

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

Docket No. 24-04

Applicants: Gary Bulicki, Member  
Home to Be, LLC  
2051 Carmel Drive  
Jamison, PA 18929

Owner: Same.

Subject Property: Tax Parcel No. 51-012-028 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 9,504 square feet where 20,000 square feet is required; to allow an 91 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 15 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

4. The Subject Property is located in the RR Restricted Residential Zoning District. The Subject Property consists of approximately 9,454 square feet and is currently vacant.

5. Applicant filed a similar application for another property on Bridge Street that is 2 lots away under Docket No. 2024-03.

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

The Subject Property is located at the corner of Bridge Street and Old York Road and was created as part of a subdivision that was approved in 1925 that was known as Bridge Valley Heights. The lot size is 9,504 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 proposed house will meet the front yard setback requirement on Old York Road but is only setback from Bridge Street 27.5 feet where 40 feet is required. This reduced setback will allow for 2 cars to park in the driveway as well as 1 in the garage. 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. Pushing the house back also reduces the rear yard setback to 15 feet where 25 feet is required.

Public safety will be enhanced if this proposed layout is used instead of the building envelope that is created when all of the required setbacks are met. 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.

7. 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 right, 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.

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.

8. 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. The existing width of Bridge Street is 35 feet but the ultimate right of way is 60 feet. The proposed home meets the setback from the existing right of way of Bridge Street 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.

The lot is relatively flat and Mr. Tilford believes there will be enough room for grading within the 15 foot rear yard setback or they may need to install a small retaining wall.

9. Mr. William Moss of 2956 York Road provided public comment and expressed his concerns about grading and stormwater. He indicated that the Subject Property currently floods when it rains.

10. 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

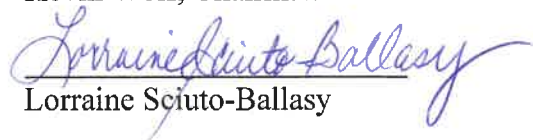
Upon consideration and after the hearing, the Zoning Hearing Board of Warwick Township hereby GRANTS the following variances from the Warwick Township Zoning Ordinance: §195-16.B(1)(a)(2) of the Zoning Ordinance to: allow a residential dwelling to be built on a lot that is 9,504 square feet where 20,000 square feet is required; to allow an 91 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 15 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 Sciuto-Ballasy

\_\_\_\_\_  
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.