

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

Docket No. 23-12

Applicants: Pavel Hudzen
2603 Hudzen Point
Jamison, PA 18929

Owner: Same.

Subject Property: Tax Parcel No. 51-033-035 for property known as 2603 Heron Point

Requested Relief: The Applicant is seeking the following variance from the Warwick Township Zoning Ordinance (“Ordinance”): §195-16B(2)(e)[3][c][i] of the Zoning Ordinance to permit a maximum impervious coverage of 25.6% where 25% is permitted.

Hearing History: The Application was filed in Warwick Township on September 29, 2023. The hearing was held on November 14, 2023 at the Warwick Township Administration Building.

Appearances: Bryce H McGuigan, Esquire
Begley, Carlin & Mandio, LLP
680 Middletown Boulevard
Langhorne, PA 19047

Parties: None.

Mailing Date: December 5, 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 November 14, 2023 hearing:

Board Exhibits:

B-1 Application with attachments received by Warwick Township on September 29, 2023

B-2 Proof of Publication from the Intelligencer for advertising notice on October 29, 2023 and November 5, 2023. Public Notice advertising hearing scheduled for November 14, 2023 at 7:00 pm and confirmation from the Intelligencer

B-3 Letter dated October 23, 2023 to Bryce H. McGuigan, Esquire from Vicki L. Kushto, Esquire advising of the hearing date

B-4 Resident mailing certification dated October 27, 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 November 2, 2023

Applicant Exhibits:

None

4. The Subject Property is located in the RA Residential Agricultural Zoning District. The Subject Property consists of approximately 0.8 acres and contains a single family detached dwelling.

5. Bryce McGuigan, Esquire summarized the Applicant, Pavel Hudzen's testimony as follows:

The Subject Property is approximately 0.8 acres. Applicant obtained a permit to install an inground swimming pool and a patio area. After beginning construction, Applicant wanted to

install a pool house. The proposed pool house is 414 square feet. Adding the pool house will exceed the permitted impervious coverage by 0.6%, which is de minimis. The pool house will be within all applicable setbacks and the Subject Property will be in compliance with the allowable building coverage.

Mr. Hudzen confirmed that Mr. McGuigan's summary of his testimony was accurate and he would adopt the statements as his own testimony.

6. Bryce McGuigan, Esquire summarized the testimony of Vince Fioravanti, P.E. as follows:

Mr. Fioravanti was offered and accepted by the Board as an expert in civil engineering. The Subject Property drains to the rear and Applicant is proposing to install a seepage pit to address the additional impervious coverage. Standing on the Subject Property, the adjoining property to the left is open space that is owned by the Township.

Mr. Fioravanti agreed with Mr. McGuigan's summary of his testimony and adopted the summary as his testimony.

7. No members of the public requested party status.
8. The Board of Supervisors took no position with regard to this Application.
9. No 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 when a de minimis variance is sought. Specifically, to grant a de minimis variance, the Board must find: "that only a minor deviation from the dimensional requirement of a zoning ordinance is sought; and that rigid compliance

with the zoning ordinance is not necessary to protect the public policy concerns inherent in the zoning ordinance.” *Appletree Land Dev. V. Zoning Hearing Bd.*, 834 A.2d 1214 (Pa. Cmwlth. 2002).

6. 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.

7. The Board concludes that an increase of 0.6% in the amount of permitted impervious coverage is a minor deviation from the dimensional requirement of the Zoning Ordinance.

8. The Board concludes that rigid compliance with the Zoning Ordinance is not necessary to protect the public policy concerns in the Zoning Ordinance.

9. 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: §195-16.B(2)(e)[3][c][i] of the Zoning Ordinance to allow a maximum impervious coverage on the Subject Property of 25.6%

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/ Dave Mullen
Dave Mullen

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.