

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

Applicants: Harold Robinson
45 Radcliff Drive
Doylestown, PA 18901

Owners: Same.

**Subject
Property:** Tax Parcel No. 09-059-078, which is located at the address of the Applicants set forth above.

**Requested
Relief:** Applicant seeks to place a fence around the perimeter of the rear yard and construct a shallow plunge pool with amenities in the rear yard. Applicant seeks a variance from §175-16.H3(c)[3] of the Doylestown Township Zoning Ordinance to place a fence across a stormwater easement, and a variance from §175-38 to permit impervious surface coverage of 35.24%. where a maximum of 30% is permitted.

**Hearing
History:** The application was filed in Doylestown Township on November 17, 2021. The hearing was held on December 23, 2021 at the Doylestown Township Building, 425 Wells Road, Doylestown, PA 18901.

Appearances: Applicant, *Pro Se*

Mailing Date: February 4, 2022

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 the Owner 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 16,363 square feet (gross), but is burdened by a drainage easement (3,034.7 square feet), leaving a Net Lot Area of 13,328.9 square feet. The property accommodates the Applicant's single-family dwelling with customary improvements (driveway, walkways, concrete terrace and hot tub).
4. Applicant seeks to place a fence around the perimeter of the rear yard and construct a shallow plunge pool with amenities in the rear yard. Applicant seeks a variance from §175-16.H3(c)[3] of the Doylestown Township Zoning Ordinance to place a fence across a stormwater easement, and a variance from §175-38 to permit impervious surface coverage of 35.24%.
5. Applicant submitted a site plan prepared by CVDA, Carter Van Dyke Associates, Land Landscape Architects and Planners, dated 11/03/2021 ("The Plan"). The Plan documents the lot area calculations (as above), and illustrates the existing features of and on the lot, along with the proposed improvements.
6. The Plan illustrates the existing 20 foot wide storm sewer easement which runs parallel to the side lot line for the entire depth of the property. At its closest point, the single-family dwelling is 3 feet 4 inches from the easement. Applicant indicated that the easement represents nearly 20% of the gross lot area (easement is 3,034.59 square feet).
7. The Applicant is proposing crossing the easement with the proposed fence in two places, and along the side lot line, as reflected on The Plan.
8. The Plan also illustrates the proposed outdoor passive recreation space and improvements and the resulting increase in impervious surface coverage.
9. The Applicant testified that obtaining the zoning relief will enable his family to enjoy the outdoor recreation area, and will not present any problems with regard to stormwater management.
10. No one spoke in opposition to the application. Applicant indicated that he did speak with his neighbors and no one expressed a concern.
11. 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, to support Applicant's single-family residential dwelling use.

2. §175-38 of the Ordinance permits a maximum of 30% impervious surface coverage.

3. §175-16.H3(c)[3] of the Ordinance provides as follows:

No fences or walls may be constructed in the clear site triangle or in any portion of a street right-of-way or in a public easement or in any portion of any public or private easement where the easement agreement prohibits fences or walls.

4. The Applicant has 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).

5. 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.

6. The evidence establishes that the relief sought by the Applicant is the minimum variance necessary.

7. The variance sought will not alter the essential character of the neighborhood or district in which the Subject Property is located.

8. Accordingly, the Doylestown Township Zoning Hearing Board determined, unanimously, to grant the Applicant's 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 §175-16.H3(c)[3] and from §175-38 of the Doylestown Township Zoning Ordinance (“Ordinance”) to permit Applicant place a fence around the perimeter of the rear yard, including across a stormwater easement, and construct a shallow plunge pool with amenities in the rear yard where resulting impervious surface coverage is 35.24%, where a maximum of 30% is permitted, subject to following specific 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. Should the fence need to be removed, removal and replacement shall be at the Property Owner’s expense.
2. Applicants must obtain all appropriate permits prior to construction of the fence. This condition includes applying for a fence permit with Doylestown Township.
3. Applicants shall provide to the Township an as-built survey plan illustrating the 35.24% impervious surface coverage to close out the permit process, to the satisfaction of the Township.
4. Applicants shall comply in all other respects 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