

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

**Application No.** Z-4-2016

**Applicants:** Michael and Tracey Triola  
40 Radcliff Drive  
Doylestown, PA 18901

**Owners:** Same.

**Subject Property:** Tax Parcel No. 9-59-17 which is located at the address of the Applicants set forth above.

**Requested Relief:** The Applicants request a variance from §175-38 of the Doylestown Township Zoning Ordinance (“Ordinance”) in order to construct an in-ground swimming pool, deck and wall that will result in an impervious surface coverage ratio of greater than the 30% permitted thereby.

**Hearing History:** The application was filed in Doylestown Township on May 17, 2016. The hearing was held on June 29, 2016 at the Doylestown Township Building, 425 Wells Road, Doylestown, PA 18901.

**Appearances:** Applicants, Pro Se'  
  
Paul Ahr, Pro Se'  
38 Radcliff Drive  
Doylestown, PA 18901

**Mailing Date:** July 25, 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 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. It is 15,007 square feet in size and accommodates the Applicants' single-family detached home with typical residential access walkways, a driveway, a covered wood deck and paver patio.
4. The Subject Property is one of 88 lots developed in a residential subdivision known as Doylestown Crossing.
5. Doylestown Crossing is a "single-family detached cluster" as defined at Ordinance §175-16.B-7 which is permitted by right in the R-1 Residential Zoning District.
6. The development was built in accordance with special dimensional requirements and design standards when approved by the Doylestown Township Board of Supervisors.
7. Among the criteria of the Ordinance is a limitation upon the impervious surface coverage ratio to 30%, set forth at §175-38.
8. The Applicants propose the construction of an in-ground swimming pool with a surface water area of approximately 550 square feet in the rear yard. In addition, they propose the construction of a pool deck and a retaining wall which is necessary to retain the grade of the property due to its sloping to the rear.
9. The improvements proposed in this application are depicted on Exhibit B-1.B, a Zoning Permit Plan prepared by TLC Surveying, Inc., dated April 6, 2015.
10. The total impervious surface proposed in this application is 1200 square feet. However, the construction contemplates the removal of 316 square feet of existing paver patio resulting in a total proposed increase in impervious surface coverage of 884 square feet.
11. The resultant impervious surface coverage ratio, if the application is approved, would be 38.8%.

12. The Subject Property, and several other residential lots in the Doylestown Crossing development, borders the Route 202 Parkway that was constructed after the development of Doylestown Crossing.

13. The credible evidence indicates that, although the Owners were aware of the pending construction of the parkway, they had not been informed that it would be constructed at a higher level than their property and that a nearby traffic signal causes continuous traffic backups that are plainly visible from the rear deck and patio. Further, the Applicants presented compelling testimony that the Subject Property has been negatively impacted not only by its proximity to the traffic and noise of the parkway but also a substantial loss in property value.

14. In this regard, the Applicants testified that the house was listed for sale at a reasonable list price for a period of six months. During the listing, 24 potential buyers expressed their approval of the house but informed them that they would not consider purchasing the property due to its location vis-à-vis the parkway.

15. Accordingly, the Owners wish to improve their property so as to make it more livable and enjoyable given the inability to sell it.

16. They propose, in addition to the pool, decking and retaining wall, the installation of 11 evergreen trees along the rear property line that will shield the visibility of the parkway, as well as appropriate fencing pursuant to Township pool fencing regulations.

17. The Boards finds that, in addition to serving the privacy function, the new trees will assist in the stormwater management of runoff from the impervious surface coverage proposed. Further, the Applicants have agreed to the imposition of a condition of approval that a stormwater management plan be designed and submitted to the Doylestown Township Municipal Engineer for approval consistent with the stormwater management regulations and ordinances of the Township. To manage all stormwater generated from the impervious coverage proposed.

18. Paul Ahr was granted party status at the hearing. His residential property is contiguous to the Subject Property. He had no objection to the Applicants' request for relief.

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

## **CONCLUSIONS OF LAW**

1. The Subject Property has been developed as residential lot in the Doylestown Crossing subdivision, a single-family detached cluster development permitted by right in the R-1 Zoning District.
2. An in-ground swimming pool is a residential accessory structure permitted by right.
3. The Subject Property's location adjacent to the Route 202 Parkway creates a hardship that significantly impacts the Owners' right to privacy.
4. The Board concludes that the property was unmarketable at a reasonable list price and that it is necessary for the Owners to improve the property as proposed in order to create a private area on the Subject Property that will enable a usable back yard and increase the residential enjoyment of their property.
5. The area of proposed additional impervious surface coverage is reasonable and its location is logical.
6. It will improve the use and enjoyment of the property.
7. Strict adherence to the impervious surface coverage limitation of 30% required would preclude the construction of this otherwise reasonable, logical and necessary amenity.
8. 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.
9. The evidence establishes that the relief sought by the Applicants is the minimum variance necessary.
10. The variance sought will not alter the essential character of the neighborhood or district in which the Subject Property is located.
11. The Applicants have presented evidence of sufficient factors to warrant the grant of the dimensional variance requested.
12. Accordingly, the Doylestown Township Zoning Hearing Board determined, unanimously, to grant relief to the Applicants and the Subject Property as is set forth hereafter.

**ORDER**

Upon consideration and after hearing, the Zoning Hearing Board of Doylestown Township hereby GRANTS a variance from §175-38 of the Doylestown Township Zoning Ordinance in order to permit to construct an in-ground swimming pool, deck and wall that will result in an impervious surface coverage ratio of 38.8%, instead of the required 30%. The relief herein granted is subject to compliance with all other applicable governmental ordinances and regulations, and the construction of the improvements as displayed in the Zoning Permit Plan, Exhibit B-1.B.

**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.