

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

Application No. Z-10-2016

Applicant: Environmental Landscape Associates, Inc.
c/o Andrew Leach
5095 Route 202
Doylestown, PA 18902

Owners: James Mineweaser & Judith Fainor Mineweaser
401 Hagan Court
Doylestown, PA 18901

**Subject
Property:** Tax Parcel No. 9-65-3 which is located at the address of the
Owners set forth above.

**Requested
Relief:** The Applicant requests variances from §175-17.E, §175-17.F.1
and §175-39 of the Doylestown Township Zoning Ordinance
("Ordinance") in order to permit the construction of a detached
garage at a front yard setback distance from Ferry Road of less
than the required 50 feet.

**Hearing
History:** The application was filed in Doylestown Township on October 3,
2016. The hearing was held on October 27, 2016 at the
Doylestown Township Building, 425 Wells Road, Doylestown,
PA 18901.

Appearances: Applicant, Pro Se'

Mailing Date: December 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 a design consultant employed by the Owners of the Subject Property. As such, it is 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 45,690.31 square feet in size and accommodates the Owners' single-family detached home with typical residential access walkways and a driveway.
4. The Subject Property is a corner lot fronting on Hagan Court. It also borders Ferry Road on its northern side. The driveway access to the home from Hagan Court is located to the northern side of the home between it and Ferry Road.
5. The evidence establishes that there is insufficient space in the existing structure to accommodate the parking of all family vehicles under cover and that there is a need for additional storage space for the personal belongings of the Owners.
6. The Applicant's testimony was presented by Andrew Leach, the designer of the project.
7. The Applicant proposes the construction of a 26' x 24' detached garage to a height of less than 20 feet to accommodate the parking of vehicles and a loft area for the storage of personal belongings. It is proposed to be set back further from the ultimate right-of-way line of Hagan Court than the principal structure and accessed by the existing driveway. It will feature two garage bay doors and will be served by electricity but will have no plumbing in it, or water supply to it.
8. The Subject Property is depicted on a Site Plan, received into evidence as Exhibit B-1.B, prepared by Environmental Landscape Associates, Inc., dated October 3, 2016.
9. Because the Subject Property borders two streets, it is subject to two front yard setback distance requirements. §175-39 of the Ordinance requires a 50 foot front yard setback distance, therefore, from the ultimate right-of-way lines for both Hagan Court and Ferry Road.
10. The detached garage is proposed to be located parallel in orientation to the northern side of the home.

11. As proposed, a small portion of the northeast corner of the detached garage will infringe upon the 50 foot setback distance from Ferry Road. It is proposed to be located, at its closest point, 40 feet 9 inches from the Ferry Road ultimate right-of-way line.

12. Ordinance §175-16.H-3.e permits the location of detached garages no closer than 15 feet to a side property line. The side yard setback distance required for principal structures in this zoning district is 25 feet, required by §175-39.

13. §175-17.E requires that, for corner lots, a front yard setback distance of 50 feet is required from each street.

14. §175-17.F permits accessory residential garages of the size proposed in this application and requires a side yard setback distance for such structures of 15 feet.

15. The Site Plan depicts the installation of screening foliage and trees surrounding the proposed detached garage that will soften, if not eliminate, its visibility from Ferry Road.

16. The Applicant agreed to the imposition of a condition of approval that the detached garage structure will not accommodate a second residential or commercial use.

17. The Board received Exhibit A-1 into evidence. It is a decision of this Zoning Hearing Board dated March 19, 2002 regarding 400 Hagan Court which is the residential property located directly across the street from the Subject Property which is also a corner lot bordered by Hagan Court and Ferry Road.

18. In that decision, the owners of 400 Hagan Court received variances to permit the construction of a 1,500 square foot, two story addition to their home located 41 feet from the Ferry Road ultimate right-of-way line.

19. The evidence indicates that there has been no adverse or negative impacts from the grant of this variance. As this application proposes the construction of a 624 square foot structure at a similar Ferry Road setback distance of 40 feet 9 inches, the Board finds that the construction of the detached garage proposed would be consistent with neighborhood standards.

20. If the proposed detached garage is constructed, a stormwater management facility, in the nature of a dry well, as depicted on Sheet D-1 of the Site Plan, will be constructed on the Subject Property in order to manage any additional stormwater generated from the construction.

