



CLEMONS RICHTER & REISS

A Professional Corporation

2003 S. EASTON ROAD, SUITE 300
DOYLESTOWN, PA 18901
Phone 215 348 1776 Fax 215 348 9450
www.clemonslaw.com

TERRY W. CLEMONS
STEFAN RICHTER*
PETER L. REISS, LL.M.
SCOTT A. MACNAIR
*Fellow, College of Community
Association Lawyers

DANIEL M. KEANE
JOSEPHINE LEE WOLF
VICKI L. KUSHTO
ASHLEY C. GARRIDO

August 6, 2025

Sent Via Regular Mail and Email: rnemeroff@fsalaw.com

Robert Nemeroff, Esquire
Friedman, Schuman & Layser
275 Commerce Drive, Suite 210
Fort Washington, PA 19034

Re: Warwick Township Zoning Hearing Board – Signed Decision
Application of Warminster Township Municipal Authority
Property: Stover Street – TMP No. 51-014-241

Dear Mr. Nemeroff:

Enclosed please find a copy of the Decision issued by the Warwick Township Zoning Hearing Board for the above-referenced application.

If you have any questions, please feel free to contact me.

Very truly yours,

Vicki L. Kushto
Solicitor, Warwick Township
Zoning Hearing Board

/de

Enclosure: Decision

cc: Tom Jones (via email)
cc: Vadim Levitz, Party – w/encl via regular mail
cc: Nicholas Stiglitz, Party – w/encl via regular mail
cc: Steven Hungerford, Party – w/encl via regular mail
cc: William Cave, Party – with encl via regular mail

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

Docket No. 25-05

Applicants: Warminster Township Municipal Authority
415 Gibson Avenue
Warminster, PA 18974

Owner: Same

Subject Property: Tax Parcel No. 51-014-241 for property known as Stover Street at Clover Place and Bancroft Place

Requested Relief: The Applicant is seeking the following relief from the Warwick Township Zoning Ordinance ("Ordinance"): a special exception from §195-36.C to allow for an E1 Utility/Public Service Use within the MF-1 Multi-Family Residential-1 Zoning District; a variance from §195-16.E.1.a.2 to allow for a front setback of 90 feet, a side yard setback from the northeasterly property line of 25 feet and a side yard setback from the southeasterly property line of 30 feet where 100 feet is required; a variance from §195-61.B.2.a a variance from Section 195-61(b)(2)(a) to allow improvements including a driveway, underground piping, fencing and potential future stormwater facility to disturb lands within the floodplain limits which will not meet with Resource Protection Ratio of 1.00; a variance from Section 195-60(K)(5)(g) and 195-61(B)(2)(a) to allow additional paved driveway and parking areas in the Riparian Corridor Conservation District Zone-2 in addition to those areas already in existence which will not meet the Resource Protection Ratio of 1.00; and a variance from Section 195-60(K)(4)(b)(2)(f) and 195-61(B)(2)(a) to allow placement of an unnaturalized subsurface stormwater management facility within Riparian Corridor Conservation District Zone 2, if required by the Township which will not meet the Resource Protection Ratio of 1.00.

Hearing History: An Application was filed in Warwick Township on May 29, 2025. The hearing was held on July 1, 2025 at the Warwick Township Administration Building.

Appearances: Robert Nemeroff, Esquire
Friedman, Schuman & Layser
275 Commerce Drive, Suite 210
Fort Washington, PA 19034

Parties: Vadim Levitz
914 Clover Place
Warminster, PA 18974
Nicholas Stiglitz
976 Beechwood Place
Warminster, PA 18974

Steven Hungerford
900 Clover Place
Warminster, PA 18974

William Cave
1004 Gates Place
Warminster, PA 18974

Mailing Date: August 6, 2025

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 1, 2025 hearing:

Board Exhibits:

B-1 Application with attachments received by Warwick Township on May 29, 2025.

