

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

Docket No. 22-08

Applicants: Matthew F. Manzo and Stacey M. Manzo
958 Jackaway Road
Jamison, PA 18929

Owner: Same.

Subject Property: Tax Parcel No. 51-015-029, which is located at 958 Jackaway Road,
Jamison, PA 18929

Requested Relief: The Applicant intends to construct a 995 square foot pole barn to be used as a garage. In order to do so, Applicant is seeking a variance from §195-16.B(12)(j) of the Warwick Township Zoning Ordinance (“Ordinance”) to permit the garage to be situated closer to Harmony Lane than the residence’s front building line and acknowledgement and confirmation that a shed on the Subject Property is a legally existing non-conformity or in the alternative a variance from §195-16.B(12)(j) to allow the shed to be located closer to Harmony Lane than the residence’s front building line.

Hearing History: The Application was filed in Warwick Township on June 10, 2022. The hearing was held on July 12, 2022 at the Warwick Township Administration Building.

Appearances: Joe Clement, Esquire
Wisler Pearlstine, LLP
301 N. Sycamore Street
Newtown, PA 18940

Parties: Cara Davis Helena Rudinska Jane Silva
2090 Harmony Lane 2079 Harmony Lane 2080 Harmony Lane
Jamison, PA 18929 Jamison, PA 18929 Jamison, PA 18929

Mailing Date: August 3, 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 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 June 10, 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 7:30 pm and confirmation from the Intelligencer

B-3 Letter dated June 20, 2022 to Joseph M. Blackburn, Esquire 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 Exhibits:

A-1 Application with Plan attached

4. The Subject Property is located in the RR Restricted Residential Zoning District. The Subject Property consists of approximately 1.148 acres and contains a single family home, shed and driveway. The Subject Property has frontage on Jackaway Road and Harmony Lane.

5. The following parties requested and were granted party status: Cara Davis, Helena Rudinska and Jane Silva.

6. Mr. Clement presented the testimony of Matthew Manzo in support of the Application. Mr. Manzo's testimony can be summarized as follows:

The Applicants would like to build a detached garage at the end of their driveway. The garage will be approximately 267 feet from Harmony Lane. Applicants have obtained a building permit that is subject to the receipt of the requested relief. The garage will be for personal use and not for a business. Applicants are not operating a business from their home. The garage will be single story, 26 feet by 38 feet and will be located approximately 10 feet from the house. The garage will have a garage door from the driveway and a man door on the side. The garage will be the same color as the house and will have metal siding and a metal roof. The side of the garage away from the house was previously subject to a paper street. The Applicants purchased the other half of the paper street from their neighbor.

The existing shed on the Subject Property is 10 feet by 15 feet. The shed was present on the Subject Property when the Applicant's purchased it, approximately 24 years ago. The shed is used for the storage of lawn equipment.

The Subject Property has 2 frontages and no rear yard. Almost every house on the street that does not have an attached garage has a detached garage. The proposed garage will not alter the character of the neighborhood.

The Applicant will not utilize Harmony Lane to construct the proposed garage or to utilize the garage. All construction and access will take place utilizing the existing driveway. The Applicant is not currently planning on planting any trees behind the garage but would like to eventually plant some in the rear of the Subject Property.

Applicant is not planning any stormwater improvements. The proposed disturbance is less than 1,000 square feet so no stormwater measures are required.

7. The parties were permitted to cross examine Mr. Manzo and were given the opportunity to provide additional testimony. It became apparent during the questioning that Applicants had previously removed some trees from the Subject Property and the parties did not agree with this decision. The questions related to whether the trees should have been removed and if they had to be replaced. The Board noted on the record, that any issues related to the removal of the trees were not part of the Application before the Board.

8. Karen Trush, 965 Jackaway Road indicated that she and her husband reside across the street from the Applicants. She indicated that the Applicants have been good neighbors, she has no objection to what is being proposed and fully supports the Application.

9. Chris Senf, 970 Jackaway Road indicated that his property is located on the side where the garage is proposed. He has no objections to the Application and believes it will be an asset to the Subject Property and the neighborhood.

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. 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 Restrict Residential Zoning District and a garage and shed are permitted accessory amenities.

6. The Board finds that the Subject Property is subject to physical conditions that burden the Subject Property including that the lot has two frontages so any accessory structures on the Subject Property are likely to be located further forward than the front building line.

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(12)(j) of the Warwick Township Zoning Ordinance in order to allow the existing shed to remain and to allow the Applicant to construct a detached garage on the Subject Property provided that both the shed and the garage will be in the locations depicted on the Plan attached to Exhibit A-1.

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 J Wolf*
Kevin Wolf, Chairman

/s/
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.