

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

Application No. Z-13-2013

Applicant: John W. Lister
115 Westtown Road, Suite 201
West Chester, PA 19382

Owner: Regency Centers
c/o Bill Madway
150 Monument Road, Suite 406
Bala Cynwyd, PA 19004

**Subject
Property:** Unit No. 5 of the Mercer Square Shopping Center, which is located at 73 Old Dublin Pike in Doylestown Township, PA, and a part of Tax Parcel No. 9-9-21.

**Requested
Relief:** The Applicant desires to occupy Unit 5 of the Mercer Square Shopping Center as a Moe's Southwest Grill restaurant and requests a variance from the signage provisions of the Doylestown Township Zoning Ordinance ("Ordinance") contained at §175-109.3.c, which limits the number of signs to one. The Applicant proposes two signs on the canopy at the entrance to the unit.

**Hearing
History:** The application was filed in Doylestown Township on November 22, 2013. The hearing could not be scheduled within 60 days of the filing of the application as the Zoning Hearing Board's regular hearing date for January 2014 occurred on January 21st, which is a federal holiday and the Township offices were closed. Accordingly, the Applicant agreed to waive his rights to a hearing within 60 days of the date of the filing of the application (Exhibit B-8) in order to allow the initial hearing to commence on January 23, 2014. The hearing was held on that date at the Doylestown Township Building, 425 Wells Road, Doylestown, PA 18901.

Appearances: Applicant Pro Se'

Date of Issuance: February 4, 2014

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 an architect employed by Philmore Southwest, LLC, the parent company of Moe's Southwest Grill, to obtain all permits and zoning relief necessary to permit the occupation of the subject property as a Moe's Southwest Grill restaurant (Exhibit B-5).
3. Exhibit B-6 is a November 21, 2013 letter of authority from the Owner of the subject property, Regency Centers, to allow Moe's Southwest Grill, or its parent company, to proceed with this application.
4. Accordingly, the Applicant is possessed of the requisite standing to make application to this Board.
5. Moe's Southwest Grill proposes to occupy Unit 5 of the Mercer Square Shopping Center as a restaurant. Unit 5 is depicted on Exhibit B-1.B, a Site Plan prepared by the Applicant dated November 21, 2013.
6. Although that use is permitted by right on the subject property, the Applicant seeks a variance from §175-109.3.c of the Ordinance in order to permit more than one sign on the canopy that overhangs the front entrance to the proposed restaurant.
7. The canopy extends above the sidewalk from Unit 14 through Unit 5, the subject property. Accordingly, a side of the canopy overhangs its front entrance and the Applicant proposes a second sign on that side of the canopy.
8. The Applicant contends its right to a second sign is necessitated by the narrow frontage of the proposed restaurant at the corner of the shopping center. The width of the frontage is only 19 feet 10 inches.
9. The evidence indicates, and Exhibit B-1.B confirms, that there are 10 other storefronts in the shopping center that have a frontage that is the same as or less than the 19 feet 10 inches frontage possessed by Unit 5. None of those storefronts have more than one sign.
10. The evidence indicates that the Applicant will be entitled to signage on the freestanding pylon sign that acts as a directory of the uses within the Mercer Square Shopping Center.

11. The evidence further indicates that a single sign, located on the front of the canopy over the subject property, will be visible by motorists or pedestrians in the shopping center's parking lot and walkways.

12. None of the evidence presented by the Applicant indicates any hardship that results to the proposed use by compliance with the limitation of one sign per storefront.

13. The evidence presented by the Applicant did not suggest that compliance with the signage requirements of the Ordinance results in a competitive disadvantage.

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

CONCLUSIONS OF LAW

1. The use of the subject property as a restaurant is permitted by right in the C-2 Zoning District in which it is located.

2. The evidence indicates that the signage provisions of the Ordinance are sufficient to adequately notice potential customers of the existence and location of the proposed restaurant within the shopping center.

3. The frontage of the subject property is the same or similar to several other storefronts within the shopping center that accommodate one sign, consistent with Ordinance requirements.

4. The Applicant failed to establish that there was anything unique about the subject property which distinguished it from storefronts of similar size within the shopping center or which suggested that a hardship exists if a conforming sign is located on the front of the canopy overhanging its front entrance.

5. The Board concludes that compliance with the signage requirements of the Ordinance does not place the Applicant at any competitive disadvantage.

6. Accordingly, the members of the Doylestown Township Zoning Hearing Board in attendance at this hearing¹ determined, unanimously, to deny the Applicant's request for a variance to permit more than one sign at the storefrontage of the subject property.

¹ Board Member William Lahr was unavailable for this hearing and did not participate in the decision.

WHEREFORE, the Zoning Hearing Board of Doylestown Township DENIES the Applicant's request for a variance from §175-109.3.c to permit more than one sign on the canopy which covers the front entrance to the subject property.

