum front yard: 75 feet.

[4] Minimum side yard: 100 feet.

[5] Minimum rear yard: 100 feet.

- (c) Outdoor play areas shall be 75 feet from side and rear property lines. Outdoor play areas shall be sufficiently screened to protect the neighborhood from inappropriate noise and other disturbances.
- (d) The buffer requirements of § 195-63 of this chapter shall be met.
- (e) Parking:
 - [1] Nursery school or kindergarten: one off-street parking space for each faculty member and employee, plus two additional spaces per classroom.
 - [2] Elementary school: one off-street parking space for each faculty member and employee, plus one space per two classrooms and offices.
 - [3] Junior high school: one off-street parking space for each faculty member and employee, plus one space per two classrooms and offices, or one off-street parking space for each 10 auditorium seats, whichever requires the greater number of off-street parking spaces.
 - [4] Senior high school: one off-street parking space for each faculty member and employee, plus one space per 10 classroom seats, or one off-street parking space for each 10 auditorium seats, whichever requires the greater number of off-street parking spaces.
 - [5] College and junior college: one off-street parking space per faculty member and employee, plus one space for each 10 classroom seats, or one off-street parking space for each 10 auditorium seats, whichever requires the greater number of off-street parking spaces.
 - [6] Stadium parking. In addition to the above parking requirements, any junior or senior high school or college which proposes a sports facility on school property shall provide an additional one off-street parking space for each eight seats.
 - [7] Parking areas shall be adequately screened when situated within 50 feet of land zoned for or in residential use. Pickup and drop-off facilities for buses and/or motor vehicles shall be provided in addition to the required parking spaces as described above.

4. Applicant seeks multiple variances, beginning with a use variance and several dimensional variances in order to permit the unique use on the property, characterized by the Applicant as “a perfect fit”. The Zoning Hearing Board concludes that, subject to certain conditions, which follow, the Applicant has established sufficient grounds for the use variance limited to a very specific (in nature and scope) educational use, as further refined in the attached Order.

5. 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.

6. The evidence establishes that the relief sought by the Applicant is the minimum variance necessary. More specifically, the Board concludes that once the use variance is granted, the dimensional variances naturally follow.

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

8. The Applicant has presented evidence of sufficient factors to warrant the grant of the dimensional variance requested.

9. 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 Zoning Hearing Board of Warwick Township hereby GRANTS the following use variance from the Warwick Township Zoning Ordinance in order to permit Applicant to operate a C-3 School, limited to the described facility providing particular special education services to nearby school districts, within a F-4 Business Park, and in addition grant the following dimensional variances to accommodate the use:

1. from Article III, §195-16.F.(4)(c), to permit a use C3 School in a use F4 Business Park;
2. from Article III, §195-16.C.(3), to permit a private school that will be constructed as a private, gainful business;
3. from Article III, §195-16.C(3)(a), to permit a school that does not take access from an arterial or collector highway;
4. from Article III, §195-16.C.(3)(b), to permit a school that does not meet the area and dimensional requirements of this Section so as to facilitate the ability of the school to be located within the Warwick Office Park, as proposed;
5. from Article III, §195-16.C.(3)(d), to permit the establishment of a school in the Warwick Office Park without the necessity of compliance with the buffer requirements of §195-63; and
6. from Article III, §195-16.C(3)(e), to permit the proposed school to utilize shared parking rather than establishing separate parking facilities in compliance with §195-16.C(3)(e).

The relief herein grant is subject to the following conditions:

1. The type of school is limited to a school providing educational services for autistic students between the ages of 2 and 14.
2. Any subsequent operator will require a variance if the use differs.
3. The special education service is limited to a maximum of 70 students.
4. The Applicant must place “vehicle proof” bollards protecting the play area.
5. Owner and tenant are to designate the pick up and drop off areas in addition to the required parking areas.
6. The play area must be generally consistent with the floor plan presented.
7. 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.