

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

Docket No: 22-11

Applicants: Queen Beez, LLC d/b/a Airborne Training Center  
1938 Stout Drive  
Ivyland, PA 18974

Owner: 1938 Stout Drive, LLC  
301 Ivyland Road  
Warminster, PA 18974

Subject Property: Tax Parcel Nos. 51-013-009-040, which is known as 1938 Stout Drive,  
Warminster, PA 18974

Requested Relief: The Applicant seeks to lease the existing 25,123 square foot warehouse building as a training center for acrobatic group sports such as cheerleading and gymnastics. The Applicant is seeking relief from §195-16.G(15)(b) of the Warwick Township Zoning Ordinance (“Ordinance”) to operate an indoor athletic training facility with the 40 available parking spaces, where 513 parking spaces would otherwise be required.

Hearing History: The application was filed in Warwick Township on July 28, 2022. The hearing was held on September 6, 2022.

Appearances: Richard T. Wells, Esquire  
Archer & Greiner, P.C.  
1025 Laurel Oak Road  
Voorhees, NJ 08043

Parties: None.

Mailing Date: October 5, 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 Tenant 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 September 6, 2022 hearing:

#### Board Exhibits:

B-1 Letter with Application from Richard T. Wells, Esquire received by Warwick Township on September 6, 2022

B-2 Proof of Publication from the Intelligencer for advertising notice on August 23, 2022 and August 30, 2022. Public Notice advertising hearing scheduled for September 6, 2022 at 7:00 pm and confirmation from the Intelligencer

B-3 Letter dated August 16, 2022 to Richard T. Wells, Esquire from Vicki L. Kushto, Esquire advising of the hearing date

B-4 Resident mailing certification dated August 19, 2022 sent by Kristen Beach, Warwick Township Zoning Officer and copy of list of property owners.

B-5 Property Posting Certification by Kristen Beach, Zoning Officer dated August 19, 2022

#### Applicant Exhibits:

A-1 Site Plan prepared by Carroll Engineering Corporation dated March 18, 1986

4. The Subject Property is located in the LI Limited Industrial Zoning District. The Subject Property consists of 1.807 acres and currently contains a 25,123 square foot warehouse building.

5. 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.

6. On behalf of the Applicant, Richard T. Wells, Esquire presented a summary of the Application as follows:

The Property currently contains 40 parking spaces. The Applicant is seeking relief from the parking requirements in the Ordinance which would otherwise require a total of 513 parking spaces. The use that the Applicant is proposing is not a separate use but is included as part of the G15 Indoor Athletic Club Use. Other uses covered under the G15 use are of a higher intensity and include a higher concentration of patrons that justify the higher parking demand. The Applicant will not be holding competitions, invitationals or events. The lessons that are provided are by appointment only.

7. Joan Lenahan the owner of the Applicant testified on behalf of the Applicant. Her testimony can be summarized as follows:

Applicant is currently operating at another, smaller facility. Applicant provides training for cheerleading and tumbling. It is not a traditional gymnastics setup because there are no balance beams or uneven bars. The participants are completing flips on the floor. The Subject Property contains an open floor on which the Applicant can install the appropriate type of flooring. There are two types of flooring used, a 2 inch carpet bonded foam and a spring floor that contains plywood and springs. In its current location, Applicant has to switch the floor setups between groups. At the Subject Property, both types of flooring can be set up. However, both floors will not be utilized at the same time because loud music prohibits it.

Currently, Applicant has 13 employees and they are not usually present at the same time. Applicant trains 6 teams that consist of at least 8 members. The largest team contains 23 children. Almost all of the children are dropped off at the beginning of practice and picked up at the end of practice. The number of children will not be increased when the business is moved to the Subject Property. Applicant controls the scheduling of training sessions and is able to limit the number of children present at one time. In addition, the number of children who can be trained is limited by the amount of instructors that Applicant has. Current scheduling provides for one-half an hour between each class and 6-8 pm is typically the busiest time. Most businesses surrounding the Subject Property cease operations after 6 pm. Applicant will not be conducting events at the Subject Property and the unveiling of all routines happens at competitions. No parent previews are provided.

The current location is approximately 13,000 square feet and includes 40-43 parking spaces. It is located in an Industrial Park. At that location there are no issues with parking or circulation and none are anticipated at the Subject Property. At the Subject Property, there is only 1 access point so all cars enter and leave the site at the same location. There is room for 3-4 cars to stack while children are being dropped off. Most cars will not be parking but will just be dropping children off. The only exception is children under 8 years of age in which case parents must enter the facility to pick up their children.

8. John Sherwood of 1927, Unit 5, Stout Drive indicated that all of his questions about the Application have been answered.

9. Charles Sherwood of 1927, Unit 5, Stout Drive indicated that Warwick Commons has approximately 100 small businesses within the park. Most operate during the day. There are also large trucks that enter the park and he had a concern about kids running out onto Stout Drive and whether there was enough room for the stacking of vehicles dropping off children.

10. No individuals requested party status.

11. Warwick Township took no position regarding the Application.

### **CONCLUSIONS OF LAW:**

1. Section 910.2 of the Pennsylvania Municipalities 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 Subject Property is part of an H13 Industrial Park in the LI Limited Industrial Zoning District.

6. Unnecessary hardship is established where the evidence establishes that compliance with the zoning ordinance would render the property practically useless. *Rittenhouse Row v. Aspite*, 917 A.2d 880 (Pa. Cmwlth. 2006).

7. The credible evidence presented by the Applicant, and un rebutted supports the conclusion that the variance requested is necessary to allow the reasonable use of the Subject Property.

8. The credible evidence established by the Applicant, and un rebutted, supports the conclusion that the nature of Applicant's business does not require the 513 parking spaces required by the Ordinance.

9. Applicant has established that it operates its current business in another location that contains the same amount of parking spaces as are available on the Subject Property and does not experience any parking issues.

10. 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.

11. The Board concludes that the evidence presented establishes that the relief sought by the Applicant is the minimum variance necessary with regard to the proposed building.

12. The Board concludes that granting the variance will not alter the essential character of the neighborhood or district in which the Subject Property is located.

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

14. 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.G(15)(b) of the Warwick Township Zoning Ordinance to allow the Applicant to operate a 25,000 square foot indoor athletic training facility with 40 available parking spaces where 513 parking spaces would otherwise be 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:   
David Mullen

/s/ Joseph Thiroway  
Joseph Thiroway

### **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.