**ZONING HEARING BOARD OF
DOYLESTOWN TOWNSHIP**

By: /s/ W. Andrew McPherson
W. Andrew McPherson, Chairman

/s/ Richard K. Gaver
Richard K. Gaver, Secretary

IMPORTANT NOTE: Pursuant to §175-136 and §175-137 of the Doylestown Township Zoning Ordinance, the relief granted herein shall expire five (5) years from the date of this decision.

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

Application No. Z-14-2013

Applicant: Jon Paul Clift
 258 Old New Road
 Doylestown, PA 18901

Owner: Same

**Subject
Property:** Tax Parcel No. 9-7-83-6, which is located at the address of the
 Applicant set forth above.

**Requested
Relief:** The Applicant requests variances from §175-16.H.3.d.2 and
 §175-39 of the Doylestown Township Zoning Ordinance
 ("Ordinance") in order to permit the construction of a detached
 storage shed, greater than 144 square feet in size, at a side yard
 setback distance of less than the required 25 feet.

**Hearing
History:** The application was filed in Doylestown Township on December
 19, 2013. The hearing was held on January 23, 2014 at the
 Doylestown Township Building, 425 Wells Road, Doylestown,
 PA 18901.

Appearances: Applicant Pro Se'

Date of Issuance: February 4, 2014

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 has 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. It is approximately 28,597 square feet in size (.63 acres). It accommodates the Applicant's single family detached dwelling with typical accessory walkways and a driveway.
4. There is also an existing 12' x 24' shed which is used to house one car, lawn equipment, and tools.
5. The Applicant is an antique car hobbyist and owns eight motor vehicles that are stored on the subject property. One is stored in the existing shed; two are kept within the attached garage; and one is kept underneath a tent structure. The remaining four vehicles are exposed to the weather and remain on the property unsheltered.
6. Accordingly, the Applicant proposes the construction of an additional 24' x 24' (576 square feet) detached structure in order to keep as many of those vehicles under roof as possible. The Applicant testified that the vehicles are valuable and that he works on them, as a hobby. Due to his investment in these vehicles, he desires to place them under roof.
7. The proposed detached shed is a permitted accessory use in the R-1 Zoning District. The Applicant has credibly established that the detached shed, if constructed as proposed, will comply with the impervious surface coverage ratio requirement of the Ordinance, set forth at §175-38.
8. The Applicant seeks to locate the proposed detached structure at a setback distance of 9 feet, at its closest point, from one of its side property lines, as depicted in Exhibit B-1.G, a sketch plan of the property.
9. The Applicant established that the proposed structure cannot be located elsewhere on the property that could be conforming to the setback requirements of the Ordinance as the only area for same is set aside for expansion of the existing on-site, sand mound septic system. Although public sewerage is contemplated in the vicinity of the subject property, it is not proposed to extend to it. The existing on-site septic system, which was constructed in 1988, will inevitably fail and its expansion and possible relocation on the lot will occur in the area which would accommodate an Ordinance conforming detached structure.

10. Ordinance §175-16.H.3.d.2 permits detached storage structures, greater than 144 square feet in size, on the subject property, provided compliance with all setback requirements for principal buildings applicable in the R-1 Zoning District.

11. §175-39 provides that there must be a minimum side yard setback distance of 25 feet for principal buildings.

12. The property that is most impacted by the relief sought is a residential group home that has existed in the neighboring residential structure for many years.

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

CONCLUSIONS OF LAW

1. The subject property has been developed and is used as permitted by right in the R-1 Zoning District in which it is located.

2. The Board concludes that the Applicant's hobby of purchasing and restoring antique cars requires construction of additional storage facilities to house them.

3. The size of the proposed detached structure for that purpose is logical and reasonable.

4. The location of the proposed structure, at a side yard setback distance of 9 feet, is necessary considering the future expansion and relocation of an on-lot septic system on the property which precludes its location elsewhere on the subject property consistent with Ordinance requirements.

5. The Board concludes that the construction of the detached structure, at a side yard setback distance of 9 feet, will have no negative impact upon surrounding properties or uses.

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

7. Accordingly, the members of the Doylestown Township Zoning Hearing Board in attendance at this hearing¹ determined, unanimously, to grant the Applicant's request for relief as is set forth hereafter.

¹ Board Member William Lahr was unavailable for this hearing and did not participate in the decision.

WHEREFORE, the Zoning Hearing Board of Doylestown Township GRANTS variances from §175-16.H.3.d.2 and §175-39 of the Doylestown Township Zoning Ordinance in order to permit the construction of a 576 square foot detached structure on the subject property, located as proposed in Exhibit B-1.G, at a side yard setback of 9 feet, instead of the required 25 feet, subject to compliance with all other applicable governmental ordinances and regulations and to the condition that the temporary storage tent presently existing on the subject property, be removed from it.

**ZONING HEARING BOARD OF
DOYLESTOWN TOWNSHIP**

By: /s/ W. Andrew McPherson
W. Andrew McPherson, Chairman

/s/ Richard K. Gaver
Richard K. Gaver, Secretary

IMPORTANT NOTE: Pursuant to §175-136 and §175-137 of the Doylestown Township Zoning Ordinance, the relief granted herein shall expire five (5) years from the date of this decision.