

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

Docket No. 24-03

Applicants: Gary Bulicki, Member
Real Renovations, LLC
2051 Carmel Drive
Jamison, PA 18929

Owner: Same.

Subject Property: Tax Parcel No. 51-012-026 for property known as Bridge Street

Requested Relief: The Applicant is seeking the following variances from the Warwick Township Zoning Ordinance (“Ordinance”): §195-16.B(1)(a)(2) to allow a residential dwelling to be built on lot with 8,999 square feet where 20,000 square feet is required; to allow an 80 foot lot width where a minimum of 100 feet is required; a 27.5 foot front yard setback where 40 feet is required; and a 23 foot rear yard setback where 25 feet is required.

Hearing History: An Application was filed in Warwick Township on March 19, 2024. The hearing was held on May 7, 2024 at the Warwick Township Administration Building.

Appearances: Glen D. Kimball
O’Connor Kimball, LLP
1500 JFK Blvd., Suite 110
Philadelphia, PA 19102

Parties: None

Mailing Date: June 5, 2024

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 May 7, 2024 hearing:

Board Exhibits:

B-1 Application with attachments received by Warwick Township on March 19, 2024

B-2 Proof of Publication from the Intelligencer for advertising notice on April 21, 2024 and April 28, 2024. Public Notice advertising hearing scheduled for May 7, 2024 at 7:00 pm and confirmation from the Intelligencer

B-3 Letter dated April 16, 2024 to Glen D. Kimball, Esquire from Vicki L. Kushto, Esquire advising of the hearing date

B-4 Resident mailing certification dated April 25, 2024 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 April 26, 2024

Applicant Exhibits:

A-1 Zoning Plan with items highlighted

A-2 Pictures showing setbacks of other properties

4. The Subject Property is located in the RR Restricted Residential Zoning District. The Subject Property consists of approximately 8,999 square feet and is currently vacant.

5. Mr. Kimbell provided a summary of the Application as follows:

The Subject Property was created as part of a subdivision that was approved in 1925 that was known as Bridge Valley Heights. The lot size is 8,999 square feet and the minimum lot size required in the Zoning District is 20,000 square feet. Applicant also requires lot width, front and rear yard setback variances. The hardship is that Bridge Street is very small and will not permit

street parking. It is likely that Bridge Street is not wide enough for two cars to pass each other without going off the paved cartway. The required front yard setback is 40 feet but the proposed setback is 27.5 feet to allow for 2 cars to park in the driveway as well as 1 car in the proposed garage. Pushing the house back also reduces the rear yard setback to 23 feet where 25 feet is required. The rear yard setback variance would be considered de minimis.

The available building envelope on the Subject Property would result in an odd living space. The proposed house is 1,800 square feet with 3 bedrooms. If granted, the variances will be beneficial to the neighborhood because no cars will be parked on the street.

6. Mr. Bulicki's testimony can be summarized as follows:

Mr. Bulicki has been a realtor for the last 29 years. The owner of 2953 Bridge Street, which if you are looking at the property from Bridge Street is to the left, purchased this lot along with the lot on the other side of 2953 Bridge Street all at the same time. When water and sewer were installed for 2953 Bridge Street, taps were also installed to the two vacant lots, including the Subject Property.

Exhibit A-2 contains pictures of other homes within the community that do not have the required 40 foot front yard setback. These other lots also have less than the required 20,000 square feet.

In response to a question from the Board, Mr. Bulicki agreed to accept as a condition of approval that he include a deed restriction against the Subject Property that prohibits the garage from being converted into a living space.

7. Mr. Tilford's testimony can be summarized as follows:

Mr. Tilford is employed by Shoemaker, Inc. in Montgomeryville, PA. He performed a survey and located the existing structures. There is a garage on 2953 Bridge Street that encroaches on the Subject Property that will have to be removed. The existing width of Bridge Street is 35 feet but the ultimate right of way is 60 feet. The proposed home is 40 feet back from the existing right of way but not the ultimate right of way. The Application meets the maximum impervious coverage limits. Stormwater will be addressed as part of the building permit plan.

8. Mr. William Moss of 2956 York Road provided public comment and expressed his concerns about grading and stormwater.

9. The Board of Supervisors took no position with regard to this 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 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 RR Restricted Residential Zoning District.

8. The Subject Property has unique physical conditions in that it was created in 1925 before the current lot width requirements were in place and when the required setbacks are applied the building envelope would create an odd living space.

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

10. 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.

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

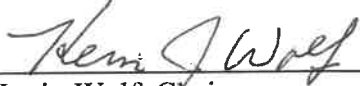
12. Accordingly, the Warwick Township Zoning Hearing Board determined, by a majority vote, to grant the Applicant's request for relief.

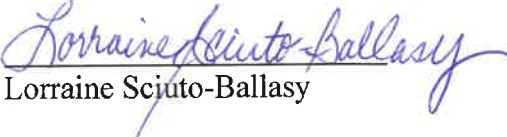
ORDER

Upon consideration and after the hearing, the Zoning Hearing Board of Warwick Township hereby GRANTS the following variances from the Warwick Township Zoning Ordinance: §195-16.B(1)(a)(2) of the Zoning Ordinance to: allow a residential dwelling to be built on a lot that is 8,999 square feet where 20,000 square feet is required; to allow an 80 foot lot width where a minimum of 100 feet is required; to allow a 27.5 foot front yard setback where 40 feet is required; and to allow a 23 foot rear yard setback where 25 feet is required subject to the requirement that Applicant record a deed restriction against the Subject Property prohibiting the garage from being converted into living space and providing a copy of that restriction to the Zoning Officer

The relief 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 Scjuto-Ballasz

Edward Thompson, Jr.

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.