

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

Docket No. 23-09

Applicants: Greg Robert Christoph and Jerri Lynn Christoph
1755 Meetinghouse Road
Warminster, PA 18974

Owner: Same.

Subject Property: Tax Parcel No. 51-003-111-011 for property known as 1755 Meetinghouse Road

Requested Relief: The Applicant is seeking the following variance from the Warwick Township Zoning Ordinance (“Ordinance”): §195-16B(1)(a)[2] of the Zoning Ordinance to permit a side yard setback of 17 feet where 30 feet is required.

Hearing History: The Application was filed in Warwick Township on June 8, 2023. The hearing was held on July 11, 2023 at the Warwick Township Administration Building.

Appearances: None.

Parties: None.

Mailing Date: August 1, 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 July 11, 2023 hearing:

Board Exhibits:

B-1 Application with attachments received by Warwick Township on June 8, 2023

B-2 Proof of Publication from the Intelligencer for advertising notice on June 25, 2023 and July 2, 2023. Public Notice advertising hearing scheduled for July 11, 2023 at 7:00 pm and confirmation from the Intelligencer

B-3 Letter dated May 16, 2023 to Applicants from Vicki L. Kushto, Esquire advising of the hearing date

B-4 Resident mailing certification dated June 21, 2023 sent by Tom Jones, Warwick Township Zoning Officer and copy of list of property owners

B-5 Property Posting Certification by Tom Jones, Zoning Officer dated June 21, 2023

Applicant Exhibits:

A-1 Photos of the Subject Property

4. The Subject Property is located in the RA Residential Agricultural Zoning District. The Subject Property consists of approximately 2 acres and contains a single family detached dwelling.

5. Applicant, Greg Christoph testified as follows:

Applicants purchased the Subject Property in February and moved in May. The Subject Property is approximately 2 acres. The existing detached garage is located 17 feet from the side yard. Applicants would like to connect the garage and the house for safety and security reasons. The house has a small eating area but no dining room. Mr. Christoph enjoys wood working as a

hobby and would like to have a workshop but not a commercial business. The addition will house a new living area and the woodworking shop.

Exhibit A-1 is two pictures showing the front of the dwelling and the detached garage.

6. Mr. Christoph presented the testimony of Richard Brown, an Architect, and his testimony can be summarized as follows:

The adjacent property on the garage side has a substantial buffer. The addition will not have any impact on this neighbor because the side yard setback will not be reduced. The woodworking shop will be located closest to the garage and the living area will be closest to the house. There will be steps leading from the addition into the main home. The addition is 935 square feet. There are no issues with the amount of impervious coverage on the Subject Property. Applicant will have to comply with the Township's Stormwater Management Ordinance.

7. Andrew Burkholder of 1673 Meetinghouse Road stated that the drawings look good and he thinks joining the two buildings is a good idea.

8. The Board of Supervisors took no position with regard to this 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. A lesser standard of proof is necessary to establish unnecessary hardship for a dimensional variance rather than a use variance. *Hertzberg v. Zoning Board of Adjustment of City of Pittsburgh*, 554 Pa. 249, 257, 721 A.2d 43, 47 (Pa. Cmwlth. 1998).

6. However, despite this so-called "lesser standard of proof", the Pennsylvania Commonwealth Court made clear in *Yeager v. Zoning Hearing Board of the City of Allentown*, 779 A.2d 595 (Pa.Cmwlth.2001) that *Hertzberg*:

"...did not alter the principle that a substantial burden must attend *all* dimensionally compliant uses of the property, not just the particular use the owner chooses. This well-established principle, unchanged by *Hertzberg*, bears emphasizing in the present case. A variance, whether labeled dimensional or use, is appropriate "only where the *property*, not the person, is subject to hardship." *Szmigiel v. Kranker*, 6 Pa.Cmwlth. 632, 298 A.2d 629, 631 (1972) ('[W]hile *Hertzberg* eased the requirements ... it did not make dimensional requirements ... "free-fire zones" for which variances could be granted when the party seeking the variance merely articulated a reason that it would be financially "hurt" if it could not do what it wanted to do with the property, even if the property was already being occupied by another use. If that were the case, dimensional requirements would be meaningless--at best, rules of thumb--and the planning efforts that local governments go through in setting them to have light, area (side yards) and density (area) buffers would be a waste of time.' *Society Created to Reduce Urban Blight v. Zoning Bd. of Adjustment*, 771 A.2d 874, 878 (Pa.Cmwlth.2001).

7. The use of the Subject Property as a B-1 single family detached dwelling is a permitted use in the RA Residential Agricultural Zoning District.

8. The addition to join the existing house with the detached garage on the Subject Property conforms to all requirements of the Zoning Ordinance except for the side yard setback.

9. The Board concludes that the evidence presented establishes a hardship as the detached garage is already in existence and will only violate the side yard setback when it is joined with the existing house. In addition, the Applicants are not increasing the side yard encroachment.

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, if the conditions are complied with, that the granting of the variances 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 relief requested.

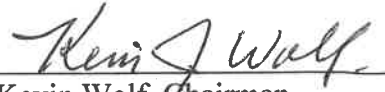


13. Accordingly, the Warwick Township Zoning Hearing Board determined, unanimously, to grant the Applicant's request for relief.

ORDER

Upon consideration and after the hearing, the Zoning Hearing Board of Warwick Township hereby GRANTS the following variance from the Warwick Township Zoning Ordinance: §195-16B(1)(a)[2] of the Zoning Ordinance to allow a side yard setback of 17 feet where 30 feet is required on the Subject Property subject to the following condition: Applicant shall comply with all Ordinances and Regulations of Warwick Township.

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 Wolf, Chairman

Lorraine Sciuto-Ballas

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.