

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

Application No. Z-1-2016

Applicant: Lorin C. Moise
137 Willowbrook Drive
Doylestown, PA 18901

Owner: Lorin C. & Adriana G. Moise
137 Willowbrook Drive
Doylestown, PA 18901

**Subject
Property:** Tax Parcel No. 9-14-42 which is located at the address of the
Applicant set forth above.

**Requested
Relief:** The Applicant requests a special exception, pursuant to §175-32.B of the Doylestown Township Zoning Ordinance (“Ordinance”) to accommodate an in-law suite in a portion of the premises. Additionally, the Applicant requests a variance from §175-16.H-12.a to permit the proposed in-law suite to occupy more than 25% of the total usable floor area of the principal residence, not including the garage.

**Hearing
History:** The application was filed in Doylestown Township on February 1, 2016. Hearings were held on March 24, 2016 and April 28, 2016 at the Doylestown Township Building, 425 Wells Road, Doylestown, PA 18901.

Appearances: Applicant, Pro Se'

Mailing Date: June 1, 2016

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-1a, Residential Zoning District of Doylestown Township. It accommodates the Applicant's single-family detached dwelling with typical residential access walkways, a driveway, a horse barn and a maintenance barn.

4. The Subject Property is approximately 11.49 acres in size. The minimum lot size required in the R-1a Zoning District is 2 acres.

5. The Owners purchased the Subject Property by deed dated February 26, 2013 (Exhibit B-1.A).

6. The Applicant credibly testified that when they purchased the property, it featured a structure, attached to the principal residence by a breezeway, which accommodated a one car garage and a two story living area as depicted in photographs received into evidence as Exhibit B-1.C. Further, one of the reasons they purchased the Subject Property was the existence of this attached structure so that an in-law suite could be accommodated within it.

7. Exhibit B-1.E is a letter from Sinclair G. Salisbury, the Doylestown Township Director of Code Enforcement. It establishes that an illegal rental apartment addition had been constructed on the property prior to the Owners' purchase of it.

8. The Owners removed the stove/range from the attached structure as soon as they were notified by the Township that the apartment had been constructed without appropriate permitting.

9. The Applicant now proposes to use the first floor of the attached structure as an in-law suite for his mother, Gabriella Moise.

10. Exhibit B-1.D, page 1, depicts the first floor plan for use as the in-law suite. Page 2 of that exhibit depicts the second floor which contains a storage room which is used by the Owners of the property and a sitting area which has also been used by them but which will not be used as part of the in-law suite specifically, in this case, because the Applicant's mother is wheel chair bound and cannot negotiate the steps. However, the Applicant agreed that any right to occupy the attached structure with an in-law suite would be limited to its first floor.

11. The application filed in this matter requested a special exception for an in-law suite. That use is permitted by special exception in the R-1a Zoning District of Doylestown Township pursuant to Ordinance §175-37.B.

12. At the first hearing, it became apparent that the size of the first floor of the attached structure exceeded the limitation in size of an in-law suite to 25% of the total usable floor area of the principal residence, excluding the garage, set forth at §175-16.H.12.a.

13. Accordingly, the Applicant requested a continuance in order to seek a variance from that Ordinance provision and to allow that variance request to be publically noticed as required by the Pennsylvania Municipalities Planning Code.

14. At the second hearing, the Applicant established, as is set forth in Exhibit A-1, that the total usable floor area, excluding garage, of the principal residence is 4,058 square feet.

15. The existing area on the first floor of the attached structure, proposed for use as an in-law suite, is 1,254 square feet. Pursuant to the 25% limitation set forth at §175-16.H.12.a, the permissible size of an in-law suite would be 1,015 square feet. Accordingly, the variance would permit an additional 239 square feet of area devoted to the in-law suite use.

16. The evidence establishes that, in order to comply with the 25% limitation, a portion of the existing first floor would have to be excluded from the proposed use.

17. In-law suites are defined at Ordinance §175-16.H-12. In order to obtain the special exception, the Applicant must satisfy the Board that the proposed addition will comply with all of the criteria set forth therein.

18. Based upon the competent and credible evidence presented during the hearing, the Board finds, relative to those criteria, as follows:

- a. The Applicant submitted a sketch plan, received into evidence as Exhibit B-1.D, which depicts the existing features on the Subject Property as well as the proposed in-law suite. Based upon that sketch plan and the Applicant's testimony, the proposed use will meet all of the bulk and dimensional criteria of the Ordinance if located as depicted, except for the provision from which Ordinance relief is sought.
- b. The in-law suite is proposed for a related family member to the Owners of the Subject Property. The Owners understand that they are prohibited from the creation of a for-profit apartment.
- c. The credible evidence indicates that the total usable floor area of the principal residence, not including the garage, is 4,058 square feet.