21. 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 the Subject Property is a corner lot, it is burdened by two front yard setback distance requirements which creates a hardship on the Subject Property.
3. The competent and credible evidence establishes the necessity of the construction of the proposed detached garage for the Owners of the Subject Property in order to accommodate safe and secure parking of all of their vehicles and to provide a needed area for storage of personal belongings.
4. It is reasonable in size and logically located with access from the existing driveway.
5. The application of a 50 foot front yard setback requirement would preclude the construction of this otherwise necessary, reasonably sized and logically located detached garage.
6. The Board concludes that the infringement into the 50 foot front yard setback distance is minor in nature as it only encompasses the northeast corner of the proposed structure. It represents a reasonable deviation from Ordinance requirements in this regard.
7. Although considered a front yard under Ordinance terms, the border of the Subject Property with Ferry Road constitutes a side property line in reality and the detached garage is proposed consistent with the side yard setback requirements for such a structure.
8. The setback distance proposed from Ferry Road is substantially similar to the setback distance for the residential structure located on the corner lot opposite the Subject Property.
9. 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.
10. The evidence establishes that the relief sought by the Applicant is the minimum variance necessary.
11. The variances sought will not alter the essential character of the neighborhood or district in which the Subject Property is located.
12. The Applicant has presented evidence of sufficient factors to warrant the grant of the dimensional variances requested.

13. 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 variances from §175-17.E, §175-17.F.1 and §175-39 of Doylestown Township Zoning Ordinance in order to permit the construction of a detached garage at a front yard setback distance from the ultimate right-of-way line of Ferry Road, at its closest point, of 40 feet 9 inches, as depicted on the Site Plan.

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

1. That landscaping be installed as depicted on the Site Plan; and
2. That the detached garage will never accommodate a second residential or commercial use.

**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-6-2016

Applicant: Metro Storage LLC
13528 W. Boulton Boulevard
Lake Forest, IL 60045

Owners: Antonio Carosi & Josephine M. Carosi
44 Tinsel Road
Levittown, PA 19056

**Subject
Property:** Tax Parcel No. 9-19-5 which is located at 36 Duane Road a/k/a
1767 S. Easton Road, Doylestown Township, Bucks County,
Pennsylvania.

**Requested
Relief:** The Applicant requests a special exception, pursuant to §175-
67.B of Doylestown Township Zoning Ordinance (“Ordinance”),
to develop the Subject Property as a storage facility, classified as
a Warehouse Use at §175-16.G-15. Additionally the Applicant
requests the following variances from the Ordinance:

- a. from §175-21.A.1, to permit a planting buffer less than 6 to 8 feet in height with opacity (complete screening);
- b. from §175-21.B and §175-21.C, to permit a minimum 3 foot wide side yard buffer and 18 foot rear yard buffer in lieu of the required 50 foot buffer;
- c. from §175-21.E, to permit less than the minimum required buffer, berm, width and plantings due to size, grading and retaining wall constraints;
- d. from §175-21.E.5, to permit a board-on-board fence along a portion of the boundary between residential and non-residential properties;
- e. from §175-23.B.4, to permit less than 10% of the parking areas to be used for islands and planting strips;
- f. from §175-23.C.13, to permit parking and access ways within the front, side and rear yards closer to the ultimate right-of-way and lot line than is permitted;

- g. from §175-27.D.1.b, to permit approximately 5% disturbance of floodplains for installation of a sanitary sewer lateral and stormwater management facility;
- h. from §175-27.D.6.b.1, to permit more than 40% disturbance of steep slopes in the 15% to 25% category¹ and from §175-27.D.6.b.2, to permit more than 15 % disturbance of steep slopes in excess of 25%;
- i. from §175-27.D.7.b and §175-103.4, to permit approximately 15% disturbance of the Riparian Corridor Conservation District (Zones 1 & 2) for grading associated with construction of a subsurface stormwater management basin and installation of a stormwater management outfall pipe and associated rip-rap as well as for installation of a sanitary sewer lateral;
- j. from §175-68.A.3, to permit an impervious surface coverage ratio of 95%, instead of the maximum permitted 40%;
- k. from §175-68.A.5.a and §175-17.D.3, to permit a front yard setback from an arterial road of approximately 1 foot in lieu of the minimum required 65 feet;
- l. from §175-68.A.5.c, to permit side and rear yards abutting a residential district to be used for access ways, driveways, and parking areas;
- m. from §175-69.D, to permit parking in the front yard to within 9 feet of the front yard line;
- n. from §175-69.E, to permit parking in the side yard to within 10 feet of the side lot line;
- o. from §175-106.E, to permit a building sign to be located on the right-of-way line in lieu of being required to be set back a distance equal to its height; and
- p. from §175-20 which requires compliance with §153 of the Doylestown Township Subdivision and Land Development Ordinance in the following respects:
 - a. from §153-36.C.1.b, to permit light levels exceeding the maximum permitted 0.5 foot candles at the property line for lighting at the site access drive to Easton Road; and

¹ The variance request from §175-27.D.6.b.1 was withdrawn by the Applicant.

- b. from §153-36.C.2, to permit a lower foot-candle level than the required minimum average foot-candle level of 1.0 for industrial and office developments.

Hearing

History:

The application was filed in Doylestown Township on August 22, 2016. The original hearing was held on October 17, 2017 but did not conclude. A second hearing took place on October 27, 2016. Both hearings were held at the Doylestown Township Building, 425 Wells Road, Doylestown, PA 18901.

