

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

Applicant: Michael Golebiowski
10 Green Way Drive
Doylestown, PA 18901

Owners: Michael & Heather Golebiowski
10 Green Way Drive
Doylestown, PA 18901

**Subject
Property:** Tax Parcel No. 09-004-083-021, which is located at the address
of the Applicant set forth above.

**Requested
Relief:** Applicant seeks to place a fence across an existing easement
within the rear yard and side yard of his residential property,
respectively. §175-16(3) H-3(c)(3) prohibits fences within a
public easement or a private easement prohibiting placement of a
fence. Applicant seeks a variance accordingly.

**Hearing
History:** The application was filed in Doylestown Township on June 28,
2021. The hearing was held on August 16, 2021 at the
Doylestown Township Building, 425 Wells Road, Doylestown,
PA 18901.

Appearances: Applicant, Pro Se

Mailing Date: September 29, 2021

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 Applicant is one of 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-2b, Residential Zoning District of Doylestown Township. The lot area is 21,271 square feet. The property accommodates the Applicant's single-family dwelling with usual residential improvements.
4. Applicant seeks to place a fence across an existing easement within the rear yard and side yard of his residential property, respectively. §175-16(3) H-3(c)(3) prohibits fences within a public easement or a private easement prohibiting placement of a fence. Applicant seeks a variance accordingly.
5. A 20 foot drainage easement runs across a portion of the rear aspect of the Subject Property, terminating in a yard drain. Another 20 foot wide storm sewer easement straddles one of the two side lot lines.
6. To the rear of the Subject Property is property owned by the Pennsylvania Department of Transportation, used for the PA Route 611 By-Pass.
7. Applicant seeks to fence the entirety of their rear yard, to promote the safe use of their property, given its proximity to the 611 By-Pass. As such, Applicant seeks to place a 48 inch high "puppy fence" along the perimeter of the rear yard. Applicant has agreed to removable sections across the easements.
8. No one spoke in opposition to the application.
9. Doylestown Township took no position with regard to this application.

CONCLUSIONS OF LAW:

1. The Subject Property has been developed and used as is permitted by right in the R-2b Zoning District.
2. Applicant proposes to install a 48 inch high fence along the perimeter of the rear yard and within the side yard to enclose the rear yard. A 20 foot wide drainage easement runs across a portion of the rear aspect of the Subject Property, terminating in a yard drain. Another 20 foot wide storm sewer easement straddles one of the two side lot lines.

3. Ordinance §175-16.H-3(C)(3) prohibits fences within a public easement or a private easement prohibiting placement of a fence. Applicant seeks a variance accordingly.

4. The competent evidence presented leads the Board to conclude that, if the variance relief is granted, there will be no negative impacts upon surrounding properties or uses. The Applicant agrees to certain conditions which minimize any impacts to the Township's maintenance of the stormwater system within the easement area.

5. The evidence establishes that the relief sought by the Applicant is the minimum variance necessary. The Board is mindful that the Applicant has made efforts to mitigate the impact of the request upon the objectives of the Township in maintaining the easement area.

6. The variance sought will not alter the essential character of the neighborhood or district in which the Subject Property is located. Fences are permitted within the rear yards in the R-2b Zoning District. The Board concludes that the application is consistent with the character of the neighborhood.

7. The Applicant has presented evidence of sufficient factors to warrant the grant of the dimensional variance requested.

8. Accordingly, the Doylestown Township Zoning Hearing Board determined, by a 3-0 vote, to grant the Applicant's request for relief, as is set forth hereafter with conditions.

ORDER

Upon consideration and after hearing, the Zoning Hearing Board of Doylestown Township hereby GRANTS a variance from §175-16.H-3(C)(3) of the Doylestown Township Zoning Ordinance to permit Applicant to construct a fence within the rear and side yards, including crossing an existing easement, subject to the following conditions:

1. The fence must contain removable sections where the fence crosses the easement area to facilitate removal in the event the easement area needs to be accessed.
2. Applicant is required to maintain, replace, and repair the fence as needed.
3. Applicant bears the cost of removal and replacement of the fence sections to provide for Township maintenance access of the easement.
4. Applicant must obtain all appropriate permits prior to construction of the fence. This condition includes applying for a fence permit with Doylestown Township.
5. Compliance with all other applicable governmental ordinances and regulations.