- d. The area proposed for the in-law suite use will represent 30% of the total useable floor area of the principal structure, according to Ordinance definition. Therefore, this requirement will only be met if the requested variance is granted.
- e. The in-law suite will contain separate cooking, sleeping, living and bathroom facilities.
- f. The in-law suite will be part of the principal residence. No new separate structure is proposed. It will not be located in cellar areas.
- g. Ordinance §175-22.E requires two off-street parking spaces for the existing residential use which cannot be located within the garage, plus one additional space for the in-law suite use. The evidence establishes that the Subject Property accommodates an area in which 12 cars could be parked.
- h. The in-law suite will be occupied only by a family member related to the Owners and occupants of the principal residence.
- i. The Subject Property is served by on-lot water and sewer. The Applicant testified that he has already received certification from the Bucks County Board of Health that the waste water facilities are adequate to accommodate both the single family dwelling and the in-law suite as proposed. The Applicant will provide that certification to the Township at the time of permit application.
- j. The Applicant understands that only one in-law suite is permitted on the Subject Property.
- k. The Applicant agrees to register the in-law suite with the Township Zoning Officer and bear the annual fee fixed for such use by the Doylestown Township Supervisors.

19. The Board finds that, with the grant of a variance from §175-16.H-12.a, the proposed addition will have met all of the criteria necessary to support the special exception application.

20. A residential neighbor, Mark Sclotter, who owns an adjacent property as his residence, appeared in support of the Applicant's request for relief.

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

CONCLUSIONS OF LAW

1. The principal residential structure on the Subject Property was developed and used as is permitted by right in the R-1a Zoning District. The attached structure was constructed by a previous owner illegally, and without appropriate permitting from Doylestown Township.

2. However, the use of that attached structure as an in-law suite is permitted by special exception pursuant to Ordinance §175-37.B.

3. As to the variance request from the size limitation set forth at §175-16.H-12.a, the Board concludes that the additional 239 square feet of area proposed that exceeds the limitation of this section, is necessary, logical and reasonable in that it presently exists and it would create a hardship to require the removal of a portion of the structure, or elimination of existing available space.

4. As determined in the Findings of Fact, with the grant of the variance request, the proposal meets all of the objective criteria of §175-37.B.

5. Ordinance §175-138 requires the Board to consider additional factors in connection with any special exception. The Board concludes compliance with all of the applicable factors to be considered and determines that the special exception will not result in any threat to public safety or extraordinary public expense, will not create a nuisance, will not cause fraud or victimization of the public, or conflict with local laws or ordinances, as required by §175-138.C.

6. Accordingly, the Board determined, unanimously, to grant relief to the Applicant and the Subject Property as is set forth hereafter:

ORDER

Upon consideration and after hearing, the Zoning Hearing Board of Doylestown Township hereby GRANTS the following relief from the Doylestown Township Zoning Ordinance in order to permit the use of the first floor of the structure attached to the principal residence as an in-law suite:

1. a special exception, pursuant to §175-32.B to accommodate an in-law suite; and
2. a variance from §175-16.H-12.a, to permit the proposed in-law suite to occupy 30% of the total usable floor area of the principal residence, not including the garage.

The relief herein granted is subject to compliance with all other applicable governmental ordinances and regulations, and subject to the following specific conditions:

1. that the area of the in-law suite be no greater than 1,254 square; and
2. that the Applicant provide appropriate certification from the Bucks County Department of Health that the on-lot septic system will accommodate the additional bedrooms proposed in this application.

**ZONING HEARING BOARD OF
DOYLESTOWN TOWNSHIP**

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

/s/ Richard K. Gaver
Richard K. Gaver, Vice Chairman

/s/ Mitchell Aglow
Mitchell Aglow, 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-3-2016

Applicant: Andrew Dimino
11 Woodview Drive
Doylestown, PA 18901

Owner: Same.

Subject Property: Tax Parcel No. 9-26-77, 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 §175-17.F.1 of the Doylestown Township Zoning Ordinance (“Ordinance”) in order to construct a residential accessory structure at a distance less than the actual setback of the principal building from the street line; and at a rear yard setback distance of less than the required 50 feet.

Hearing History: The application was filed in Doylestown Township on March 29, 2016. The hearing was held on April 28, 2016 at the Doylestown Township Building, 425 Wells Road, Doylestown, PA 18901.

