

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

Docket No. 25-07

Applicants: Remberto Polanco
2802 Wakefield Road
Jamison, PA 18929

Owner: Same

Subject Property: Tax Parcel No. 51-033-015 for property known as 2802 Wakefield Road

Requested Relief: The Applicant is seeking the following variances from the Warwick Township Zoning Ordinance ("Ordinance"): §195-16(B)(2)(e)[3][c][i] to allow impervious coverage of 29.2% when 25% is permitted.

Hearing History: An Application was filed in Warwick Township on July 31, 2025. The hearing was held on September 9, 2025 at the Warwick Township Administration Building.

Appearances: William Benner, Esquire
Obermayer Rebmann Maxwell & Hippel LLP
2003 S. Easton Road, Suite 304
Doylestown, PA 18901

Parties: None.

Mailing Date: October 8, 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 September 9, 2025 hearing:

Board Exhibits:

B-1 Application with attachments received by Warwick Township on July 31, 2025.

B-2 Proof of Publication from the Intelligencer for advertising notice on August 26, 2025 and September 2, 2025. Public Notice advertising hearing scheduled for September 9, 2025 at 7:00 pm and confirmation from the Intelligencer

B-3 Letter dated August 20, 2025 to Applicant's attorney, William Benner, Esquire from Vicki L. Kushto, Esquire advising of the hearing date

B-4 Resident mailing certification dated August 21, 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 August 21, 2025

Applicant Exhibits:

A-1 Deed

A-2 Parcel Map 51-033-015

A-3 Aerial Photo

A-4 Gazebo – Fire Pit

A-5 Pool

A-6 Violation Notice

A-7 William Benner letter 6/7/24

A-8 CV of Jessica May, P.E.

A-9 Cornerstone As-Built Survey

A-10 Page 1 – PB 303, PG 66 Estates at Dark Hollow Subdivision

A-11 Zoning Plan

A-12 Stormwater Management Report with Drawings

4. The Subject Property is located in the RA Residential-Agricultural Zoning District. The Subject Property consists of approximately 0.804 acres and currently includes a single family home.

5. Mr. Benner presented a summary of his arguments and the Application as follows:

Mr. Polanco received an enforcement notice for building without a permit. That evolved into the discovery that the gazebo and fire pit on the property were in the required setback and that the impervious coverage was over the allowable limit. The maximum impervious coverage is exceeded by 4.2% which is de minimis. The deviation is small and the impact is minimal. Mr. Polanco is not able to bring the impervious coverage into compliance because of existing improvements but he will move the gazebo and the firepit outside of the setback. Mr. Polanco will have designed and installed an underground stormwater management system to address the additional impervious coverage.

6. Mr. Benner presented the testimony of Remberto Polanco which can be summarized as follows:

Mr. Polanco purchased the Subject Property in 2020 and Exhibit A-1 is a copy of his Deed. Prior to moving to the Subject Property, Mr. Polanco lived in Philadelphia. He moved to this area because of the community. The Subject Property is his primary residence. Exhibit A-2 is a tax parcel map with the Subject Property identified on it. A-3 is an aerial photo. The main house faces Wakefield Road and Lockleigh Road runs along the side. Between Mr. Polanco and his neighbor, there is existing landscaping that blocks the view of the gazebo.

A-4 is a picture of the gazebo and the fire pit. Both currently violate the side yard setback but will be moved so that they comply. A-5 is a picture of the pool and the decking surrounding it. The pool was there when Mr. Polanco bought the Subject Property, but he added the decking, which is Travertine decking. Prior to the installation of the decking, water and dirt were draining into the pool every time it rained because the area around the pool is higher than the pool. Since the decking was installed, dirt is no longer draining into the pool.

The contractor who installed the decking said he would get the permits and sent him to Cornerstone to have a survey performed of the Subject Property. Mr. Polanco did not learn that there were no permits until August 2022. A-6 is a copy of the violation letter that Mr. Polanco received. A-7 is a copy of a letter that Mr. Benner wrote on his behalf indicating that he was going to try and come into compliance on the Subject Property.

At that time, they contacted Cornerstone and received nothing but excuses about why the plans were not completed. The Cornerstone plans are A-9 and are dated two years after the violation notice. They then contacted Van Cleef and Van Cleef completed the plans. The gazebo is 3 feet from the property line and is required to be 7 feet. He will have the gazebo and the fire pit moved so they are in compliance. He has currently invested approximately \$25,000 and he still has to pay for the stormwater system.

7. Mr. Benner presented the testimony of Jessica May, P.E. which can be summarized as follows:

Ms. May was recognized as an expert in civil engineering. Her CV is A-8. She was hired to prepare zoning plans and stormwater plans. The proposed impervious coverage is 29.2%. She did look at the Subject Property to see where impervious coverage could be removed but there is no easy way to do that. The Subject Property is properly maintained and looks gorgeous. The decking is very nice and if you removed some of it, it will not look as nice.

Since there is no easy way to remove impervious, Ms. May looked at ways to mitigate the additional stormwater. Infiltration testing was performed but there was no infiltration on site. So, the only way to address the stormwater is with an underground seepage pit. The water from the roof of the home will go into a pipe underground and will eventually be released to a swale and inlet at the back of the Subject Property. When smaller storms occur, the trees and grass will infiltrate the rain water.

A-11 is the Plan that Ms. May prepared. The rectangle on the Plan is where the seepage pit will be. On the surface, it will be grass. A-12 is the Stormwater Report that Ms. May prepared. The last page of the report contains a colored BMP Plan. Red shows the areas that do not go into the stormwater management system but are infiltrated into the grass. Blue shows the areas of the roof that will not go into the stormwater management system. Yellow are areas that are covered by tree canopy. Light yellow is the area that will go into the seepage pit. The stormwater management system will make drainage on the Subject Property better than it is currently.

Ms. May opined that the granting of the variance will not have an adverse effect on the neighborhood because the stormwater management system will improve the drainage and will be underground so it won't be seen. The use is compatible with the neighborhood and there will be no impact to neighbors. Ms. May opined that there will be more harm in bringing the Subject Property into compliance because it is well maintained and removal of the decking will negatively affect the Subject Property. This is also the minimum relief needed given that the gazebo and the fire pit will be brought into compliance.

8. There was no public comment.

9. The Board of Supervisors did not express a position regarding the 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. The Subject Property is within the RA Residential-Agricultural 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 RA Residential-Agricultural Zoning District.

6. 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.

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

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

9. 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.

10. 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 §195-16(B)(2)(e)[3][c][i] of the Zoning Ordinance to allow impervious coverage of 29.2% on the Subject Property.

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/ Dave Mullen
Dave Mullen

/s/ Ned Thompson
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.