B-2 Proof of Publication from the Intelligencer for advertising notice on June 17, 2025 and June 24, 2025. Public Notice advertising hearing scheduled for July 1, 2025 at 7:00 pm and confirmation from the Intelligencer

B-3 Letter dated June 10, 2025 to Applicant's attorney, Robert Nemeroff, Esquire from Vicki L. Kushto, Esquire advising of the hearing date

B-4 Resident mailing certification dated June 16, 2025 sent by Tom Jones, Warwick Township Zoning Officer and copy of list of property owners notified

B-5 Property Posting Certification by Tom Jones, Zoning Officer dated June 16, 2025

B-6 Letter dated April 28, 2025 from Township Solicitor, Mary Eberle, Esquire

Applicant Exhibits:

A-1 1977 Agreement

A-2 1985 Agreement

A-3 1985 Deed

A-4 Rick Getts, P.E. CV

A-5 Well 37 Site Plan

A-6 Well 37 Photographs

Opposition Exhibits

Levitz 1 Opposition Report

4. The Subject Property is located in the MF-1 Multi Family Residential Zoning District. The Subject Property consists of approximately 1.35 acres and is currently being utilized as an E1 Utility/Public Service Use.

5. Section 195-16.E(1) states as follows:

E1 Utility or Public Services Uses.

(a) Utility or public services uses shall be limited to transformer stations, pumping stations, relay stations, cellular telecommunications facilities, electrical substations, telephone substations, sewage treatment plants, and any similar or related installations, not including public incinerators and public or private landfills, provided that:

[1] No public business office or any storage yard or storage building shall be operated in connection with the utility/public service use except in commercial and industrial zoning districts.

[2] A buffer yard shall be provided in accordance with existing ordinances along all property lines and street right-of-way lines which shall include adequate means for visual screening and shall include the following minimum setbacks from property lines:

[c] Well facility: 100 feet

6. Mr. Nemeroff presented a summary of the application as follows:

The Applicant proposes to demolish the existing well house and replace it with a larger well house to allow room within the building to install a filtration system to remove PFAS from the water ("filtration system"). The Applicant's wells were contaminated with PFAS from the Naval Air Station. When the contamination was discovered, the Applicant took its wells off-line and began purchasing water from North Wales to provide to its customers. The Applicant would like to return to using its wells.

The Subject Property was purchased by the Applicant from the Stover Mill Community Association. There was an Agreement before the surrounding Stover Mill Community was built that limits the use of the Subject Property to a well site. This limitation was not incorporated into the Deed transferring the subject property from the Association to the Applicant. The Applicant has been operating a well site on the Subject Property for over 20 years. The existing well house is not large enough to also house the filtration system.

7. Mr. Nemeroff presented the testimony of Tim Hagey which can be summarized as follows:

Mr. Hagey has been the general manager of Applicant since 2005. The Applicant's source of water is groundwater from 17 wells. The well on the Subject Property is referred to as Well 37. The PFAS contamination was first discovered in 2014. All 17 of the Applicant's wells are contaminated. PFAS stands for per- and polyfluoroalkyl substances which include a lot of

different chemicals. The most well-known PFAS include PFOA which is perfluorooctanoic acid and PFOS which is perfluorooctanesulfonic acid.

The limits of permissible PFAS in drinking water have changed over time. Currently, North Wales' water contains 2.3 parts per million. The state standards are 14 parts per trillion for PFOA and 18 parts per million for PFOS. The proposed federal limit is 4 parts per million. The Applicant made the decision to take its wells off-line as the contamination was discovered. By 2016, all 17 wells had been taken off-line and all wells had the same level of contamination. The Applicant has 4 wells that currently have filtration systems. In order to bring the wells back on-line, a filtration system needs to be installed at each well. Well 37 is currently off-line and it was the Applicant's most productive well.

The filtration system includes the water going through a stainless steel vessel that contains resin that the water filters through. There are a number of these vessels that the water goes through. The current treatment facilities that the Applicant has are contained within block buildings. The building at the Subject Property is not large enough for the filtration system.

The current building has piping, valves, electrical controls and chlorine, which is required by law. Installing the filtration system will benefit consumers of the Applicant by removing PFAS from the water. If the filtration system is not installed, Well 37 will need to remain out of service. Residents in the Stover Mill Community do receive water from the well. Although the water from the well goes into the system, if a resident turns on the water when that well is pumping they will draw from the closest well.

Exhibit A is an Agreement from 1977 between the Applicant, the Township and the Developer of the Stover Mill Community. Exhibit B is an Agreement between the Stover Mill Homeowners Association and the Applicant. Exhibit C is the Deed from the Association to the Applicant dated in 1985. After the Subject Property was transferred to the Applicant, the Applicant installed the well, pump, well building, electrical service and the chlorine filtration system. The piping within the building is connected to the well itself. Well 37 has been in service since 1989 and ran for 26 years.