Appearances:

Applicant by: John A. VanLuvanee, Esq.
Eastburn and Gray, PC
60 E. Court Street
P.O. Box 1389
Doylestown, PA 18901

Mailing Date:

December 9, 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 equitable owner of the Subject Property pursuant to a valid Agreement of Sale and is therefore possessed of the requisite standing to make application to this Board.

3. The Subject Property is located in the C-1, Commercial Zoning District of Doylestown Township. It is also located in the Outdoor Advertising Overlay District.

4. The Subject Property was developed and used as commercial greenhouses during the 1950s to approximately 1974. On April 5, 1974, the Subject Property received a building permit and certificate of occupancy from Doylestown Township which permitted "continuation of existing landscaping and excavation usage". See Exhibit A-16.

5. The Subject Property was used as a fill site for materials necessitated by the excavation and widening of Route 611 to its north. It also accommodates a large billboard.

6. The competent evidence establishes following the unique physical characteristics of the Subject Property:

- a. It is subject to an extremely wide right-of-way as a result of condemnation by the Pennsylvania Department of Transportation at the time that Route 611 was widened. The right-of-way extends 50 feet from the edge of pavement of Route 611;
- b. A substantial portion of the Subject Property has been filled during the widening of Route 611 to a four lane highway. The fill operations resulted in significant man-made slopes as depicted on Exhibit A-1.B, a Natural Resource Protection Plan prepared by Bohler Engineering, dated February 10, 2016, last revised August 2, 2016;
- c. There are a number of buildings and/or building foundations located within the currently required side and rear yard setback distances and within required buffer areas;
- d. There are existing impervious surfaces located within the front, side and rear yard setback distances currently required and within required buffer yards.

7. Exhibit A-1.B also evidences that the Subject Property is burdened with the following natural resources: a waterway; area within the floodplain; a Riparian Corridor Conservation area; and woodlands.

8. The Subject Property has a gross tract area of 3.798 acres. Its net buildable site area, according to Ordinance definition, after deduction of areas within rights-of-way and easements and, after accounting for required natural resources protection, is 1.615 acres.

9. Exhibit A-15 contains photographs of existing conditions on the Subject Property. They evidence that the structures or parts of structures remaining on the Subject Property are dilapidated and constitute health and safety hazards.

10. Sinclair Salisbury, the Doylestown Township Director of Code Enforcement, testified that, since the issuance of the building permit in 1974, there have been numerous property management issues that the Township has tried, unsuccessfully, to resolve; as well as a number of unresolved enforcement notices and citations.

11. Salisbury testified that the Subject Property is a blight on the neighborhood specifically and Doylestown Township generally. He indicated that the Township encourages the endeavors of the Applicant to develop the property as proposed.

12. Exhibit B-6 is a letter dated October 13, 2016 from Jeffrey P. Garton, Esq., the Doylestown Township Solicitor. Garton confirmed that the Applicant appeared before the Doylestown Township Board of Supervisors at a public meeting to discuss their proposed development. The Board of Supervisors support the application and confirm that the Subject Property is in urgent need of redevelopment and is a blight on the community, especially upon the residents on Duane Road.

13. The Applicant also established that it held a meeting with the residents along Duane Road, who are most impacted by the proposed development, in January of 2016.

14. As a result of that meeting, an access way to the Subject Property from Duane Road was eliminated from the proposal. A number of Duane Road residents attended both hearings held on this matter. They expressed no objection to the plan and the one resident who testified confirmed that it represents a significant improvement over this blighted property, as it currently exists.

15. Testimony on behalf of the Applicant was presented by Robert Heilman, its Vice President of Development. Heilman established that the Applicant is a privately held real estate company specializing in the acquisition, development, management and sale of self storage facilities. It began operations in 1973 and is now the fourth largest private self storage company in the country and ninth largest overall. It manages over 95 self storage properties in 12 states.

16. The Applicant proposes to raze all of the existing structures on the Subject Property and construct a state-of-the-art, climate controlled self storage facility with associated parking.

17. Doylestown Township has classified the proposed use as a Warehouse as defined at Ordinance §175-16.G-15.

18. The structure proposed for this use is multi-leveled as depicted on the elevations (Exhibits A-8 and A-9) and floor plans (Exhibits A-12 and A-13). It will contain 95,256 square feet of gross floor area with net rentable space of 66,009 square feet after deduction of areas located within hallways, loading bays, office space, and a permitted retail store.

19. Heilman established that there is a need for storage units such as those proposed in the Doylestown Township area.

20. The retail space proposed will consist of approximately 1,000 square feet allowing for the sale of merchandise such as locks, boxes, etc. This retail space is consistent with the Ordinance requirements of §175-16.G-15.

21. The building will be protected by a comprehensive security system utilized to insure the protection of customers and their goods. It will be accessed by a digital keypad with private personal identification numbers. There will be closed circuit televisions and intercoms throughout the facility.

22. Heilman also established that the self storage use is a passive use, compared to other permitted uses in this zoning district, with low impact upon surrounding businesses and residences. The use creates a negligible amount of effluent with little impact upon local water and sanitary systems. The use is a low traffic generator.

