

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

Docket No. 25-06

Applicants: JMAC Investments, LLC
20 Markham Court
Langhorne, PA 19047

Owner: Same

Subject Property: Tax Parcel No. 51-011-035 for property known as 2033 Elm Avenue

Requested Relief: The Applicant is seeking the following variances from the Warwick Township Zoning Ordinance (“Ordinance”): §195-31(B) to allow a rear yard of 27.8 feet where 50 feet is required and to permit a maximum building coverage of 21.9% when 20% is permitted.

Hearing History: An Application was filed in Warwick Township on June 24, 2025. The hearing was held on August 5, 2025 at the Warwick Township Administration Building.

Appearances: Chelsea Jackman, Esquire
Begley, Carlin & Mandio, LLP
680 Middletown Blvd.
Langhorne, PA 19047

Parties: Matthew Manz Diane Volz
2030 Elm Avenue 1989 Elm Avenue
Jamison, PA 18929 Jamison, PA 18929

Wayne Maurer James Celotto
1955 Elm Avenue 2063 Maple Avenue
Jamison, PA 18929 Jamison, PA 18929

Bonnie Williams
2065 Elm Avenue
Jamison, PA 18929

Mailing Date: September 10, 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 equitable 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 August 5, 2025 hearing:

Board Exhibits:

B-1 Application with attachments received by Warwick Township on June 24, 2025.

B-2 Proof of Publication from the Intelligencer for advertising notice on July 22, 2025 and July 29, 2025. Public Notice advertising hearing scheduled for August 5, 2025 at 7:00 pm and confirmation from the Intelligencer

B-3 Letter dated July 15, 2025 to Applicant's attorney, Michael Meginniss, Esquire from Vicki L. Kushto, Esquire advising of the hearing date

B-4 Resident mailing certification dated July 15, 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 July 16, 2025

B-6 Letter dated July 30, 2025 from Township Manager, Kyle Seckinger

Applicant Exhibits:

A-1 Packet with Tax Parcel Map and Photos

A-2 Zoning Variance Plan

4. The Subject Property is located in the RR Restricted Residential Zoning District. The Subject Property consists of approximately 0.138 acres and currently includes the remnants of a house and shed.

5. Ms. Jackman presented a summary of some of the Exhibits and testimony of James McCafferty as follows:

Mr. McCafferty is one of the owners of the Applicant. The Applicant purchased the Subject Property in January of 2025. The Subject Property is 60 feet wide by 100 feet

deep for a total of 6,000 square feet. The current residence is 47 feet by 28 feet and there is an existing 18 foot driveway.

The proposed house will have a rear yard setback of 27.8 feet and 50 feet is required. This is less than an additional 7 foot encroachment. In addition, the building coverage will be 21.9% where a maximum of 20% is permitted. The building coverage overage is de minimis.

What applicant is requesting is the minimum relief necessary and will not negatively affect the surrounding properties. What is being proposed is an improvement to the current state of the Subject Property and is consistent with the surrounding properties.

The first page of Exhibit A-1 is a tax parcel map showing the location of the Subject Property. The second page of Exhibit A-1 is a picture showing the state of the current property. The third pages of Exhibit A-1 are pictures showing the house and the detached garage. The final page is a rendering of what the proposed house would look like.

Mr. McCafferty originally wanted to renovate the existing house but the Township Building Inspector would prefer that the existing house and its foundation be demolished. If he used the existing foundation, it would be considered a prior non-conformity and zoning relief would not be needed.

The proposed house will reduce the impervious surface on the Subject Property and will improve the side yard setbacks by allowing the proposed house to be centered on the Subject Property. The proposed house is of a modest size and will utilize the existing well. The stormwater will be designed as part of the building permit process.

With regard to septic, the Applicant has permission from the Middle Bucks Institute of Technology to utilize an existing easement to connect to the existing sewer system. If Applicant cannot utilize this easement, sewer could be extended down Elm Avenue to the Subject Property.

