

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

Applicants: Glen & Sara Taylor
36 Houck Road
Doylestown, PA 18901

Owners: Same.

Subject Property: Tax Parcel No. 09-013-019, which is located at the address of the Applicants set forth above.

Requested Relief: Applicants seek to construct a 38' x 25' detached garage on the Subject Property.¹ As proposed, the garage is located 15 feet from the side lot line. §175-16 H-3(d)(2) of the Doylestown Township Zoning Ordinance ("Ordinance"), when read in conjunction with §175-39, requires a 25 foot set back. Applicants seek a variance accordingly.

Hearing History: The application was filed in Doylestown Township on June 7, 2021. The hearing was held on July 19, 2021 at the Doylestown Township Building, 425 Wells Road, Doylestown, PA 18901.

Appearances: Applicants, Pro Se

Mailing Date: September 1, 2021

¹ The application, Existing Features Plan, and testimony of the Applicants, were inconsistent with regard to the size of the proposed structure. To be addressed within.

DECISION

FINDINGS OF FACT:

1. The Zoning Hearing Board of Doylestown 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 Applicants are the Owners of the Subject Property and therefore possessed of the requisite standing to make application to this Board.

3. The Subject Property is located in the R-1, Residential Zoning District of Doylestown Township. The lot area is 41,537 square feet (gross). The property accommodates the Applicant's single-family dwelling, two sheds, and other customary residential amenities.

4. Through their application, Applicants seek to construct a detached garage, on the Subject Property. The garage, as proposed, is to be located 15 feet from the side lot line. §175-16 H-3(d)(2) of the Doylestown Township Zoning Ordinance ("Ordinance"), when read in conjunction with §175-39, requires a 25 foot set back. Applicants seek a variance accordingly.

5. During the hearing held, Applicants discussed an Existing Features Plan submitted with the application. The Existing Features Plan was prepared on March 13, 2021 by Cavanaugh's Surveying Services. The Plan was then hand annotated by the Applicants. The handwritten annotations roughly reflecting the size and location of the garage are not to scale. Applicants indicate that the garage structure is proposed to be 15 feet from the side lot line. The size of the structure, as reflected on the plan is 20' in width x 45' in depth. The application indicates that the structure is 35' x 28'. The Applicants testified verbally to a desire to place a 38' x 24' garage on the Subject Property.

6. With regard to the proposed location of the detached accessory structure, Applicants indicated that the proposed location was Applicants' preference. From a functional standpoint, Applicants preferred to have the structure at the edge of the existing driveway serving the existing single-family dwelling. Notably, Applicants have not drawn the proposed structure to be located at the edge of the macadam, instead, an apparent planting strip will remain between the edge of the macadam drive and the front of the proposed garage structure.

7. Applicants testified that they prefer not to place the structure directly behind the existing single-family dwelling. Applicants testified to a three season sunroom to the rear of the dwelling overlooking the rear of the property.

8. Applicants testified that the purpose of the detached garage structure is to store personal items such as paddleboards, kayaks, bicycles, and a lawnmower with a plow, thereby eliminating any outside storage.

9. Notably, the existing single-family dwelling does have an attached 1 ½ car garage.

10. Applicants testified that to the best of their knowledge, their neighbors do not object to the proposed structure or its location. Applicants testified to a berm, trees, shrubs, and a fence line between the proposed garage and the neighbor to the affected side. However, Applicants were unclear on where the property line ran, when comparing the March 13, 2021 Existing Features Plan versus their recollection of the actual site.

11. One neighbor, Joseph Paternostro, the property owner from across the street from the Subject Property, offered, during public comment, that he had no objection to the proposed garage structure.

12. Doylestown Township took no position with regard to this application.

CONCLUSIONS OF LAW:

1. The Subject Property has been developed and used consistent with the requirements of the Ordinance.

2. Applicants seek a variance from §175-16 H-3(d)(2) and §175-39 of the Ordinance in order to locate an accessory structure, roughly 35' x 28' in size (980 square feet) within 15 feet of the side lot line, where 25 feet is required.

3. In order to establish the basis for the Zoning Hearing Board to grant a variance, Applicants must meet the foundational elements for a variance as contained within Section 910.2 of the Pennsylvania Municipalities Planning Code (“MPC”). MPC Section 910.2 provides that the Board has the authority to grant a variance if it finds that the Applicants have met their burden of proof with respect to the following five elements:

(1) That there are unique physical circumstances or conditions, including irregularity, narrowness or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property and that the unnecessary hardship is due to such conditions and not the circumstances or conditions generally created by the provisions of the zoning ordinance in the neighborhood or district in which the property is located.

(2) That because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of the zoning ordinance and that the authorization of a variance is therefore necessary to enable the reasonable use of the property.

(3) That such unnecessary hardship has not been created by the appellant.

(4) That the variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, nor substantially or

permanently impair the appropriate use of development of adjacent property, nor be detrimental to the public welfare.

(5) That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least modification possible of the regulation in issue.

53.P.S. §10910.2(a)

4. §175-136 of the Ordinance contains the same or similar standards.

5. The Zoning Hearing Board concludes that the Applicants' proofs are simply insufficient for the Zoning Hearing Board to grant the variance requested.

6. The Applicant has failed to present evidence of sufficient factors to warrant the grant of the dimensional variance requested even under the relaxed variance standard applicable to dimensional variance cases, as articulated by the Pennsylvania Supreme Court, in *Hertzberg v. Zoning Board of Adjustment of the City of Pittsburgh*, 554 Pa. 249, 721 A.2d. 43 (1998).

7. The Zoning Hearing Board further concludes that the request for the variance is not driven by unique physical circumstances or conditions peculiar or particular to the Subject Property. The request for the variance is driven by Applicants' "preference". The preference will not serve as the basis for a variance.

8. Applicants have failed to establish that the property cannot be developed in strict conformity with the provisions of the Zoning Ordinance. The Applicants do have substantial property to the rear of the dwelling.

9. Applicants have failed to establish that the request for relief represents the minimum variance necessary. Applicants' testimony with regard to the size of the structure and the location, both in orientation front to back as well as distance from the side lot line was less than crystal clear. In any event, there is no testimony to establish that the variance requested represents the minimal variance necessary or the least modification possible. (See *Pembroke Pee Wee, Inc. v. Zoning Hearing Board of Bethlehem Township*, 768 A2.d 410 (Pa Cmwlth. 2001). (A dimensional variance may be denied where the request for relief does not represent the least possible variance necessary).

10. Accordingly, the Doylestown Township Zoning Hearing Board determined, unanimously, to deny the Applicants' request for relief, as is set forth hereafter.

ORDER

Upon consideration and after hearing, the Zoning Hearing Board of Doylestown Township hereby DENIES the relief requested by the Applicants for a variance from §175-16 H-3(d)(2) of the Doylestown Township Zoning Ordinance.

**ZONING HEARING BOARD OF
DOYLESTOWN TOWNSHIP**

By: /s/ William J. Lahr
William J. Lahr, Chairman

/s/ Mitchell Aglow
Mitchell Aglow

/s/ Samuel D. Costanzo
Samuel D. Costanzo