The Applicant needs to supply water to its customers. It would be cheaper for the Applicant if the well was on-line. The well is approximately 250 feet deep and pumps approximately 270 gallons per minute. He is not aware of whether putting this well back on-line will have any effect on other wells in the area. However, it ran for 26 years without a known problem to surrounding wells and he is not aware of any instances where surrounding wells were effected.

The water is tested right at the well site within the treatment building. The water testing is done before the first tank and after the second tank. The filtration system is not expected to "break through" for three years. When there is a "break through" the stainless steel tanks are changed. The resin that is used for the filtration goes to a landfill because the Department of Defense has a moratorium on burning it. Changing the resin is not a hazardous activity.

8. Mr. Hagey's response to questions from the parties can be summarized as follows:

It is not possible for the Applicant to build one large treatment plant as there is no direct pipe from each well to one location.

The new building will be outside the floodplain and the riparian corridor. If the 100 foot setback requirement is applied to the Subject Property, the building cannot be built without a variance. The Applicant currently has 2 wells that are on-line now that have the filtration systems installed, Well 10 and Well 13. Well 10 pumps 225 gallons per minute and Well 13 pumps 100-120 gallons per minute. Well 10 is approximately 150 feet from a residence and Well 13 is approximately 300 feet from a residence. There is an additional well that is in operation but the water is not used because it is the most polluted. The Applicant has an agreement with the Navy to operate and pump the well, but the water goes to a nearby creek under the Applicant's NPDES permit.

The equipment needed to change the resin is a fork lift and a truck to load it onto. The resin comes in barrels. It takes about 3 days to change all of the resin. There is no odor when the change occurs. The chlorination system is within a 150 pound cylinder in a separate room within the building. The chlorination system is in the current building and will be in the new building. The generator at the building runs once a week. The Navy is paying for the filtration system. The filtration system will bring the PFAS levels down to 0. No additional drilling is needed for the well.

The proposed building will be approximately 3 times the size of the current building. The well is checked everyday by the Applicant's staff. No other items, except what is used in the filtration system and the chlorine filtration system, are stored at the Subject Property. It is estimated that construction of the new building will take approximately 6 months. The road utilized by the Subject Property will not be closed during construction. The well will stay where it is, only the building will be moved.

9. Mr. Nemeroff presented the testimony of Rick Getts which can be summarized as follows:

Mr. Getts is employed by CKS, the Applicant's Engineer. He has worked for CKS for 2 years. He is licensed as a professional engineer in PA, New Jersey and Maryland. Exhibit D is his CV. Exhibit E is a plan that he prepared. The minimum lot size in this district is 1 acre and the Subject Property is 1.35 acres. No relief is needed with regard to the lot width. With regard to setbacks, the existing building is 90.13 feet from Clover Place and 95.49 feet from Stover Lane. The proposed building will be 90 feet from Clover Pace and over 100 feet from Stover Lane. The existing building required variances when it was built. The existing building has a side yard setback of 83.03 feet and the proposed building will be 30 feet.

The Subject Property is a corner lot so the area behind the building is either considered a rear yard or a side yard. Either way the setback required is 100 feet. The existing "rear yard" is 75.04 feet and the proposed is 25 feet. From Stover Lane, the proposed building is over 100 feet. The current impervious coverage is 4.2% and the proposed is 8.2%.

There will be no adverse odors, noise, vibration or environmental impacts beyond the property lines. The building will contain the filtration system, piping, electrical, water quality monitors and the chlorination system. The stainless steel vessels are 7 feet in diameter and 11.5

feet tall. The current building is only 12 feet tall, which is not enough to accommodate the filtration system. Raising the roof would not solve the problem because the building still would not be big enough to house the filtration system.

The current building is 14 feet by 29 feet. The proposed building is 30 feet by 42 feet. In preparing the plan, he wanted to keep the building out of the floodplain. The doors to the building are pointed toward the wooded area so that it would not be noticeable by neighbors. Mr. Getts took photos of the Subject Property which are Exhibit F and include a drone photo taken by the Applicant. Mr. Getts described all of the photos in Exhibit F.

