

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

Docket No. 23-03

Applicants: 335 Bristol Road LLC
143 Madison Avenue
Warminster, PA 18974

Owner: Same.

Subject Property: Tax Parcel No. 51-013-056 for property known as 335 Bristol Road

Requested Relief: The Applicant is seeking the following variances from the Warwick Township Zoning Ordinance (“Ordinance”): §195-10 of the Zoning Ordinance to permit two principal uses on the Subject Property including G24 Vehicular Repair and H5 Contracting.

Hearing History: The Application was filed in Warwick Township on February 1, 2023. The hearing was held on March 7, 2023 at the Warwick Township Administration Building.

Appearances: Stephen B. Harris, Esquire
Harris and Harris
1760 Bristol Road, P.O. Box 160
Warrington, PA 18976

Parties: None.

Mailing Date: April 3, 2023

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 7, 2023 hearing:

Board Exhibits:

B-1 Application with attachments received by Warwick Township on February 1, 2023

B-1-A 2023 Addendum to Application received in Warwick on February 1, 2023

B-1-B Revised Plot Plan

B-2 Proof of Publication from the Intelligencer for advertising notice on February 19, 2023 and February 26, 2023. Public Notice advertising hearing scheduled for March 7, 2023 at 7:00 pm and confirmation from the Intelligencer

B-3 Letter dated February 14, 2023 to Stephen B. Harris, Esquire from Vicki L. Kushto, Esquire advising of the hearing date

B-4 Resident mailing certification dated February 17, 2023 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 February 17, 2023

B-6 Letter from Mary Eberle, Esquire dated March 3, 2023

Applicant Exhibits:

None.

4. The Subject Property is located in the LI Light Industrial Zoning District. The Subject Property consists of approximately 3.67 acres and contains a Vehicular Repair business.

5. On behalf of the Applicant, Mr. Harris summarized the testimony of Shane McCreesh and Eugene McCreesh as follows:

The Application is pretty straight forward. The Subject Property is the second lot in from the boundary line with Northampton Township. Currently operating on the lot is Rob's Collision Service which also serves as the police impound lot. The impound lot is completely enclosed with a fence. Mr. McCreesh would like to park the trucks for his tree service business behind the building. He does not need to utilize the building for his tree service business and if both uses are not permitted the building would be vacant. Currently there are cars parked in this area that will be removed.

Rob's Collision service would like to continue to operate and as the new owners, the Applicant would like for them to remain. There will be enough room to accommodate cars for Rob's business and both businesses can operate without conflict.

Applicant does not perform any maintenance on the equipment that it owns. Typical operations are from 7 a.m. until approximately 3:30 to 4 p.m. Applicant has an office worker who works remotely. There is one crew that consists of 3-5 employees including the owner, Mr. McCreesh.

The Subject Property has industrial uses on either side. There is development being built behind the Subject Property that is commercial.

6. Mary Eberle, Esquire submitted a letter to the Zoning Hearing Board on behalf of the Board of Supervisors. The Supervisors decided to remain neutral with regard to the Application but recommended that the Board consider the following conditions:

- a. Applicant must use a portion of the existing building for the tree service use (H5 Contracting). The Applicant shall submit a plan to the township showing the location of the building which will be devoted to the H5 use.
- b. The outside portion of the H5 Contracting use shall be limited to the area of the existing gravel parking lot. The existing gravel parking lot shall not be expanded.
- c. There exists on the property an unauthorized expansion of the gravel lane which provides access to the parking lot. Any portion of the gravel lane which extends past the parking lot shall be removed and restored with topsoil and grass to the satisfaction of the Township.
- d. No mulch, wood chips, or logs shall be stored on the property. Mulching operations shall not be conducted from the property.

7. Mr. Harris addressed each of these proposed conditions. Both of the businesses will share an office within the building. Applicant will limit parking to what is currently stone and will not expand the parking lot. Applicant will remove the gravel lane expansion which it acknowledges was installed without permission. With regard to the final condition, Applicant agrees that there will be no mulching or mulch operations on the Subject Property. However, the Applicant needs to store wood chips and logs on the Subject Property on a temporary basis. These materials will be stored on a gravel surface. No wood materials will be processed into mulch on the Subject Property.

8. Dave Mooney was present on behalf of Robert and Paula Gasper at 501 Camars Drive. Mr. Mooney indicated that he had no objection to the Application.

9. No other members of the public provided public comment.

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 G-24 Vehicular Repair is a permitted use in the LI Light Industrial Zoning District. In addition, the H-5 Contracting Use is a permitted use in the LI Light Industrial Zoning District.

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

6. The competent evidence presented by the Applicant and unrebutted leads, the Board to conclude that it would be beneficial to allow both uses to operate at the Subject Property so that the building is not vacant and the Township Police Department is able to continue to utilize the existing impound lot.

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

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

9. 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.

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

11. 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 variance from the Warwick Township Zoning Ordinance: §195-10 of the Zoning Ordinance to allow two principal uses on the Subject Property, a G-24 Vehicular Repair and H5 Contracting use subject to the following conditions:

a. Applicant must use a portion of the existing building for the tree service use (H5 Contracting). The Applicant shall submit a plan to the township showing the location of the building which will be devoted to the H5 use.

b. The outside portion of the H5 Contracting use shall be limited to the area of the existing gravel parking lot as shown on the Plot Plan attached to the Application, Exhibit T-1. The existing gravel parking lot shall not be expanded.

c. There exists on the Subject Property an unauthorized expansion of the gravel lane which provides access to the parking lot. Any portion of the gravel lane which extends past the parking lot shall be removed and restored with topsoil and grass to the satisfaction of the Township.

d. Wood chips or logs may be stored on the Subject Property only on a temporary basis and only on a gravel surface. No wood materials will be processed into mulch at the Subject Property. No mulch or mulching operations shall be conducted from the Subject Property.

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

/s/ Kiel Sigafos
Kiel Sigafos

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.