

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

Applicants: Volta Charging
165 De Haro Street
San Francisco, CA 44311

GDP Engineering & Architecture
520 South Main Street, Suite 2531
Akron, OH 44311

Owner: Goodman, Bruce A & Rubin, Seymore
c/o Goodman Properties
636 Old York Road, Floor 2
Jenkintown, PA 19046

**Subject
Property:** Tax Parcel No. 09-014-030-002, which is located at 1661 S.
Easton Road, Warrington, PA 18976.

**Requested
Relief:** Applicant seeks to locate a Volta Electric Vehicle Charging Station, with signage, on the Subject Property, in the parking lot adjacent to a grocery store. The Zoning Officer, by letter dated April 4, 2022, has determined that the proposed Charging Station is not permitted because, "Off-site advertising is not permitted within the Zoning District [at issue]". Applicant appeals the determination of the Zoning Officer seeking a favorable interpretation, and in the alternative, requests a variance from §175-107(J) of the Doylestown Township Zoning Ordinance ("Ordinance") to permit the use as proposed.

**Hearing
History:** The application was filed in Doylestown Township on May 4, 2022. The hearing was held on June 23, 2022 at the Doylestown Township Building, 425 Wells Road, Doylestown, PA 18901.

Appearances: Applicants by: Anthony M. Brichta, Esq.
Norris McLaughlin
515 W. Hamilton Street, Suite 502
Allentown, PA 18101

Mailing Date: August 1, 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 Authorized Agent of 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 C-2, Commercial Zoning District of Doylestown Township. The lot area is 17.47 acres. The property accommodates a multi-tenant shopping center.

4. Applicant seeks to locate a Volta Electric Vehicle Charging Station, with signage, on the Subject Property, in the parking lot adjacent to a grocery store. The Zoning Officer, by letter dated April 4, 2022, has determined that the proposed Charging Station is not permitted because, "Off-site advertising is not permitted within the Zoning District [at issue]". Applicant appeals the determination of the Zoning Officer seeking a favorable interpretation, and in the alternative, requests a variance from §175-107(J) of the Doylestown Township Zoning Ordinance ("Ordinance") to permit the use as proposed.

5. Volta Charging ("Volta") provides electric vehicle charging stations to various locations throughout the United States.

6. Volta proposes to locate a Volta Electric Vehicle Charging Station on the Property in the parking lot adjacent to the Giant Grocery Store within the subject shopping center.

7. The Charging Station proposed serves two functions. The primary function is as a charging station for electric vehicles. The second function is as an advertising venue. The Charging Station is a permitted service business and is permitted but for the advertising component.

8. While the Charging Station is not a large "billboard", it does have the purpose of running changeable print advertisements offering products and services not limited to those available on the premises.

9. Applicant explained that its business model provides for "free" electric vehicle charging, but the free charging service is paid for, in whole or part, by advertising revenue.

10. In order to maximize visibility, and therefore financial return, the advertising panels are proposed to be placed immediately adjacent to the primary drive

aisles outside the Giant Supermarket. The location maximizes exposure to both pedestrian and motor vehicle traffic.

11. Applicant was asked whether they were willing to move the advertising panels to a less “busy” aspect of the parking lot, in an effort to improve safety. Applicant was not in a position to comply.

12. Doylestown Township offered into evidence a position statement, authored by Township Manager Stephanie J. Mason. (See, Exh. ZHB-4). The Board highlights three components of the correspondence.

- a. The Township supports the use of EV chargers at the shopping center and through the Township.
- b. The EV Charger represents “off-premise signage” with a TV like format which is not consistent with the Township Zoning Ordinance.
- c. In seeking its variance, the Applicant is asked to consider placing the units “away from the stores so as not to create distractions and conflicts for pedestrian circulation with vehicles...”

13. The Zoning Hearing Board supports the use of Electric Charging stations, but does not find a hardship to justify the grant of a variance for off-premises advertising.

14. Doylestown Township’s position with regard to this application is reflected in Exh. ZHB-4. It may be characterized as conditional support for the acknowledged need for a variance.

CONCLUSIONS OF LAW:

1. The Subject Property has been developed and used consistent with the requirements of the Ordinance, as a multi-tenant shopping center.

2. Applicant seeks to locate an off-site advertising use on the Subject Property. Applicant requests a variance from §175-107(J) the Doylestown Township Zoning Ordinance to permit the use as proposed.

3. §175-107(J) of the Ordinance, provides as follows:

“Off-premise outdoor advertising signs shall be permitted only in the Off-Premise Outdoor Advertising Sign Overly District.”

4. The Subject Property is not located in the Off-Premise Outdoor Advertising Sign Overly District.

5. “Off-Premise Sign” is defined as “See “outdoor advertising sign.” “Outdoor Advertising Sign” is defined as “– a Permanent sign erected, maintained or

used in the outdoor environment for the purpose of the display of commercial or noncommercial messages not appurtenant to the use of, products sold on, or the sale or lease of, the property on which it is displayed. May also be referenced as an off-premise sign or billboard.” “Billboard” is defined as “- See ‘Off-Premise Sign’ and ‘Outdoor Advertising Sign.’” §175-106 of the Ordinance.

6. The Board agrees with the determination of the Director of Code Enforcement, as communicated through correspondence dated April 04, 2022, denying Applicant’s Zoning Permit Application because “Off-site advertising is not permitted in the C1 (sic) Zoning District.”.

7. The Volta charging station advertising panel is an “Off-Premise Sign” requiring variance relief to be placed as requested.

8. The Applicant has failed to present evidence of sufficient factors to warrant the grant of the use variance requested under the traditional standard found at Section 910.2 of the Municipalities Planning Code, Section 175-136 of the Doylestown Township Zoning Ordinance, and as articulated by the Pennsylvania Courts, including, Valley View Civic Assoc. v. Philadelphia Zoning Board of Adjustment, 501 Pa. 550, 462 A.2d. 637 (1983), as follows:

(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)

9. The competent evidence presented leads the Board to conclude that, if the variance relief is granted, there will be negative impacts upon surrounding properties or uses. The ZHB considers the legislative determination, as found in the Ordinance, supportive of the present conclusion. Further, Applicant failed to present persuasive evidence otherwise.

10. The evidence establishes that the relief sought by the Applicant is not the minimum variance necessary. The variance requested is a use variance which represents relief from the legislatively permitted use regulations.

11. The variance sought will alter the essential character of the area or district in which the Subject Property is located. Witness the fact that off-premise advertising signs are not permitted within the subject district.

12. Accordingly, the Doylestown Township Zoning Hearing Board determined, by 2-0 vote, to deny the Applicant's request for relief, as is set forth hereafter.¹

ORDER

Upon consideration and after hearing, the Zoning Hearing Board of Doylestown Township hereby DENIES a variance from §175-107(J) 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, Vice Chairman

¹ Board Secretary, Samuel Costanzo, was not present for the hearing and did not participate in the decision.