Appearances: Applicant, Pro Se’

Mailing Date: June 6, 2016

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. It accommodates the Applicant's single-family detached dwelling with typical residential access ways and a driveway, as well as landscaping structural features, all as depicted on Exhibit B-1.A (the "Sketch Plan").
4. The Subject Property is approximately 1.25 acres in size in a zoning district which permits minimum lot sizes of 40,000 square feet.
5. The Subject Property is a corner lot fronting on Woodview Drive with one of its sides fronting on Pebble Hill Drive.
6. Driveway access to the home is from Woodview Drive.
7. Under Ordinance definition, the Subject Property is therefore burdened with two front yards and two front yard setback distance requirements from the two fronting streets.
8. As depicted on Exhibit A-1, an aerial photograph of the Subject Property, the side of the house that fronts on Pebble Hill Drive is bisected by a stream and, at the rear of the property, a stand of trees. Additionally, the Applicant credibly established that the property slopes, at some points severely, from its Woodview Drive frontage to the rear.
9. The Applicant established a need for protective storage of outdoor and lawn equipment and proposes the construction of an 18' x 12' (216 square foot) one story, detached storage shed.
10. Its location is proposed, as depicted on the Sketch Plan, to the rear of the house, relative to its Woodview Drive frontage, however, is closer to the Pebble Hill Drive frontage than the side of the house. It is proposed to be setback from its rear property line (relative to the Woodview Drive frontage) at a distance of 25 feet and a front yard setback distance of 65 feet from the ultimate right-of-way line of Pebble Hill Drive.
11. The Applicant credibly established that the proposed location of the shed is on one of the few flat and dry areas of the Subject Property and behind the stand of trees so as to soften its visual impact upon Pebble Hill Drive passersby.

12. Ordinance §175-16.H-3.D permits storage sheds as residential accessory structures in the R-1 Zoning District, by right. Subsection §175-16.H-3.D.2 thereof, requires, however, that such structures, exceeding 144 square feet in size, shall meet the setback requirement for principal buildings in its zoning district.

13. §175-39 defines the dimensional requirements for principal structures in the R-1 District and sets forth, for a single family detached dwelling use (Use B-1), a front yard setback distance of 50 feet and a rear yard setback distance of 50 feet.

14. Accessory structures are also discussed at Ordinance §175-17.F.1. It requires that “All accessory structures shall be located behind the principal building setback line closest to the street on which the principal building fronts and shall be setback from the street line a distance no less than the actual setback of the principal building from the street line.”

15. As the side of the house which fronts on Pebble Hill Drive is setback 103.4 feet, the proposed storage shed setback distance from that street of 65 feet is less than the front yard setback distance defined in this section.

16. One residential neighbor, Erwin Koch, testified in support of the Applicant’s requested relief.

17. 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-1 Zoning District.
2. As a corner lot, the Subject Property is burdened with two front yards and two front yard setback distance requirements.
3. The Subject Property is further burdened with natural resources, including steep slopes and a stream, which provides limited flat and dry area on the Subject Property that could accommodate the proposed storage shed.
4. The storage shed proposed is permitted by right, necessary to accommodate the storage needs of the Applicant, and logically sized.
5. Its location, at a front yard setback distance from the ultimate right-of-way line of Pebble Hill Drive of 65 feet, and a rear yard setback distance of 25 feet, is, this Board concludes, the best location, aesthetically and practically for its intended use. It will be shielded from its Pebble Hill Drive frontage by existing foliage.
6. The frontage of the Subject Property on two streets, and its natural resources, create a hardship upon the Subject Property that preclude the location of the proposed shed consistent with Ordinance §175-16.H-3.D.2 and §175-17.F.1.
7. 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.
8. The evidence establishes that the relief sought by the Applicant is the minimum variance necessary.
9. The variance sought will not alter the essential character of the neighborhood or district in which the Subject Property is located.
10. The Applicant has presented evidence of sufficient factors to warrant the grant of the dimensional variances requested.
11. Accordingly, the Doylestown Township Zoning Hearing Board determined, unanimously, to grant relief to the Applicant and the Subject Property as is set forth hereafter.

ORDER

Upon consideration and after hearing, the Zoning Hearing Board of Doylestown Township hereby GRANTS variances from §175-16.H-3.d.2 and §175-17.F.1 of the Doylestown Township Zoning Ordinance in order to construct a 216 square foot, one story detached shed at a front yard setback distance, relative to the ultimate right-of-way line of Pebble Hill Drive, of 65 feet and a rear yard setback distance of 25 feet as depicted on the Sketch Plan. The relief herein granted is subject to 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/ Richard K. Gaver
Richard K. Gaver, Vice Chairman

/s/ Mitchell Aglow
Mitchell Aglow, 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.