

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

Docket No. 22-07

Applicants: Munz Construction
201 Buck Road
Holland, PA 18966

Owner: Jaime Tanner
1519 Snowdrop Circle
Jamison, PA 18929

Subject Property: Tax Parcel No. 51-006-133 which is located at 1519 Snowdrop, Jamison, PA 18929

Requested Relief: The Applicant proposed to construct a 800 square foot in-law suite addition on their existing home on the Subject Property. In order to do so, Applicant is seeking the following relief from the Warwick Township Zoning Ordinance (“Ordinance”): a special exception from Section 195.24.C to permit an accessory family apartment/in law suite.

Hearing History: The Application was filed in Warwick Township on May 23, 2022. Hearings were held on July 12, 2022 and August 2, 2022 at the Warwick Township Administration Building.

Appearances: None.

Parties: None.

Mailing Date: September 6, 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 obtained permission from 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 July 12, 2022 hearing:

Board Exhibits:

B-1 Application with attachments received by Warwick Township on May 23, 2022

B-2 Proof of Publication from the Intelligencer for advertising notice on June 26, 2022 and July 3, 2022. Public Notice advertising hearing scheduled for July 12, 2022 at 7:00 pm and confirmation from the Intelligencer

B-3 Letter dated June 20, 2022 to Munz Construction from Vicki L. Kushto, Esquire advising of the hearing date

B-4 Resident mailing certification dated June 24, 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 June 24, 2022

Applicant's Exhibits

A-1 Updated Full Size Plan

4. The following exhibits were marked and admitted during the August 2, 2022 hearing:

Applicant Exhibits:

A-1¹ Concept Review In-Law Suite Plan prepared by Form Architecture dated March 31, 2022 and last revised July 26, 2022

¹ Two Exhibits were inadvertently marked as Exhibit A-1. For clarification, throughout the decision they will be further identified by the hearing date at which they were introduced.

A-2 Letter from Form Architecture dated August 2, 2022

5. The Subject Property is located in the RA Residential-Agricultural Zoning District. The Subject Property consists of 21,170 square feet and contains an existing single family dwelling, driveway, deck and sidewalk.

6. Collin Graige from Munz Construction testified at the July 12, 2022 hearing as follows:

Mr. Graige presented Exhibit A-1 entered on July 12, 2022. This is the same plan as was attached to the Application but it also includes parking information and the primary living area of the first floor and second floor. The Owners' parents have sold their home and would like to move into the Owners' home so that they can remain close.

Mr. Graige proceeded to discuss the Ordinance requirements in §195.24.C. Subsection (a) states that the in law suite cannot be more than 50% of the principal living area. In this case, the proposed in law suite is 800 square feet. The total principal living area is 1,654 square feet and 50% of that is 827 square feet.

Mr. Graige did not have the total floor area of the primary living area of the principle residence with him. As defined by §195.24.C(a), the primary living area includes a living room, dining room, kitchen, one bathroom and the largest bedroom.

Mr. Graige proceeded to go through the remaining requirements of §195.24.C. Owners can meet subsection (b) because it is their parents who will reside in the in law suite. Subsection (c) has been met as Exhibit A entered on July 12, 2022 shows cooking, sleeping, living and bathroom facilities in the in law suite. Subsection (d) has been met because the in law suite will not be in a separate structure. Subsection (e) is met because this will be the only accessory family apartment on the Subject Property. The Subject Property is serviced by public water and sewer so no separate approval from the Bucks County Board of Health is required to satisfy subsection (g). Two off-street parking spaces are provided for the in law suite to satisfy the requirement of subsection (h). Owners have agreed to grant a deed restriction limiting the use of the in law suite as required by subsection (i).

Mr. Graige then requested a continuance of the hearing so that he could provide the square footage of the primary living area as required by §195.24.C(a).

7. At the continued hearing on August 2, 2022, only two members of the Zoning Hearing Board were present for the hearing. Applicant was provided the option of proceeding with a two member board or with one of the members serving as a hearing officer. Applicant agreed to proceed with a two member board.