There is no location on the Subject Property where a building could be built in compliance with the 100 foot setback requirement. The Applicant is proposing to buffer the closest townhouse with 15 Green Giants and 3 Eastern red buds. The proposed building is not within the floodplain but the driveway addition, fencing, underground piping and stormwater facility, if required, will be in the floodplain. It is not possible to locate the driveway out of the floodplain without moving it closer to the other property lines. Staff will use the driveway on a daily basis. Staff will arrive in either an F150 or a utility body vehicle and will stay on the Subject Property for no more than 1 hour.

The piping cannot be out of the floodplain because the well itself is in the floodplain. The proposed fencing is necessary for safety and security. It is not possible for the fence to be out of the floodplain as most of the property is within the floodplain. It is not clear yet if stormwater management facilities will be required, but the Applicant is seeking relief with regard to it, if needed. No disturbance is allowed in the floodplain by the Zoning Ordinance and that is why the Applicant is seeking relief.

The riparian corridor is 75 feet from the top of the bank of the waterway. The riparian corridor overlaps with the floodplain and is shown on the plan with hatching. Pursuant to the Zoning Ordinance, this area cannot be disturbed. This area will be disturbed for the same reasons as the floodplain area.

The proposed stormwater management facility would be an underground basin. It will be easier to install than an above ground basin. It will not have an adverse effect on the riparian corridor or the floodplain. The ground will be excavated to install the basin and then the surface will be restored. The new trees that are proposed will help with stormwater and depending on the Township's interpretation of its Stormwater Ordinance, may negate the need for additional stormwater measures.

It is Mr. Getts opinion that there are unique physical conditions affecting the Subject Property that cause a hardship including the floodplain on most of the property, the steep slopes on the western portion of the property, the tributary that runs through the property and the existing culvert. The Subject Property cannot be developed in conformity with the Zoning Ordinance requirements because of the floodplain, the setbacks and the lot size. The hardship was not created by the Applicant but by the physical characteristics of the Subject Property. The relief will not alter the essential character of the neighborhood and will not be detrimental to the public welfare. The relief requested is the minimum variance necessary to afford relief.

10. In response to questions from the parties, Mr. Getts testified as follows:

Each stainless steel vessel holds 3,500 gallons of water. There is minimal chance of a spill. If there is a spill, the building has a french drain and the floors are sloped toward that drain and it will capture the water. The filtration system will be purchased following a public bidding procedure. There are no air hazards associated with the filtration system and the Applicant is not required by law to conduct air monitoring. The well site is controlled remotely and there is an alarm system if there is an issue. The well could be shut down immediately in the event of an emergency. There is a control room at the Applicant's business that is monitored 24 hours a day, 7 days a week. The generator is a portable generator that would turn off if there was a power outage. Staff respond within 4 hours after the generator is activated.

Mr. Getts has been working on PFAS projects for more than five years. He is aware of the recent repairs that were completed to the riparian corridor. Mr. Getts has been working on this project for approximately 8 months. During that time, Mr. Getts did not have any contact with any residents within the Stover Mill Community. A stormwater study has not been conducted yet.

11. Mr. Levitz, a party to the preceding, testified as follows:

The evidence presented is not complete because it doesn't include mention of the Deed restriction in the 1985 Agreement which restricts the use to a well site. Applicant's proposal conflicts with the Zoning Ordinance and the deed restriction. Mr. Levitz presented an Opposition Report which was marked as Levitz 1. Mr. Levitz read the contents of Levitz 1. Mr. Levitz is not opposed to clean water just a facility like this being in a residential neighborhood and the air contamination risks that it brings.

12. Mr. Stiglitz, a party to the proceeding, testified as follows:

Mr. Stiglitz is also not opposed to clean water but is concerned about contamination. Mr. Stiglitz believes there should have been more outreach to residents who were only notified when it was required and the notice was short from a timing prospective. The residents wanted the opportunity to consult with an attorney and to find out what the effects of the filtration system could be. Mr. Stiglitz cannot support a rushed approval. Mr. Stiglitz asked for the Board to give more time for the residents and the HOA Board to fully understand what is going on.

13. Mr. Cave, a party to the proceeding, testified as follows:

Mr. Cave is the President of the Stover Mill Homeowners Association. He did not receive a letter providing notice of the hearing. He saw the notice posted on the Subject Property when he was walking in the community. There are a lot of kids in the neighborhood and he is concerned about the effects from the facility. Mr. Cave would like more time to review the Application and to find out if there are other options. In addition, he does not understand all of the information. Also, the community has 488 residents who were recently disturbed when the streets were paved. Construction of this building will disturb the residents again.

