

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

Docket No. 22-05

Applicant: Edward J. Hilbert, Jr.  
1520-B Campus Drive  
Warminster, PA 18974

Owner: Same as Applicant.

Subject Property: Tax Parcel Nos. 51-013-010 and 51-013-010-022 for property known as 1547 and 1549 Campus Drive within the Warwick Business Campus

Requested Relief: The Applicant is seeking the following variances from the Warwick Township Zoning Ordinance (“Ordinance”): §195-81 to permit the eastern access drive of the site to be 131.11 feet away from the intersection of Campus Drive where 200 feet is required; §195-16.H.(13)(c)[2][a][iii] to permit parking in the front of the eastern face of the building; §195-16.H.(16)(c) to permit 72 parking spaces where 81 are required; and §195-63.D.(3) to permit a 40 foot buffer yard where 50 feet is required.

Hearing History: The Application was filed in Warwick Township on January 28, 2022. The hearing was held on March 1, 2022 at the Warwick Township Administration Building.

Appearances: Michael J. Meginniss, Esquire  
Begley Carlin  
680 Middletown Boulevard  
Langhorne, PA 19047

Parties: None

Mailing Date: March 24, 2022

## 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 is therefore possessed of the requisite standing to make application to this Board.

3. The following exhibits were marked and admitted during the March 1, 2022 hearing:

#### Board Exhibits:

B-1 Application with attachments received by Warwick Township on January 28, 2022

B-2 Proof of Publication from the Intelligencer for advertising notice on February 14, 2022 and February 21, 2022. Public Notice advertising hearing scheduled for March 1, 2022 at 8:00 pm and confirmation from the Intelligencer

B-3 Letter dated February 7, 2022 to Michael J. Meginniss, Esquire from Vicki L. Kushto, Esquire advising of the hearing date

B-4 Resident mailing certification dated February 14, 2022 sent by Kristen Beach, Warwick Township Deputy Zoning Officer and copy of list of property owners

B-5 Property Posting Certification by Kristen Beach, Deputy Zoning Officer dated February 14, 2022

#### Applicant Exhibits:

None.

4. The Subject Property is located in the LI Limited Industrial Zoning District and the Corridor Overlay District. The Subject Property consists of 2.54 acres and is currently vacant.

5. A Zoning Permit Plan prepared by Gilmore & Associates, Inc. dated January 26, 2022 ("Plan") was included with the Zoning Hearing Board application marked as Exhibit B-1. The Plan shows the proposed layout of the Subject Property including the proposed building, parking, setbacks and restrictions.

6. Mr. Meginniss provided the following summary of the Application:

Mr. Hilbert is the owner and operator of TE Construction Services which currently operates from a rental property within the Warwick Business Campus. The Property is vacant and consists of approximately 2.54 acres. The Property is oddly shaped and contains a gas pipeline easement that runs along the rear property line. The Property is a double frontage lot. The proposed building will have 22,000 square feet on the first floor. Half of the building will be utilized by the Applicant for his business and the other half will be utilized for flex space.

The Company has six employees that will work from the Property. The Application proposes 72 parking spaces.

7. Mr. Meginniss then summarized the testimony of Edward Hilbert as follows:

Mr. Hilbert owns the Property. TE Construction is a general contractor and construction management company. Most of its work is on public contracts. The proposed building will be utilized for the warehousing of the company's equipment. Mr. Hilbert is comfortable with the amount of parking spaces that are being provided.

In Mr. Hilbert's opinion, the proposed use is consistent with the surrounding uses and will not have a negative or detrimental impact on surrounding properties. The Property has 2 means of ingress and egress. The Plan proposes adequate stormwater and landscaping.

8. Mr. Meginniss then summarized the testimony of David Boginsky as follows:

Mr. Boginsky is a licensed professional engineer who works for Gilmore Associates. Mr. Boginsky prepared the proposed Plan. Mr. Boginsky described the four variances that are being requested.

In Mr. Boginsky's opinion, the uniqueness of the Property necessitates the granting of the variances. There will be no negative impacts or hazardous conditions created by the granting of the variances. The number of parking spaces provided is appropriate for the use. Additional parking cannot be added because of the constraints from the pipeline easement.

The Application cannot comply with the buffer requirement but can comply with the front yard setback. The building cannot be setback further on the Property because of the gas pipeline.

The Application will comply with all other Ordinance requirements. Applicant has proposed the minimum variances necessary.

9. No members of the public were present for this Application.

10. Warwick Township took no position on 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. The hardship must relate to the property and not the person. *Id.*

4. The use of the Subject Property as a H16 Flex Space is a permitted use in the LI Limited Industrial Zoning District.

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

6. The competent evidence presented by the Applicant and un rebutted leads, the Board to conclude that, should the requested variances be granted, there will be no negative impacts upon surrounding properties or uses.

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

8. 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.

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

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

## **ORDER**

Upon consideration and after the hearing, the Zoning Hearing Board of Warwick Township hereby GRANTS the following variances from the Warwick Township Zoning Ordinance: §195-81 to permit the eastern access drive of the Property to be 131.11 feet away from the intersection of Campus Drive where 200 feet is required; §195-16.H.(13)(c)[2][a][iii] to

permit parking in the front of the eastern face of the building; H.(16)(c) to permit 72 parking spaces where 81 are required; and §195-63.D.(3) to permit a 40 foot buffer yard where 50 feet is required.

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/ 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.