

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

Docket No. 21-05

Applicants: M&B Renovations & Building Services
P.O. Box 353
Jamison, PA 18929

Owner: Jeffrey John and Anita Decker
1710 Hampton Drive
Jamison, PA 18929

Subject Property: Tax Parcel No. 51-027-006, which is located at 1710 Hampton Drive,
Jamison, PA 18929

Requested Relief: The Applicant intends to construct a roof over an existing deck. In order to do so, Applicant is seeking variances from the following Sections of the Warwick Township Zoning Ordinance (“Ordinance”): Section 195-16.B(2)(d)[3][a][vi] to permit the roof to be located 23.93 feet from the rear property line where 25 feet is required; Section 195-16.B(2)(d)[3][a][vii] to allow a maximum impervious coverage of 36.2% where 25% is permitted; and Section 195-16.B(2)(d)[3][a][ix] a maximum building coverage of 20.5% where 15% is permitted.

Hearing History: The Application was filed in Warwick Township on March 30, 2021. The hearing was held on May 4, 2021 virtually via the Go To Meeting Application.

Appearances: Applicants proceeded pro se.

Parties: None

Mailing Date: June 3, 2021

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 proposed builder and was given permission by the Owner of the Subject Property to file the Application and is therefore possessed of the requisite standing to make application to this Board.

3. The following exhibits were marked and admitted during the May 4, 2021 hearing:

Board Exhibits:

B-1 Application with attachments received by Warwick Township on March 30, 2021

B-2 Proof of Publication from the Intelligencer for advertising notice on April 19, 2021 and April 26, 2021. Public Notice advertising hearing scheduled for May 4, 2021 at 7:00 pm and confirmation from the Intelligencer

B-3 Letter dated April 5, 2021 to Jeff and Anita Decker from Vicki L. Kushto, Esquire advising of the hearing date

B-4 Resident mailing certification dated April 16, 2021 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 April 16, 2021

Applicant Exhibits: None

4. The Subject Property is located in the R1 Residential Zoning District. The Subject Property consists of 11,500 square feet and contains a single family home, driveway, deck and shed. The current rear yard setback is 25 feet but the proposed roof will only be 23.93 feet from the rear property line. The current impervious surface coverage is 32.3% which will be increased to 36.2% with the installation of the roof over the existing deck. The maximum permitted impervious is 25%. The existing building coverage is 16.6% and will be increased to 20.5%. The maximum permitted building coverage is 15%.

5. Jeffrey Decker testified in support of the Application. Mr. Decker testified that they would like to install a roof over the existing deck because the deck gets sun all day making it impossible for his family to enjoy the deck when it become too hot. He spoke to his

surrounding neighbors and none raised any issues with what he is proposing. There is also a large tree line in the rear yard between his home and the neighboring town house development.

6. Bob Cracknell from M&B Renovations also testified on behalf of the Applicant. Mr. Cracknell confirmed the impervious surface calculations that are included in the Application. He also testified that the deck roof system will be tied into the house gutter system to take stormwater runoff to the front of the Property. This will convey the stormwater to the most advantageous location without overflowing the yard.

7. Erin Kelly of 1650 Rockcross Drive, which is located in the neighboring townhouse community. Ms. Kelly is concerned about stormwater and also noise. She indicated that there is a tree line between her home and the Applicants but there are some openings in it. She hears noise coming from the Applicants' home but they tend to end by 11 pm.

8. Mr. Decker testified that the proposed roof will not increase the noise and it was pointed out that the proposed roof may actually help to contain the noise.

9. Warwick Township took no position with regard to the application.

CONCLUSIONS OF LAW:

1. Section 910.2 of the Pennsylvania Municipalities Planning 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 use of the Subject Property as a single family home is a permitted use in the R1 Residential Zoning District and a deck is a permitted accessory use.

6. The credible evidence presented by the Applicant, and un rebutted supports that the variances are necessary for the reasonable use of the Subject Property.

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

8. The Board concludes that the evidence presented establishes that the variances sought by the Applicant are the minimum necessary to afford relief.

9. The Board concludes that the installation of a roof over the existing deck 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 sufficient evidence 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.

ORDER

Upon consideration and after hearing, the Zoning Hearing Board of Warwick Township hereby GRANTS the following variances from the following sections of the Warwick Township Zoning Ordinance: Section 195-16.B(2)(d)[3][a][vi] to permit the roof to be located 23.93 feet from the rear property line where 25 feet is required; Section 195-16.B(2)(d)[3][a][vii] to allow a maximum impervious coverage of 36.2% where 25% is permitted; and Section 195-16.B(2)(d)[3][a][ix] a maximum building coverage of 20.5% where 15% is permitted subject to the following condition: the proposed roof be tied into the existing drainage system so that stormwater drains to the front of the Property.

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: /Kevin Wolf/
Kevin Wolf, Chairman

/David Mullen/
David Mullen

/Lorraine Sciuto-Ballasy/
Lorraine Sciuto-Ballasy

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.