23. Heilman testified that, in his opinion, the 708 storage units proposed in the structure will generate about 48 vehicle trips per day.

24. Presently, the Subject Property employs no stormwater management facilities. The Applicant proposes compliance with Doylestown Township ordinances and regulations in order to construct a stormwater management facility designed to address the stormwater impacts of construction, consistent with those ordinances.

25. The structures and uses, historically, on the Subject Property, had no buffer yards and violate current setback distance requirements.

26. The Board found Heilman's testimony to be credible that the Applicant employs an economic model to determine the size of its facilities. The model evaluates purchase price, the soft costs of development, property studies, construction costs, area market values and operational costs.

27. Heilman credibly established that the size of the facility proposed is necessary to insure its success.

28. The structure will be sprinkled and it and its access ways will comply with applicable fire codes and regulations.

29. The use of the Subject Property as a warehouse is permitted by special exception pursuant to Ordinance §175-67.B in the C-1 Zoning District.

30. The credible evidence establishes that the proposed use of the Subject Property meets the objective criteria of Ordinance §175-16.G-15 necessary to obtain a special exception.

31. In order to develop the Subject Property as proposed, the Applicant requires a number of variances from the Ordinance. In considering these variance requests, the Board finds that many of the dimensional variances sought result from the Applicant's efforts to minimize encroachment into the floodplain and Riparian Buffer and, importantly, locate the structure, parking and access ways so as to be least impactful upon residential neighbors.

32. The Subject Property is bordered to the north by Easton Road, to the east by a gasoline service station and residences, to the south by residences, and to the west by the Barn Cinema and an adjacent shopping center.

33. In support of the variances, the Applicant presented the testimony of Eric Britz, P.E. Mr. Britz was qualified to testify as an expert in civil engineering at the hearings.

34. With regard to the specific variances sought, the Board finds the testimony of Britz to be credible as to their necessity and to the factors, determinations, and considerations behind them.

35. The variances sought are:

- a. §175-21.A.1. §175-21 requires buffer yards along each side or rear property line of the Subject Property that abuts a residential use. The subsection from which the variance is sought requires plant materials to be used as screen planting that will be at least 6 feet in height when planted. This variance relates to the area between 6 parking spaces on the northeast corner of the Subject Property, two of which are handicapped accessible, that border the gas station to the east, since it is residentially zoned. There is approximately 10.7 feet of space between this side property line and that parking area which will be occupied by a retaining wall with a post and rail fence and landscaping as depicted on Exhibit A-1.D, a Landscape Plan prepared by Bohler Engineering, dated February 10, 2016, last revised August 2, 2016.

The Board finds the necessity of variance from this Ordinance subsection and determines that strict compliance from this Ordinance provision is impossible

- b. §175-21.B and §175-21.C. These sections require a 50 foot wide buffer yard and prohibit parking areas, driveways or roads within that buffer strip. The Zoning Plan (Exhibit A-1.A) locates the structure more than 50 feet from the side property line separating the Subject Property from the gasoline station and a few residences. However, in order to necessarily and appropriately access the structure for its intended use, consistent with fire code requirements, the buffer yard requires reduction on the eastern side property line to 10.7 feet adjacent to the proposed 6 parking spaces located there, and 30.7 feet as it relates to the driveway access on the eastern side of the structure.

The Zoning Plan also requires a reduction in the buffer yard to the rear of the structure, to a 18 foot width increasing to a 27 foot width on the western side of the structure. The Landscape Plan proposes installation of a fence, foliage and vegetative materials to provide an appropriate landscaping shield.

- c. §175-21.E. This section requires a buffer planted area of at least 30 feet in width with plantings placed on a berm of 4-6 feet in height except where the topographic conditions or existing vegetation make it impracticable or undesirable to accommodate a berm, in which case the Township Board of Supervisors may modify the requirement, consistent with its intent, during land development. This section further requires specific planting materials and quantities. As the development of the Subject Property is oriented to its east to protect the Neshaminy Creek, the floodplains, and Riparian Buffers; and to the north to provide at least a 50 foot setback distance from the residential uses to the south, the building and necessary accessory features must be located on the portion of the Subject Property proposed for development in order to reduce impact upon natural resources and residential neighbors. Accordingly, there is insufficient area on the Subject Property to accommodate buffer yards as required by this Ordinance section and the Board of Supervisors shall determine the nature, extent and content of any buffer yard established during land development.
- d. §175-21.E.5. This section, in part, requires a post and rail fence within the buffer area separating the proposed use from residential neighbors. The Applicant proposes a board-on-board fence instead and the Board finds that that type of fence will more effectively reduce the impact of this development on nearby residential uses.
- e. §175-23.B.4. This section requires that no less than 10% of a parking area shall be used for parking islands and planting strips. There are two parking areas proposed on the Subject Property:

one to its northeast containing 6 spaces; and one to its northwest containing 4 spaces. Compliance with this Ordinance section would require the unnecessary installation of parking islands and planting strips given the size of the parking areas and would require locating the building and accessory features closer to residential uses and/or natural resources.