**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

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

Applicants: Steve & Stephanie Hughes
270 Old New Road
Doylestown, PA 18901

Owners: Same.

Subject Property: Tax Parcel No. 09-007-083-004, which is located at the address of the Applicants set forth above.

Requested Relief: Applicants seek to place a 12' x 30' (360 square foot) residential accessory structure 15' from the side lot line. §175-39 of the Doylestown Township Zoning Ordinance, read in conjunction with §175-16(3)(d)[2], requires a 25' setback. Applicants seek a variance accordingly.

Hearing History: The application was filed in Doylestown Township on June 21, 2021. The hearing was held on August 16, 2021 at the Doylestown Township Building, 425 Wells Road, Doylestown, PA 18901.

Appearances: Applicants, Pro Se

Mailing Date: September 29, 2021

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 0.8 acres gross. The property accommodates the Applicants' single-family residential dwelling, swimming pool, and usual customary residential amenities.
4. Applicants seek to place a 12' x 30' (360 square foot) residential accessory structure 15' from the side lot line. §175-39 of the Doylestown Township Zoning Ordinance, read in conjunction with §175-16(3)(d)[2], requires a 25' setback. Applicants seek a variance accordingly.
5. Applicants indicate that the proposed location for the accessory structure 15 feet from the side lot line is the only reasonable and logical location for the shed in that the Applicants have site constraints, to the rear of the dwelling within the building envelope, and have access and topography issues to the alternative side of the dwelling. The proposed structure is to be located on the driveway side of the subject lot to provide for more efficient access.
6. The proposed structure will be used to store primarily household items and yard tools, and perhaps a vehicle if necessary.
7. Questions were raised regarding the precise location of the shed. The hand drawn annotations on the site plan are not to scale and are somewhat inconsistent with Applicants' testimony. The Zoning Hearing Board has requested clarification specifically with regard to impervious surface coverage on the lot as calculated under the Ordinance and the precise location of the proposed accessory structure which is to be located no closer than 15 feet from the side lot line and no closer to the street line than the front of the primary dwelling.
8. No one spoke in opposition to the application.
9. 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. The Applicants have presented evidence of sufficient factors to warrant the grant of the dimensional variance requested 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)*.
3. The competent evidence presented leads the Board to conclude that, if the variance relief is granted, there will be no negative impacts upon surrounding properties or uses.
4. The evidence establishes that the relief sought by the Applicants is the minimum variance necessary.
5. The variance sought will not alter the essential character of the neighborhood or district in which the Subject Property is located.
6. Accordingly, the Doylestown Township Zoning Hearing Board determined, unanimously, to grant the Applicants' request for relief, as is set forth hereafter.

ORDER

Upon consideration and after hearing, the Zoning Hearing Board of Doylestown Township hereby GRANTS a variance from §175-39 of the Doylestown Township Zoning Ordinance to permit Applicant to place a 12' x 30' (360 square foot) residential accessory structure 15' from the side lot line instead of the 25' required by §175-39 of the Doylestown Township Zoning Ordinance, read in conjunction with §175-16(3)(d)[2], subject to the following specific condition(s):

1. The height of the structure shall not exceed twenty (20) feet;
2. The structure shall not be placed any closer to the street line than the front of the principal dwelling;
3. The structure shall not be placed any closer than 15 feet from the side lot line;
4. Applicants shall remove the existing shed in the rear of the lot before constructing or placing the shed requested through the present application;
5. Prior to issuance of any building permits, Applicants are to provide impervious surface calculations to be validated by the Doylestown Township Zoning Officer to confirm compliance therewith; and
6. Applicants must comply with all other applicable governmental ordinances and regulations.

**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