

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

Docket No. 22-09

Applicants: Paul Peshkov  
5200 Hilltop Drive, RA-10  
Brookhaven, PA 19015

Owner: Dennis J. Reilly  
2066 Sugarbottom Road  
Furlong, PA 18925

Subject Property: Tax Parcel No. 51-012-022, which is located on Bridge Street, Jamison, PA 18929

Requested Relief: The Applicant intends to construct a 2,233 square foot single family dwelling on a vacant lot. In order to do so, Applicant is seeking the following variances from the Warwick Township Zoning Ordinance (“Ordinance”): from §195-60.C(1) to allow disturbance of 90% of the 8%-15% steep slopes where no more than 40% is permitted; from §195-60.C(2) to allow disturbance of 78% of the 15%-25% steep slopes where no more than 30% is permitted; §195-60.C(3) to allow disturbance of 42% of the 25% or more steep slopes where no more than 15% is permitted; §195-60.D(1) to allow disturbance of 42% of the woodlands in environmentally sensitive areas, where no more than 10% is permitted; §195-60.D(2) to allow disturbance of 83% of other woodland areas where no more than 20% is permitted; and §195-64 to grant relief from meeting reforestation requirements.

Hearing History: The Application was filed in Warwick Township on June 23, 2022. The hearing was held on 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 is the equitable 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 August 2, 2022 hearing:

#### Board Exhibits:

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

B-2 Proof of Publication from the Intelligencer for advertising notice on July 19, 2022 and July 26, 2022. Public Notice advertising hearing scheduled for August 2, 2022 at 7:30 pm and confirmation from the Intelligencer

B-3 Letter dated July 12, 2022 to Paul Peshkov from Vicki L. Kushto, Esquire advising of the hearing date

B-4 Resident mailing certification dated July 18, 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 July 18, 2022

#### Applicant Exhibits:

A-1 Packet of Exhibits

A-2 Letters from 17 neighbors indicating no objection.

4. 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.

5. The Subject Property is located in the RR Restricted Residential Zoning District. The Subject Property consists of 19,754 square feet and is vacant.

6. Lynn Prato and Scott Dwyer of 2126 Sugar Maple Lane and Andree and Helen Amelsberg of 2128 Sugar Maple Lane submitted letters to the Zoning Hearing Board requesting that the hearing be continued. The letter also raised questions about the sufficiency of notice and the need to notify Bridge Valley Homeowners Association.

7. The Bridge Valley of Furlong Homeowners Association was provided with notice of the hearing as shown on Exhibit B-4.

8. Mr. Peshkov objected to the request for a continuance and the Board denied the same.

9. Scott Mease of Mease Engineering testified in support of the Application. His testimony can be summarized as follows:

Mr. Mease prepared the plans for the proposed house. Exhibit A-1 contains blown up portions of the plans. Page 1 of Exhibit A-1 is a Bucks County Tax Parcel Map. On the map, to the left of the Subject Property is the Bridge Valley of Furlong Development and to the right is Bridge Valley Heights. Page 2 is the Site Plan with some color added. The orange is the proposed house, gray is the driveway, and the green is what the woodlands will look like after the development. The proposed house will be served by public water and sewer.

Under the Zoning Ordinance, the minimum lot size is 16,000 square feet and the Subject Property is 18,704 square feet. Page 3 contains the zoning table. The area and bulk requirements will be met, specifically: the required lot width is 100 feet and 133 feet is proposed; the minimum front yard is 30 feet and 38 feet is proposed; the minimum side yard is 20 feet and the shortest proposed is 42 feet; the minimum rear yard is 25 feet and that is what is proposed; the maximum building coverage is 20% and 11.9% is proposed; and the maximum impervious coverage permitted is 30% and 21.6% is proposed.

Page 4 of Exhibit A-1 contains hatching to illustrate the slopes on the Subject Property. To the left are the 8%-15%, to the bottom of the Plan are the 15%-25% and to the right are the steepest at greater than 25% slopes. Page 5 shows the disturbance to the natural resources, specifically: the allowance of disturbance to the 8%-15% slopes is 2,939 square feet and 6,576 square feet is proposed; the allowance of disturbance to the 15%-25% slopes is 999 square feet and 2,590 square feet is proposed; the allowance of disturbance to the greater than 25% is 910 square feet and 2,490 square feet is proposed; the allowance of disturbance to the woodlands in environmentally sensitive areas is 607 square feet and 2,490 square feet is proposed; and the allowance of disturbance to the woodlands not located in environmentally sensitive areas is 2,514 square feet and 10,317 square feet is proposed.