- f. §175-23.C.13. This section permits the location of parking and access ways within the required front, rear and side yard setbacks subject to the limitation that such facilities shall not be located within the 50% of the setback closest to the right-of-way or lot line. Again, the need for this variance is generated by the required location of this facility. In order to appropriately access the structures use, and comply with applicable fire code requirements, access must be provided within the front, rear and both sides of the structure, as depicted on Exhibit A-1.A.
- g. §175-27.D.1.b. This section requires a 100% resource protection ratio for areas within the floodplain and prohibits structures, filling, piping, diverting or stormwater detention basins to be located there.

Britz established that disturbance of up to 5% of the floodplain area on the Subject Property is necessary to construct the required stormwater management facility and to install a sanitary sewer lateral to connect to public sewer. Development of the property is, this Board finds, impossible in compliance with this Ordinance requirement. The Board notes that the disturbance necessary to connect to the existing sanitary sewer will be temporary in nature and that the area will be restored after installation.

- h. §175-27.D.6.b.2. This section requires that 85% of the area of the property that consists of slopes of greater than 25% must remain resource protected. Mr. Britz established that 55% of these steep slopes must be disturbed in order to locate this facility on the Subject Property. The Board finds, however, that the steep slopes that exist on the Subject Property are man-made and result from fill and materials deposited on the Subject Property by both its previous user and the Pennsylvania Department of Transportation during road widening. Accordingly, the Board finds negligible impact upon the natural resources on the Subject Property by the disturbance of these man-made slopes.
- i. §175-27.D.7.b and §175-103.4. Similarly, §175-27.D.7.b requires 100% resource protection for areas of land located within the Riparian Corridor Conservation District. Britz established that up to 17% of this area must be disturbed in order to install the required stormwater management facility outfall

pipe and related structures as well as the installation of the sanitary sewer lateral. Development of the Subject Property, this Board finds, is impossible in full compliance with these Ordinance sections.

- j. §175-68.A.3. This section limits the impervious surface coverage ratio on the Subject Property to 40% of the net buildable site area. The application proposes disturbance of 95% of the net buildable site area. The Applicant presented competent and credible evidence that the Subject Property, as developed in 1971, contained 2.175 acres of impervious surface coverage representing 65% of the lot area and 134.7% of the net buildable site area (were that definition applicable in 1971). The proposed impervious surface coverage on the Subject Property is 1.534 acres which constitutes 46.6% of the gross lot area and 95% of the net buildable site area. The Board finds that the proposed therefore is less impactful than historic impervious surfaces on the Subject Property but necessary in order to accommodate the structure and its required access ways and parking areas. Compliance with this Ordinance provision, the Board finds, would make the development of the property impractical and infeasible.
- k. §175-68.A.5.a and §175-17.D.3. These sections of the Ordinance require a front yard setback distance of 65 feet from the future right-of-way lines of arterial or collector highways located within the Township. Route 611 is an arterial highway. Britz established that there is a 50 foot distance between the edge of pavement of Route 611 and the future right-of-way line of that road. The Zoning Plan proposes the location of the structure on the Subject Property at a 1.6 foot setback distance from the future right-of-way line. Accordingly, it would be located 51.6 feet from the edge of pavement. There is an existing front yard setback distance nonconformity in that the billboard that exists on the Subject Property is located, at its closest point, .31 feet from the future right-of-way line of Route 611. Further, the Board finds that the required location of the facility and its access ways necessitate the variance sought. Further, an Ordinance conforming location would negatively impact the residential uses to the south of the Subject Property.
- l. §175-68.A.5.c. This section precludes the location of parking areas, buildings, structures, access ways or driveways within a 50 foot rear yard setback since the Subject Property abuts a residentially zoned district. The development of the Subject Property as proposed prohibits compliance with this Ordinance section and requires that access ways be located within the 50 foot separation distance required by this section. The Board

notes, in this regard, that the structure meets this 50 foot separation distance requirement.

