

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

Docket No. 21-07

Applicants: Jillian Whitacre and Tiberiu Szabo
1706 Hampton Drive
Jamison, PA 18929

Owner: Same.

Subject Property: Tax Parcel No. 51-027-004, which is located at 1706 Hampton Drive,
Jamison, PA 18929

Requested Relief: The Applicant intends to remove an existing deck on the rear of the house and replace it with a paver patio and remove and replace a front walkway. In order to do so, Applicant is seeking a variance from §195-16.B(2)(d)[3][a][vii] of the Warwick Township Zoning Ordinance (“Ordinance”) to allow impervious coverage on the Subject Property of 30.4% where 25% is permitted.

Hearing History: The Application was filed in Warwick Township on August 9, 2021. The hearing was held on September 7, 2021 at the Warwick Township Administration Building.

Appearances: None.

Parties: None

Mailing Date: October 6, 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 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 September 7, 2021 hearing:

Board Exhibits:

T-1 Application with attachments received by Warwick Township on August 9, 2021

T-1A Email exchange with Ms. Whitacre confirming she is available at 7:00 pm instead of 7:30 pm

T-2 Proof of Publication from the Intelligencer for advertising notice on August 23, 2021 and August 30, 2021. Public Notice advertising hearing scheduled for September 7, 2021 at 7:00 pm and confirmation from the Intelligencer

T-3 Letter dated August 31, 2021 to Jillian Whitacre and Tiberiu Szabo from Vicki L. Kushto, Esquire advising of the hearing date

T-4 Resident mailing certification dated August 23, 2021 sent by Kristen Beach, Warwick Township Deputy Zoning Officer and copy of list of property owners.

T-5 Property Posting Certification by Kristen Beach, Deputy Zoning Officer dated August 23, 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, deck, walkway, shed, and driveway. The current impervious surface coverage is 25.4% which will be increased to 30.4% with the installation of the new paver patio and front walkway. The maximum permitted impervious surface coverage is 25%.

5. Ms. Whitacre and Mr. Szabo testified in support of the Application. Their testimony can be summarized as follows:

The Applicants are proposing to remove an existing concrete walkway in the front of their home and replace it. The existing walkway is only 3 feet wide and the proposed walkway will be 4 feet wide. This will add an additional 85 square feet of impervious coverage.

The deck currently on the rear of the Subject Property is wood and will be replaced with a paver patio that is the same size. The paver patio will add 480 square feet of impervious coverage. There is a small wall on the edge of the patio that will provide seating. There is also a proposed pier that will be for lighting.

The driveway on the Subject Property is very long and accounts for approximately 36% of the existing impervious coverage on the Subject Property. The back yard is higher than the front yard so stormwater runs to the front of the Subject Property. There is a retention basin behind the Subject Property but it is separated from the Subject Property by a hill.

The previous owners had a pond on the Subject Property that they have removed. It was approximately 100 square feet. It will be replaced with grass. In addition, some holly and boxwood plants will be installed.

Applicants are not aware of any issues with their neighbors or with stormwater.

6. Applicants' also testified that prior owners of the Subject Property obtained zoning relief for an accessory family apartment. Applicants are utilizing the space as a basement and not an accessory family apartment.

7. Ms. Whitacre showed the Board photos of the Subject Property on her smart phone but those pictures were not marked as Exhibits.

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 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 front walkway and patio are permitted accessory amenities.

6. The Board finds that the Subject Property is subject to physical conditions that burden the Subject Property including topography and the fact that the house sits back from the street requiring a long driveway for access.

7. The credible evidence presented by the Applicants, supports that the variance is necessary for the reasonable use of the Subject Property.

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

9. The Board concludes that the evidence presented establishes that the relief sought by the Applicant is the minimum variance necessary.

10. The Board concludes that the granting of the variance will not alter the essential character of the neighborhood or district in which the Subject Property is located.

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

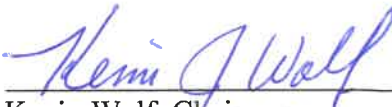
12. Accordingly, the Warwick Township Zoning Hearing Board determined, unanimously, to grant the Applicant's request for relief.

ORDER

Upon consideration and after hearing, the Zoning Hearing Board of Warwick Township hereby GRANTS a variance from §195-16.B(2)(d)[3][a][vii] of the Warwick Township Zoning Ordinance in order to allow the maximum impervious surface coverage on the Subject Property to be 30.4% where 25% is permitted.

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, Chairman


David Mullen

/s/

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.