

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

Docket No. 26-02

Applicants: Dennis and Rachael Chapman
2018 Buckingham Drive
Jamison, PA 18929

Owner: Same

Subject Property: Tax Parcel No. 51-020-006 for property known as 2018 Buckingham Drive

Requested Relief: The Applicant is seeking the following variances from the Warwick Township Zoning Ordinance (“Ordinance”): §195-19B(12)(b) to allow an existing shed to be 2 feet from the side property line where 7 feet is required.

Hearing History: An Application was filed in Warwick Township on February 4, 2026. The hearing was held on March 3, 2026 at the Warwick Township Administration Building.

Appearances: None

Parties: None.

Mailing Date: April 8, 2026

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 March 3, 2026 hearing:

Board Exhibits:

B-1 Application with attachments received by Warwick Township on February 4, 2026.

B-2 Proof of Publication from the Intelligencer for advertising notice on February 17, 2026 and February 24, 2026. Public Notice advertising hearing scheduled for March 3, 2026 at 7:00 pm and confirmation from the Intelligencer

B-3 Letter dated February 11, 2026 to Applicant from Vicki L. Kushto, Esquire advising of the hearing date

B-4 Resident mailing certification dated February 13, 2026 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 February 17, 2026

Applicant Exhibits:

A-1 Copy of Plot Plan, Letter from affected neighbor and pictures

4. The Subject Property is located in the RR Restricted Residential Zoning District. The Subject Property consists of approximately 0.564 acres and currently includes a single family home.

5. Mr. Chapman's testimony can be summarized as follows:

Mr. Chapman presented Exhibit A1 which includes a plot plan of the Subject Property, pictures of the shed and a letter from Richard and Cheryl Gelfand dated February 26, 2026. Mr. and Mrs. Gelfand share the property line with the Applicants where the shed is located. The letter indicates that the Gelfands have no objection to the variance, believe the request is reasonable and believe it would be best for the shed to remain in its current location.

Mr. Chapman testified that the Subject Property is oddly shaped and is subject to Deed Restricted Open Space in the rear. The rear yard retains water and would not be a good location for the shed. There is not enough room to move the shed to the other side of the house. In addition, the rear yard slopes around the pool and would need to be re-graded in order to put a shed there. Also, Mr. Chapman is unsure of the current condition of the shed and whether it would be stable enough to move. The shed was installed more than 20 years ago by the prior owners. The Gelfands shed is also in the same area.

Mr. Chapman does not believe that the location of the shed alters the essential character of the neighborhood.

6. Mr. Jones testified that the setbacks in the zoning code are more restrictive than those in the building code. The concern is because the shed is made of wood it is more combustible.

7. There was no other public comment.

8. 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. 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).

5. 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).

6. 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.

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

8. The Board concludes that the Subject Property has unique physical conditions including that it is uniquely shaped and the existing improvements affect where the shed can be located.

9. The Board concludes that the hardship was not created by the Applicant.

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 proposed use will have a very low impact on the surrounding uses and neighbors.

12. The Board concludes that the Applicant has presented evidence of sufficient factors to warrant the grant of the variances.

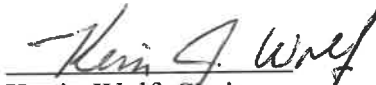
13. Accordingly, the Warwick Township Zoning Hearing Board determined, by a majority vote, to grant the Applicant's request for variances.

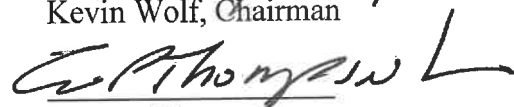
ORDER

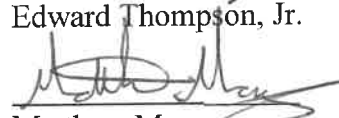
Upon consideration and after the hearing, the Zoning Hearing Board of Warwick Township hereby GRANTS the following variances from the Warwick Township Zoning Ordinance for the Subject Property: variance from §195-19B(12)(b) to allow an existing shed to be located 2 feet from the side property line where 7 feet is required subject to the condition that if the shed is replaced the new shed will comply with the 7 foot setback.

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


Edward Thompson, Jr.


Matthew Manz

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.