- m. §175-69.D. This Ordinance section prohibits the location of any parking facilities within the front yard of the principal structure. The two small parking areas proposed must, of necessity, be located on the northeast and northwest corners of the Subject Property, as depicted in the Zoning Plan, in order to reduce impact upon residential uses and natural resources.
- n. §175-69.E. This section only permits side yards to be used for parking where jointly used with the abutting property owner and developed with a coordinated parking area. The parking area, containing 6 spaces, located on a northeast portion of the Subject Property, must be located there in order to access the front of the building and impacts only the gasoline service station to its east. Its location, as proposed, avoids impact upon residential uses and/or natural resources.
- o. §175-106.E. This section requires that any sign proposed on the Subject Property must be set back from a street or lot line no less than the height of the sign. The Applicant proposes a wall sign on the front elevation of the building facing Route 611. As the front of that structure is to be located 1.6 feet from the future right-of-way line, the sign, of necessity, must also be located there. Compliance with this Ordinance section would eliminate the construction of an identification sign necessary for the use proposed; and
- p. §175-20. This Ordinance section requires compliance with §153 of the Doylestown Township Subdivision and Land Development Ordinance (SALDO). §153-36.C.1.b precludes light levels to exceed the maximum permitted 0.5 foot candles at a property line. While, relative to all of its other property lines, the lighting levels to be employed at the Subject Property will be below 0.5 foot candles, greater light is required along the front property line to the north of the Subject Property bordering Route 611 in order to safely and appropriately light the access way to the facility. §153-36.C.2 prohibits lower outdoor foot candle levels than 1.0 within the development proposed in this application. Mr. Britz established that the proposed lighting levels of 1.0 are not necessary to the side and rear of the structure and there will be sufficient lighting there to allow safe maneuverability on the access ways adjacent thereto. However, the provision of this required light level would negatively impact the residential users to the east and south of the Subject Property and the Board finds that the variance is therefore necessary in order to eliminate that impact.

CONCLUSIONS OF LAW

1. The Subject Property has been developed and used as is permitted by right in the C-1 Zoning District.
2. The Subject Property received a building permit in 1974 for contracting and excavation uses. A contracting use (Use G5) is permitted by right in the C-1 Zoning District.
3. The Subject Property and the structures on it have laid dormant for a number of years. No attention has been paid to the structures on the Subject Property including those that existed prior to 1974 in connection with a commercial greenhouse use.
4. The structures on the property are in complete disrepair and represent, this Board concludes, a dangerous condition that requires their removal. The Board concludes that the Subject Property has been a “problem property” for Doylestown Township and its surrounding residential neighbors.
5. The Board concludes that there are several unresolved enforcement and violation notices that have been issued to the Owners of the Subject Property in the past.
6. The Subject Property is a blight on the community.
7. The use proposed by the Applicant for the Subject Property is permitted by special exception, pursuant to §175-67.B.
8. The Board concludes, on the basis of Mr. Heilman’s credible testimony, that the size of the facility proposed is necessary to make it economically viable.
9. It is necessary to provide vehicular access ways around 3 sides of the property in order to enable the intended use of the Subject Property as a self storage facility.
10. The access ways are sized and located so as to enable efficient use of the structure and to insure compliance with all applicable fire code and regulations to enable access to all sides of the building by emergency vehicles.
11. The evidence establishes that the use proposed meets the objective criteria of Ordinance §175-16.G-15.
12. The evidence establishes the efforts of the Applicant to locate the structure and access ways so as to be least impactful upon the residential neighbors and natural resources that exist on the property. A majority of the variance relief requested involves dimensional standards that necessarily result from the proposed location.
13. As the Board has determined that the size of the facility proposed is necessary, it cannot be used or occupied for its permitted use in compliance with all of the requirements of the Ordinance.

14. In each instance, the variance request represents a reasonable alteration of the regulation at issue.

15. The Board concludes that, as a result of discussions of the proposed development of the Subject Property with the residential neighbors, and the elimination of an originally proposed access way from Duane Road, at the request of the neighbors, the residential neighbors accept the application as proposed, with the zoning relief requested.

16. The use and appearance of the facility is in conformity with structures and uses in the neighborhood of the Subject Property.

17. Development, as proposed, will improve the neighborhood in which the Subject Property is located.

18. The Board concludes that the use will be a low impact one as it related to the residential neighbors. The lighting and landscaping proposed, to be approved by the Township Board of Supervisors during land development, will sufficiently soften any impacts that the development may have upon its neighboring properties.

19. The Subject Property must receive land development approval for its development. The variances herein granted as to setback distances and buffer yard requirements are subject to approval by the Board of Supervisors of appropriate lighting, landscaping and development plans.

20. The development of the property proposed by the Applicant represents the least infringement into the natural resource protection requirements of the Ordinance.

21. The development of the Subject Property as proposed lessens or eliminates any impacts upon the residential neighbors.

22. §175-138 of the Ordinance requires this Board to consider additional factors as listed therein. The competent and credible evidence establishes, this Board concludes, that it is satisfied that the development of the Subject Property as proposed will comply with each of those additional factors. The Board determines, as required by Ordinance §175-138.C, that the relief herein granted will not result in additional threats to public safety or extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with local laws or ordinances.

23. 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.

