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December 21, 2020

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Michael Yanoff, Esquire
610 Old York Road, Suite 340
Jenkintown, PA 19046

Re: Warwick Township – ZHB Application of Steve Adams Realty LLC
TMP No. 51-013-010-002 – 1525 Campus Drive

Dear Mr. Yanoff,

Enclosed is a copy of the Decision issued by the Warwick Township Zoning Hearing Board for the above referenced application.

If you have any questions, please feel free to contact me.

Very truly yours,

Vicki L. Kushto
Solicitor, Warwick Township
Zoning Hearing Board

/de

Enclosure: Notice

cc: Kyle Seckinger, Township Manager (via e-mail)
Ashley Casey, Zoning Officer (via e-mail)
Brandy McKeever, Director of Planning and Zoning (via e-mail)

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

Applicants: Steve Adams Realty LLC
1525 Campus Drive
Warminster, PA 18974

Owner: Same.

Subject Property: Tax Parcel No. 51-13-10-2, which is located at 1525 Campus Drive,
Warminster, PA 18974

Requested Relief: The Applicant installed two accessory structures in the 200-foot
buffer/deed restricted open space. In order to allow the structures to
remain, Applicant is seeking relief from the Warwick Township Zoning
Ordinance (“Ordinance”), including the following:

1. a variance from §195-16.H(13)(c)(2)(iii) to permit two accessory
structures to remain in the buffer/deed restricted open space;
2. a variance from §195-14.1 to permit two accessory structures to
remain in the buffer/deed restricted open space;
3. an appeal from the denial of use permit application #PZON200297
dated September 29, 2020;
4. an interpretation of the Zoning Code and the letter from the
Township Solicitor dated June 26, 2020.

Hearing History: The application was filed in Warwick Township on October 5, 2020. The
hearing was held on November 30, 2020 virtually via the Go To Meeting
Application.

Appearances: Applicant by: Michael Yanoff, Esquire
Goldstein Law Partners
610 Old York Road, Suite 340
Jenkintown, PA 19046

Parties: None

Mailing Date: December 21, 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 following exhibits were marked and admitted during the November 30, 2020 hearing:

Board Exhibits:

B-1 Application with attachments received by Warwick Township on October 5, 2020

B-2 Proof of Publication from the Intelligencer for advertising notice on November 16, 2020 and November 23, 2020. Public Notice advertising hearing scheduled for November 30, 2020 at 7:00 pm and confirmation from the Intelligencer

B-3 Letter dated November 9, 2020 to Michael Yanoff, Esquire from Vicki L. Kushto, Esquire advising of the hearing date

B-4 Resident mailing certification dated November 5, 2020 sent by Ashley Casey, Warwick Township Zoning Officer and copy of list of property owners.

B-5 Property Posting Certification by Ashley Casey, Zoning Officer dated November 6, 2020

B-6 Letter to Michael Yanoff, Esquire from Mary Eberle, Esquire dated October 15, 2020

Applicant Exhibits:

A-1 Letter from Mary Eberle, Esquire dated June 26, 2020

A-2 Exhibit not utilized

A-3 a. Letter from Cornell Industrial Construction dated October 23, 2020
b. Letter from Advanced Sprinkler Systems dated November 5, 2020

A-4 Photographs of the Property.

4. The Subject Property is located in the LI Limited Industrial Zoning District. The Subject Property consists of 2.03 acres and contains existing buildings and trailers.

5. On behalf of the Applicant, Michael Yanoff, Esquire provided a history of the Subject Property leading up to the Zoning Hearing Board Application.

The Subject Property is lot 27 within the Development. The Applicant is not disputing that the temporary structures are within the 200-foot open space restricted area. The Applicant met with the Township and made a presentation to the Board of Supervisors in order to request a waiver of land development for the structures to remain. The Board approved the waiver subject to conditions and memorialized its decision in a letter from Mary Eberle which was marked as Exhibit A-1.

The Board of Supervisors agreed that the temporary structures could remain for 36 months. The Applicant has agreed to remove the buildings at the end of the 36 months. It was the Applicant's opinion that no zoning relief was needed and that the Board of Supervisors gave all of the approvals that were required.

6. Adam Reiff testified in support of the Application. Mr. Reiff is the principal of the Applicant. The Applicant also owns Lot 10 and Lot 9 within the development.

The Applicant is a site contractor that does asphalt and concrete work. As shown on Exhibit A-4, the Subject Property contains an existing concrete building, trailers including a construction trailer, and miscellaneous machinery. There are water mains, a hydrant and a sewer easement that cross the Subject Property in the locations shown on Exhibit A-4. A building and water tank were built on the Subject Property to provide water to the surrounding properties but Aqua installed water service before the Subject Property was utilized for the same.

The Subject Property is actually 30 feet above the grade of the road making it barely visible from the road and the neighboring development. The Applicant admitted that the temporary structures were installed without obtaining any permits from the Township.

