

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

Docket No. 21-06

Applicant: Betterliving Sunrooms
30 Clipper Road
West Conshohocken, PA 19428

Owner: Joseph and Cynthia McInnis
1756 Crocker Lane
Jamison, PA 18929

Subject Property: Tax Parcel No. 51-023-033, which is located at 1756 Crocker Lane,
Jamison, PA 18929

Requested Relief: The Applicant is proposing to construct a sunroom addition. In order to do so, Applicant is seeking variances from §195-16.B(1)(a)[2] of the Warwick Township Zoning Ordinance (“Ordinance”) to permit the sunroom to be 13 feet from the rear property line where 25 feet is required and to allow impervious coverage on the Subject Property of 34.5% where 30% is permitted.

Hearing History: The Application was filed in Warwick Township on June 7, 2021 and was amended by letter dated October 8, 2021 from Betterliving Sunrooms. Hearings were held on July 6, 2021 and November 16, 2021 at the Warwick Township Administration Building.

Appearances: None.

Parties: None

Mailing Date: December 8, 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 has permission to act on behalf of 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 July 6, 2021 hearing:

Board Exhibits:

B-1 Application with attachments received by Warwick Township on June 7, 2021

B-1A Letter dated April 19, 2021 to Betterliving from Warwick Township denying building/zoning permit

B-2 Proof of Publication from the Intelligencer for advertising notice on June 21, 2021 and June 28, 2021. Public Notice advertising hearing scheduled for July 6, 2021 at 7:00 pm and confirmation from the Intelligencer

B-3 Letter dated June 14, 2021 to Joseph and Cynthia McInnis and James Wynn (Betterliving Sunrooms) from Vicki L. Kushto, Esquire advising of the hearing date

B-4 Resident mailing certification dated June 21, 2021 sent by Brandy McKeever, Warwick Township Deputy Zoning Officer and copy of list of property owners.

B-5 Property Posting Certification by Brandy McKeever, Deputy Zoning Officer dated June 21, 2021

The following Exhibits were marked and admitted during the November 16, 2021 hearing:

Board Exhibits (there is a break in Board Exhibit numbers):

B-8 Continuation request dated October 8, 2021 from Leka Bode of Betterliving Sunrooms

B-9 Letter dated October 25, 2021 to Joseph and Cynthia McInnis and James Wynn (Betterliving Sunrooms) from Vicki L. Kushto, Esquire advising of Hearing Date.

B-10 Proof of Publication from Intelligencer for advertising Notice on November 1, 2021 and November 8, 2021. Public Notice advertising hearing scheduled for November 16, 2021 at 7:00 p.m. and confirmation from the Intelligencer.

B-11 Resident Mailing Certification dated November 1, 2021 sent by Kristen Beach of Warwick Township and copy of list of property owners.

B-12 Property Posting Notification by Kristen Beach of Warwick Township dated November 1, 2021

B-13 Survey Plan prepared by Hanover Engineering dated September 22, 2021

Applicant Exhibits:

None.

4. The Subject Property is located in the RR Residential Zoning District. The Subject Property consists of 11,107.8 square feet and contains a single family home, patio, walkway, and driveway.

5. The Application appealed the Zoning Officer's Decision dated April 19, 2021 and requested a variance to allow a rear yard setback of 15.83 feet.

6. At the first hearing on July 6, 2021, Mr. and Mrs. McInnis were not present. Mr. James Wynn was present on behalf of Betterliving Sunrooms and testified in support of the Application. It was clarified with Mr. Wynn that although the Application indicates that Applicant was appealing the Zoning Officer's Decision this was incorrect as the Applicant does not feel that the Zoning Officer's decision was in error. In addition, only 2 members of the Zoning Hearing Board were present and Mr. Wynn agreed to proceed with a hearing and decision by those 2 members.

7. Mr. Wynn's testimony can be summarized as follows:

The Applicant is proposing to install a sunroom addition and is requesting relief from the rear yard setback. The Subject Property is an irregular lot. The layout of the home on the Subject Property does not allow for the proposed sunroom to be placed anywhere else on the Subject Property. The proposed sunroom will be 15.83 feet from the rear property line. There is a portion of the rear of the home that already encroaches into the required rear yard setback of 25 feet. Included with the Application was a Property Site Plan that was prepared by the Applicant. The Property Site Plan indicates that the current impervious coverage is 29.728%. The setback from the rear property line was determined by using a measuring wheel in the field. No survey was performed.

8. The Board raised issues regarding the ability to accurately determine the setback and the amount of impervious coverage on the Subject Property without the benefit of a survey. The amount of impervious coverage is close to the maximum permitted by the Ordinance and the proposed sunroom substantially encroaches into the rear yard.

9. The Applicant requested a continuance to obtain a survey of the Subject Property.
10. Applicant submitted a letter dated October 8, 2021 amending the Application to request an additional variance for the impervious coverage to allow 34% coverage.
11. At the second hearing on November 16, 2021, Mr. and Mrs. McInnis were present as well as Rich Yeager from Betterliving Sunrooms. The testimony can be summarized as follows:

Mr. Yeager testified that the Subject Property was difficult to measure because of its shape. It is not a rectangle or square. This unusual shape also causes the hardship for locating the proposed sunroom. There is nowhere else on the lot that the proposed sunroom could be located without the need for a variance. After obtaining the survey, it has been determined that the proposed sunroom will actually be 13 feet from the rear property line. In addition, the existing impervious coverage is 32.7%. The proposed sunroom will add 1.72% of impervious coverage for a total of 34.5%. The proposed sunroom will not be a danger to the community and it will not adversely affect the neighbors.

Mr. McInnis testified that they attempted to locate the sunroom in a way that it splits the rear property line so that the rear neighbors cannot see in.
12. In response to a question from the Board, Kristen Beach testified that because the proposed sunroom is attached to the house it must meet the regular setback requirements.
13. No one spoke in opposition to the Application. A neighbor, Mr. Zipf sent word through the Solicitor that he had no objection to the Application.
14. 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 RR Residential Zoning District.

6. The Board finds that the Subject Property is subject to physical conditions that burden the Subject Property including its irregular shape.

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

8. 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.

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

10. The Board concludes that the granting of the variances 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 the following variances from the Warwick Zoning Ordinance: from §195-16.B(1)(a)[2] to allow a rear setback of 13 feet where 25 feet is required; and from §195-16.B(1)(a)[2] in order to allow the maximum impervious surface coverage on the Subject Property to be 34.5% where 30% 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

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.