Pages 6-7 contain a list of the variances requested and the justifications therefore. With regard to the steep slopes and the woodland areas the stated hardship is: the lot is undersized and existed prior to the current Zoning Ordinance; the lot is a flag lot with 35 feet of road frontage; almost the entire lot is covered with steep slopes and woodlands; it is not possible to build a house without exceeding the amount of permitted disturbance; the proposed house is located as close to the road as possible and provides for the least amount of disturbance. The additional

stated justification for the variance from the reforestation requirement is that areas not involved in the development will remain wooded and there is no open area where reforestation could be accomplished.

Page 8 is a copy of the original subdivision plan for the Subject Property which consists of Lots 1-5 as shown on the plan. Page 9 is the Deed where the Subject Property first appeared as a separate lot. Page 10 is the most recent Deed showing that the legal description has not changed.

Page 11 is a Bucks County Tax Parcel Map with a hand drawn circle showing 300 feet from the Subject Property. There are four lots within the Bridge Valley at Furlong development that are within 300 feet. All of the surrounding lots in the Bridge Valley Heights development were built between 1950-2010. Also adjoining the Subject Property is open space owned by the Township and open space owned by Heritage Conservancy.

Page 12 is an aerial of the Subject Property from 2000. The two lots shaded in green were vacant at that time. Page 13 is an aerial of the Subject Property from 2022 showing that the Subject Property is the last lot in the immediate vicinity that is vacant. Open space surrounds the Subject Property on 3 sides. The fourth side contains a home that was built in 1955. The Subject Property is 64% larger than the average lots in the area.

There are thick woodlands that buffer the Subject Property from the Bridge Valley at Furlong development. The two lots in Bridge Valley Heights that were developed after 2000 also required complete clearing of the lots. There will be approximately 6,000 square feet of woodlands that will be preserved. Applicant will still be required to obtain approval from the Bucks County Conservation District and applications and plans will have to be submitted to the Township and reviewed by the Township Engineer.

10. Mr. Peshkov testified that he does not want to disturb the trees either. Most of the trees that are being removed are diseased or falling. Removing them will prevent disease to the remaining trees. Mr. Peshkov will plant trees and shrubs where he can but he does not want to commit to anything at this time. Mr. Peshkov will be installing stormwater management facilities that will help any existing stormwater issues. There is no way to build the home without disturbing the steep slopes and the woodlands. The proposed house will match the neighborhood.

9. Lynn Prato of 2126 Sugar Maple Lane indicated that she lives in the Bridge Valley at Furlong development and her house backs up to the Subject Property. She was originally concerned about the views but now believes that she probably won't see the new house.

10. Kim Graeff of 2942 Bridge Street indicated that the Applicant is requesting a lot of relief. There are 5 variances and 2 of them are for quadruple what is permitted. Why does the Township enact ordinances if they don't have to be complied with. There are stormwater problems in this area. She experiences water in her basement that required her to install a French drain in the backyard.

11. Marty Hall of 2934 Bridge Street indicated that he is worried about drainage from the Subject Property. He also believes that the Applicant is asking for a lot of relief. The areas are labelled as environmentally sensitive for a reason.

12. Dennis Reilly is the current owner of the Subject Property. He indicated that the water issues that the neighbors are experiencing is not related to his property. If you look at page 11 of Exhibit A-1, the water runs from the top of the site to a swale to the south. The concern about water runoff is valid but has nothing to do with this property. He intended to build a home on the Subject Property but just doesn't have the money.

13. 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 Ttownship*, 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 Pennsylvania Supreme Court has recognized that the requirement to demonstrate unnecessary hardship can be shown with a lesser quantum of proof in a dimensional variance case. *Hertzberg v. Zoning Hearing Board of Adjustment of the City of Pittsburgh*, 721 A.2d 43 (Pa. 1998).

6. The use of the Subject Property as a single family home is a permitted use in the RR Restricted Residential Zoning District.

7. The Board finds that the Subject Property is subject to physical conditions that burden the Subject Property including that the lot does not meet the minimum lot size requirement and the lot cannot be utilized without disturbance to the steep slopes and woodlands.

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

9. 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.

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

11. 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.

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

13. 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 variances from the following Sections of the Warwick Township Zoning Ordinance: §195-60.C(1) to allow disturbance of 90% of the 8%-15% steep slopes where no more than 40% is permitted; from §195-60.C(2) to allow disturbance of 78% of the 15%-25% steep slopes where no more than 30% is permitted; §195-60.C(3) to allow disturbance of 42% of the 25% or more steep slopes where no more than 15% is permitted; §195-60.D(1) to allow disturbance of 42% of the woodlands in environmentally sensitive areas, where no more than 10% is permitted; §195-60.D(2) to allow disturbance of 83% of other woodland areas where no more than 20% is permitted; and §195-64 to grant relief from meeting reforestation requirements subject to the following condition: compliance with all other applicable Township ordinances including, but not limited to the stormwater ordinance, and the plans will be reviewed and approved by the Township Engineer.

### 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.