14. Public comment was provided as follows:

Tom Pistoria, 898 Clover Place. He is opposed for all of the reasons given by the parties. In his opinion, you don't need to look any further than the Deed restriction.

Matt Hagopian, 1015 Princeton Place. There are a lot of kids in the neighborhood and he wants what is best for safety and his family. The filtration system brings the possibility of problems. The community shouldn't house a chemical facility. In addition, the process should have been more public as he also didn't know about the proposal until he saw the sign.

Michelle McCarthy, 899 Clover Place. Not everyone within the Stover Mill Community received notice. In addition, there is a neighboring community that was not notified. She wants clean water but is concerned about the chemicals. She is a registered nurse and is worried about the possibilities and the danger. The residents of the Community will not directly benefit. She would like the facility to be located somewhere else.

15. The Board of Supervisors took no position with regard to this Application.

CONCLUSIONS OF LAW:

1. The Subject Property is within the MF-1 Multi Family Zoning District. The current use of the Subject Property is as an E1 Utility/Public Service use.
2. An E1 Utility/Public Service use is permitted by special exception within the MF-1 Multi Family Zoning District.
3. Section 195-16.E(1) states as follows:

E1 Utility or Public Services Uses.

(b) Utility or public services uses shall be limited to transformer stations, pumping stations, relay stations, cellular telecommunications facilities, electrical substations, telephone substations, sewage treatment plants, and any similar or related installations, not including public incinerators and public or private landfills, provided that:
[1] No public business office or any storage yard or storage building shall be operated in connection with the utility/public service use except in commercial and industrial zoning districts.
[2] A buffer yard shall be provided in accordance with existing ordinances along all property lines and street right-of-way lines which shall include adequate means for visual screening and shall include the following minimum setbacks from property lines:
[c] Well facility: 100 feet
4. Applicant complies with §195-16.E(1)(b) in that it is proposing a well site and will not have a public business office, storage yard or storage building. With regard to §195-16.E(1)(b)[2], Applicant has requested the appropriate variances.

5. 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).

6. 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).

7. The hardship must relate to the property and not the person. *Id.*

8. The Subject Property is burdened by the floodplain, setbacks and lot size which create a hardship not caused by the Applicant.

9. The Board concludes that the granting of the variance will not alter the essential character of the neighborhood or district in which the Subject Property is located.

10. The Board concludes that the proposed use will have a very low impact on the surrounding uses and neighbors.

11. The Board concludes that the variance being requested is the minimum variance that will afford relief.

12. The Board concludes that the Applicant has presented evidence of sufficient factors to warrant the grant of a variance subject to the conditions set forth below.

13. Accordingly, the Warwick Township Zoning Hearing Board determined, by a majority vote, to grant the Applicant's request for a variance subject to the conditions below.

ORDER

Upon consideration and after the hearing, the Zoning Hearing Board of Warwick Township hereby GRANTS the following relief:

a special exception from §195-36.C to allow for an E1 Utility/Public Service Use within the MF-1 Multi-Family Residential-1 Zoning District; a variance from §195-16.E.1.a.2 to allow for a front setback of 90 feet, a side yard setback from the northeasterly property line of 25 feet and a side yard setback from the southeasterly property line of 30 feet where 100 feet is required; a variance from §195-61.B.2.a a variance from Section 195-61(b)(2)(a) to allow improvements including a driveway, underground piping, fencing and potential future stormwater facility to disturb lands within the floodplain limits which will not meet with Resource Protection Ratio of 1.00; a variance from Section 195-60(K)(5)(g) and 195-

61(B)(2)(a) to allow additional paved driveway and parking areas in the Riparian Corridor Conservation District Zone-2 in addition to those areas already in existence which will not meet the Resource Protection Ratio of 1.00; and a variance from Section 195-60(K)(4)(b)(2)(f) and 195-61(B)(2)(a) to allow placement of an unnaturalized subsurface stormwater management facility within Riparian Corridor Conservation District Zone 2, if re
quired by the Township which will not meet the Resource Protection Ratio of 1.00.

subject to the condition that the Applicant comply with all applicable health and safety standards.

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


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.