6. In response to questions from the parties, Mr. McCafferty testified as follows:

The Applicant did attempt to purchase the property at the corner of Elm Avenue and Highland Avenue which is two properties down from the Subject Property but the sale fell through. He is one of the owners of TPN 51-011-032 ("Lower Bucks Property"), which is directly behind the Subject Property, through a company known as Lower Bucks Homebuilders. There will be an easement over the Lower Bucks Property for the sewer to connect from the Subject Property to the Middle Bucks Institute of Technology sewer line. The plan, Exhibit A-2, shows the sewer line crossing the Lower Bucks Property and the Middle Bucks Institute of Technology sewer line and easement into a new proposed easement over property owned by Warwick Township. The plan was prepared before the Applicant obtained permission to connect directly to the Middle Bucks Institute of Technology sewer line.

Lower Bucks Homebuilders does intend to construct a new home on the Lower Bucks Property sometime in the future. Mr. McCafferty has not considered putting a septic system on the Lower Bucks Property for the Subject Property because it is his opinion that a homebuyer

would prefer a public sewer system over a private one. Mr. McCafferty is not aware of any issues with the sewer line owned by the Middle Bucks Institute of Technology but he would consider an on-lot system if the connection to the public system is not permitted.

7. The testimony of the parties can be summarized as follows:

Mr. Manz testified that the current septic system leaks onto the Lower Bucks Property. He is concerned about the possibility of 3 new homes in this small area.

Ms. Volz testified that she would like to see only 1 new house on the properties that Mr. McCafferty is involved in. She needed an acre to build her home and was required to have on site well and septic.

Mr. Maurer testified that he is concerned about the properties being developed piece meal. If Mr. McCafferty is able to purchase the corner property, that property will want to hook up to the public sewer system as well.

Mr. Cellato testified about the existing Act 537 plan and the lack of public sewer in the neighborhood.

Ms. Williams testified about her concerns for her existing well which is not that deep.

8. Public comment was as follows:

Mr. Manz expressed his concern that the application for this house is just a foot in the door for the development of the other properties. He is also concerned that the granting of the variances for this house will open the door for variances to be granted for the other properties. He asked the Board to consider imposing two conditions: that if public sewer is permitted for the Subject Property it not be considered precedence for development of the other properties and that Applicant escrow money to pave Elm Avenue to the Subject Property. In his opinion, any houses beyond the one proposed on the Subject Property, will be detrimental and will alter the character of the neighborhood. Development on the vacant lots will affect stormwater. In addition, Elm Avenue is a private road and the neighbors have a handshake agreement to maintain it. There is currently no guarantee that the new owner will participate in this agreement. He also has concerns regarding construction traffic and the damage it could do to the road.

Mr. Maurer concurred with the comments made by Mr. Manz. The ability to build on the Subject Property is contingent upon the sewer system being approved. He would prefer that an on-lot sewer system be utilized.

Mr. Celotto feels that the Applicant should obtain approval from the sewer authority first for the connection to the Middle Bucks Institute of Technology line.

Ms. Williams is concerned about her well running dry and the impact that the new home and construction traffic will have on the road.

Barbara Bennett of 2030 Elm Avenue expressed that there was a recent emergency with the Middle Bucks Institute of Technology sewer line. She is concerned about the road and the runoff. She would prefer that a new home be built on the existing footprint. In addition, although the Applicant has been working on it, the site has not been cleaned up yet.

9. The Board of Supervisors submitted a letter dated July 30, 2025 confirming that the Township was not granting permission for the Applicant to install any utilities on the property owned by the Township.

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. The Subject Property is within the RR Restricted Residential Zoning District. The current use of the Subject Property is as a B1 Single Family Dwelling.

5. A B1 Single Family Dwelling use is a permitted use within the RR Restricted Residential Zoning District.

6. The Subject Property does not meet the required minimum lot area which creates a hardship not caused by the Applicant.

7. 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.

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

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

10. 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.

11. 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 variance from the Warwick Township Zoning Ordinance: variance from §195-31(B) of the Zoning Ordinance to allow a rear yard setback of 27.8 feet and a maximum building coverage of 21.9% on the Subject Property subject to the following conditions, which were agreed to by the Applicant:

1. Applicant will contribute a minimum of \$5,000 for the maintenance of Elm Avenue.
2. Applicant will remove the trash and brush from the Subject Property within 14 days of the issuance of this written Decision.
3. Applicant will immediately apply for a demolition permit and will demolish the existing house and shed within 5 days of the issuance of the permit.

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


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.