8. At the continued hearing on August 2, 2022, Mr. Graige testified as follows:

Mr. Graige presented Exhibit A-1 entered on August 2, 2022 which shows that the primary living area totals 1,361 square feet which allows for an in law suite of 680 square feet.

Exhibit A-1 entered on August 2, 2022 has been revised to show the proposed in law suite at 678 square feet. Exhibit A-2 is a letter from the Architecture firm that prepared the plans confirming that the in law suite was reduced in size to meet the requirements of the Zoning Ordinance.

9. No members of the public were present and no one requested party status.
10. 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. De minimis variances are minimal or minor deviations from the dimensional requirements of the Zoning Ordinance. A de minimis variance does not require proof of unnecessary hardship. *Hawk v. City of Pittsburgh Zoning Bd. Of Adjustment*, 38 A.3d 1061 (Pa Cmwlth. 2012) (citations omitted).

4. To grant a de minimis variance the Board must make the following two findings: only a minor deviation from the dimensional variance of the ordinance is sought; and that rigid compliance with the zoning ordinance is not necessary to protect the public policy concerns inherent in the zoning ordinance. See *id* at 1066 (citations omitted).

5. The use of the Subject Property as a single family home is a permitted use in the RA Residential-Agricultural Zoning District.

6. Section 195.24.C permits a B8 accessory family apartment or dwelling unit as a special exception in the R1a District.

10. B8 contains the following standards for an accessory family apartment:

- (a) Such use shall occupy no more than 50% of the total floor area of the primary living area of the principal residence, but in no event shall the accessory use exceed a total floor area of 800 square feet. The primary living area includes a living room, dining room, kitchen, one bathroom and the largest bedroom.

- (b) Occupancy of such use shall include only relatives of the family occupying the principal residence.
- (c) Such use may contain separate cooking, sleeping, living and bathroom facilities.
- (d) Such use may be part of the principal residence or may be contained in an accessory structure or building existing at the date of this chapter. No new separate structures on the same lot with the principal residence shall be permitted to be constructed for this use...
- (e) Only one accessory family apartment shall be permitted per single family detached dwelling and there shall be no changes to the exterior of the residence which suggests that the dwelling unit is other than a single family detached dwelling.
- (f) This use may be permitted only by special exception to the Zoning Hearing Board.
- (g) The owner of the principal residence shall provide to the Township evidence of approval by the Bucks County Board of Health as to the adequacy of water and sewer facilities serving the site.
- (h) Parking: two off-street parking spaces shall be provided for the additional use.
- (i) The record owner of the property shall grant a deed restriction limiting such use in accordance with the foregoing provisions of this subsection in favor of Warwick Township. All costs related to the preparation and recording of the forgoing document shall be subject to the approval of the Township at the cost of the applicant.

7. The Board finds that the Applicant has established compliance with B8 subsection (a) by reducing the proposed in law suite to 678 square feet as shown on Exhibit A-1 entered on August 2, 2022.

8. The Board finds that the Applicant has established compliance with B8 subsection (b) as the proposed accessory family apartment will be utilized by the Owners' parents.

9. The Board finds that the Applicant has established compliance with B8 subsection (c) as the proposed accessory apartment will contain separate cooking, sleeping, living and bathroom facilities.

10. The Board finds that the Applicant has established compliance with B8 subsections (d) and (e) as the plans submitted with the Application, Exhibit A-1 entered on August 2, 2022, show that there will be only 1 accessory family apartment that will be attached to the main dwelling and there will be no exterior changes which will make the dwelling look like something other than a single family dwelling.

11. The Board finds that the Applicant has established compliance with B8 subsection (h) as the driveway can accommodate an additional two parking spaces.

12. The Board finds that the Applicant has established compliance with B8 subsections (g) and (i) by showing that the Subject Property is served by public water and sewer and have agreed to grant the required deed restriction.

13. 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 a special exception from Section 195.24.C to permit a 678 square foot accessory family apartment/in law suite in accordance with Exhibit A-1 entered on August 2, 2022.

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/ 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.