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

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

26. The Applicant has presented evidence of sufficient factors to warrant the grant of the relief requested.

27. 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 a special exception, pursuant to §175-67.B of the Doylestown Township Zoning Ordinance, to permit the development of the Subject Property as a climate-controlled self storage facility as depicted on Exhibit A-1.A, a Zoning Plan prepared by Bohler Engineering, dated February 10, 2016, last revised August 2, 2016. Further, it grants variances from the Ordinance as follows:

1. from §175-21.A.1, to permit a planting buffer less than 6 to 8 feet in height with opacity (complete screening), subject to approval of a landscaping/buffer yard plan during land development;
2. from §175-21.B and §175-21.C, to permit a minimum 3 foot wide side yard buffer and 18 foot rear yard buffer in lieu of the required 50 foot buffer;
3. from §175-21.E, to permit less than the minimum required buffer, berm, width and plantings due to size, grading and retaining wall constraints, subject to approval of a landscaping/buffer yard plan during land development;
4. from §175-21.E.5, to permit a board-on-board fence along a portion of the boundary between residential and non-residential properties;
5. from §175-23.B.4, to permit less than 10% of the parking areas to be used for islands and planting strips;
6. from §175-23.C.13, to permit parking and access ways within the front, side and rear yards closer to the ultimate right-of-way and lot line than is permitted;
7. from §175-27.D.1.b, to permit approximately 5% disturbance of floodplains for installation of a sanitary sewer lateral and stormwater management facility;
8. from §175-27.D.6.b.2, to permit disturbance of up to 55% of steep slopes existing on the Subject Property in excess of 25%;
9. from §175-27.D.7.b and §175-103.4, to permit approximately 17% disturbance of the Riparian Corridor Conservation District (Zones 1 & 2) for grading associated with construction of a subsurface stormwater management basin and installation of a stormwater management outfall pipe and associated rip-rap as well as for installation of a sanitary sewer lateral;
10. from §175-68.A.3, to permit an impervious surface coverage ratio of 95%, instead of the maximum permitted 40%;

11. from §175-68.A.5.a and §175-17.D.3, to permit a front yard setback distance from an arterial road of 1.6 feet in lieu of the minimum required 65 feet;
12. from §175-68.A.5.c, to permit side and rear yards abutting a residential district to be used for access ways, driveways, and parking areas;
13. from §175-69.D, to permit parking in the front yard to within 9 feet of the front yard line;
14. from §175-69.E, to permit parking in the side yard to within 10 feet of the side lot line;
15. from §175-106.E, to permit a building sign to be located on its front wall in lieu of being required to be set back a distance equal to its height; and
16. from §175-20 which requires compliance with §153 of the Doylestown Township Subdivision and Land Development Ordinance in the following respects:
 - a. from §153-36.C.1.b, to permit light levels exceeding the maximum permitted 0.5 foot candles at the property line for lighting at the site access drive to Easton Road; and
 - b. from §153-36.C.2, to permit a lower foot-candle level than the required minimum average foot-candle level of 1.0 for industrial and office developments.

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.

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

Application No. Z-8-2016

Applicant: Lynn M. DeRose
1355 Pebble Hill Road
Doylestown, PA 18901

Owner: Nicholas & Lynn M. DeRose
1355 Pebble Hill Road
Doylestown, PA 18901

Subject Property: Tax Parcel No. 9-22-140-1 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 permit the use of the Subject Property as a home-based business. Additionally, the Applicant requests the following variances:

1. from §175-16.H-1.a, to permit a portion of the home-based business to be carried on outdoors; and
2. from §175-16.H-1.m, to permit the area devoted to the home-based business use to occupy more than 25% of the ground floor of the principal residential structure and greater than the permitted 500 square feet.¹

Hearing History: The application was filed in Doylestown Township on September 21, 2016. The hearing was held on October 27, 2016 at the Doylestown Township Building, 425 Wells Road, Doylestown, PA 18901.

Appearances: Applicant, Pro Se’

Mailing Date: November 21, 2016

¹ The Board permitted the Applicant to amend the application to include this variance request at the hearing.

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. The Owners purchased the property by a deed dated June 2, 2008, received into evidence as Exhibit B-1.A.

3. The Subject Property is located in the R-1A, Residential Zoning District of Doylestown Township. It is 5.960 acres in size and accommodates the Owners' single-family detached dwelling, a guest house, a potting shed, run-in sheds, a hay barn, a horse barn, and a detached garage.

4. The Subject Property, and its improvements, are depicted on Exhibit B-1.B, a "Site Plan" prepared by Langan Engineering, dated April 22, 2015.

5. The horse barn on the property is labeled "Existing 42' x 44' Barn" on the Site Plan. It accesses an existing paddock area surrounded by a fence, depicted as such on the Site Plan.

6. The Applicant testified, and the Board finds, that the "Proposed Paddock Area", depicted on the Site Plan, does not exist and the Applicant has no intention of creating it.

7. The horse barn can accommodate up to 6 horses. Presently, the Applicant owns 4 ponies who are kept in the horse barn and exercised in the existing, fenced in, paddock area.

8. The Applicant proposes to operate a riding academy on the Subject Property within the horse barn and existing paddock area. She indicated that lessons will be conducted in daylight hours and will last for up to one hour each. Only one lesson will be conducted at a time on the Subject Property.

9. The Applicant established, and the Board finds, that a riding academy is operated on a residential property directly across Pebble Hill Road from the Subject Property. It is known as Meadow View Farm and riding lessons have been conducted there, according to the credible evidence, "...for decades...".