In the Spring of 2018, Applicant erected the tent structure, which does not have a footing and can be unbolted and moved. The tent structure is not anchored to the ground. The tent structure is temporary and only lasts a few years. The second structure, a Carolina Car Port, which is 20 feet by 26 feet, was erected on a concrete slab in June of 2019 and cannot be easily moved. It was erected by a third party whereas the tent building was erected by his employees. Both structures are used to store materials out of the weather. These temporary buildings are in the best location on the Subject Property given the existing easements and other restrictions on the Subject Property. Applicant obtained letters from two of the immediate neighbors indicating that they did not object to the location of these temporary buildings. Exhibit A-3a and A-3b.

7. Brandi McKeever, CZO is the Township's Director of Planning and Zoning. Ms. McKeever testified that the Board of Supervisors does not have the authority to grant a variance to allow these structures to remain in the buffer/deed restricted area. The June 26th letter, Exhibit A1, granted the waiver of land development but required the temporary structures to be removed

within 36 months along with other conditions. One of the conditions was obtaining Zoning Hearing Board approval. Another condition was that the Applicant obtain permission from all of the other owners within the development to allow the temporary structures to remain in the buffer/deed restricted open space.

8. No one spoke in opposition to the application.
9. Warwick Township took no position with regard to the application.

CONCLUSIONS OF LAW:

1. Section 910.2 of the Pennsylvania Municipalities Code requires that an applicant demonstrate all of the following in order to be entitled to a variance: (1) there are unique physical circumstances or conditions peculiar to the Property that impose an unnecessary hardship; (2) because of such unique physical circumstances or conditions, there is no possibility that the Property can be developed in strict conformity with the Zoning Ordinance and that the variance is therefore necessary to enable the reasonable use of the Property; (3) such unnecessary hardship has not been created by applicant; (4) the variance will not alter the essential character of the neighborhood; and (5) the variance represents the minimum variance that will afford relief. (53 P.S. §10910.2).

2. The burden on the applicant seeking a variance is a heavy one, and the reasons for granting the variance must be substantial, serious, and compelling. *Pequea Township v. ZHB of Pequea Township*, 180 A.3d 500 (Pa. Cmwlth. 2018) (citations and internal quotations omitted).

3. A Board is not required to grant a dimensional or use variance just to avoid financial hardship or to permit a property owner to use his property exactly as he wishes. *Id.* (Citations and internal quotations omitted.)

4. The hardship must relate to the property and not the person. *Id.*

5. The Subject Property is part of an H13 Industrial Park in the LI Limited Industrial Zoning District.

6. The credible evidence presented by the Applicant, and unrebutted supports the conclusion that the variances requested are necessary to allow the Carolina Car Port to remain in the buffer/deed restricted area subject to the conditions set forth below. The evidence presented by the Applicant does not support a variance to allow the tent building to remain as the Applicant testified that it can be easily moved.

7. The competent evidence presented leads the Board to conclude that, should the requested variances be granted with respect to the Carolina Car Port, there will be no negative impacts upon surrounding properties or uses.

8. The Board concludes that the evidence presented does not establish that the relief sought by the Applicant is the minimum variance necessary with regard to the tent building. The

Board has concluded that granting a variance with regard to the tent building is not necessary because it can be moved.

9. The Board concludes that allowing the Carolina Car Port to remain in the buffer/deed restricted area, subject to the conditions set forth below, will not alter the essential character of the neighborhood or district in which the Subject Property is located.

10. The Board concludes that the Applicant has presented evidence of sufficient factors to warrant the grant of the dimensional relief requested.

11. Accordingly, the Warwick Township Zoning Hearing Board determined, unanimously, to grant the Applicant's request for relief subject to the conditions set forth below.

ORDER

Upon consideration and after hearing, the Zoning Hearing Board of Warwick Township hereby GRANTS the following variances from the Warwick Township Zoning Ordinance in order to allow the Carolina Car Port to remain in the buffer/deed restricted open space at the Subject Property:

from §195-14.1 and §195.H(13)(c)(2)(iii) to permit the Carolina Car Port to remain in the buffer/deed restricted open space subject to the following conditions:

1. Applicant shall submit affidavits from all the other property owners within the Development permitting the encroachment into the buffer/deed restricted area within 60 days from the date of this written Decision;
2. Removal or relocation of the tent building shall occur within 60 days from the date of this written Decision; and
3. The Carolina Car Port must be removed or relocated outside of the buffer/deed restricted area before the expiration of 36 months from June 15, 2020.

The relief contained herein granted is subject to compliance with all other applicable governmental ordinances and regulations, including obtaining the proper permits.

ZONING HEARING BOARD OF
WARWICK TOWNSHIP

By: /s/ Kevin Wolf
Kevin Wolf, Chairman

 /s/ David Mullen
David Mullen

 /s/ Joseph Thiroway
Joseph Thiroway

NOTICE TO APPLICANT

You have the right to appeal this Decision to the Court of Common Pleas of Bucks County. Such an appeal must be taken within thirty (30) days of the date the Decision was issued and mailed to you as stated above.