10. Presently, Meadow View Farm houses 10 horses, however, they have operated with up to 20 horses in the past.

11. The Applicant requests a special exception, pursuant to Ordinance §175-16.H.1 to operate the riding academy as a home-based business on the Subject Property.

12. The credible evidence establishes that the riding academy proposed is a commercial activity conducted as an accessory use that is clearly secondary to the use of the Subject Property as a residence and which involves some customer traffic in excess of that normally associated with a residential use.

13. The Board finds, therefore, that the proposed riding academy is a home-based business as contemplated by this Ordinance section.

14. In order to establish her right to a special exception, the Applicant must evidence compliance with, or appropriate variance relief from, the criteria set forth at §175-16.H-1.

15. The Board finds, relative to those criteria, as follows:

- a. §175-16.H-1.a requires that a home-based business shall be accessory to a residence and carried on wholly indoors and within a dwelling or other structure accessory thereto and shall be clearly incidental and subordinate to its use for residential properties by its occupants. The Board finds, based upon the credible evidence, that the riding academy proposed will be accessory to the residence, incidental and subordinate thereto. However, by its very nature, and given the existence of the paddock area on the Subject Property, the horse riding academy must take place outdoors and within the existing paddock area. The Applicant has requested a variance from this section and the Board finds that the riding academy must necessarily be operated in an outdoor area.
- b. §175-16.H-1.b requires that the activity must be compatible with the residential use of the property and surrounding residential uses and must meet the area, height and dimensional requirements of the zoning district in which the Subject Property is located. In this regard, the Board finds that the riding academy is consistent with and compatible to the rural residential nature of the neighborhood and specifically the riding academy located across the street from the Subject Property. The property and its structures meet all of the dimensional requirements of the Ordinance.
- c. The use proposed is accessory to a single-family detached dwelling.
- d. The use proposed has no show windows, display or advertising visible outside of the premises, however there is an existing sign identifying the Subject Property as “Red Fox Run” which is consistent with relevant Ordinance requirements regarding signage.

- e. There will be no exterior storage of material or building material on the Subject Property.
- f. There will be no parking of commercial vehicles on the Subject Property.
- g. The appearance of the residential structure and other structures on the Subject Property will not be altered in any way by this proposed application and the appearance of the Subject Property will remain consistent with the rural residential neighborhood in which it is located.
- h. The existing sign identifying the Subject Property as Red Fox Run is permitted.
- i. No articles shall be sold or offered for sale on the Subject Property.
- j. There will be no stockpiling, storage or inventory of products of a substantial nature on the Subject Property.
- k. There will be no commodities sold on the property, nor services rendered that require delivery of merchandise, goods or equipment by other than vehicles used in typical residential deliveries.
- l. The riding academy shall be operated by the Applicant and one additional employee, a horse trainer.
- m. The Applicant has requested variance relief from this section which requires that the floor area devoted to the home-based business shall not occupy more than 25% of the ground floor of the principal residential structure or 500 square feet, whichever is less. The ground floor area of the principal residential structure, according to the credible evidence, is 2,016 square feet. The floor area of the horse barn is 1,848 square feet, representing approximately 92% of the principal residential structure ground floor area. The Board finds that the area of the horse barn existing is necessary to accommodate the horses owned by the Applicant and that to require compliance with this Ordinance section would create a hardship upon the Applicant by requiring an area insufficient for the proposed use and/or the unnecessary exclusion of a portion of the horse barn. The riding academy will be accessible to employees and customers without them having to enter or walk through areas of the residence and all areas to be used in connection with the riding academy shall be located only in the horse barn and existing paddock area.

- n. No equipment or process will be used in connection with the riding academy which creates discernable noise, vibration, glare, fumes, odors or electrical interference at any of the property lines of the Subject Property other than those anticipated by its residential use and as a riding academy.
- o. No manufacturing, repairing or other mechanical work will be performed in any open area on the Subject Property. The activities of the riding academy will be conducted in such a manner as to be non-impactful upon neighboring property owners. In this regard, the Applicant satisfied that Board that the residential neighbor, most impacted by the location of the horse barn and paddock area, has no objection to the Applicant's proposed use.
- p. The proposed use will not generate any solid waste or sewage discharge, in volume or type, which is not normally associated with the residential and riding academy uses in the neighborhood.
- q. The number of off-street parking spaces devoted to the use proposed will be less than 6.
- r. The riding academy will be the only home-based business to exist on the Subject Property.
- s. The hours of operation of the riding academy shall be limited to Monday through Saturday between the hours of 8:00 AM to 9:00 PM.
- t. The parking spaces required by the home-based business will be located to the rear of the detached wood garage in a parking area depicted on the Site Plan.
- u. The horse riding academy does not involve any illegal activity.

16. The Board finds that the Applicant has evidenced compliance with all of the criteria necessary to establish her right to a special exception with the exception of those two Ordinance sections from which, the Board finds, variances are necessary. Accordingly, the Board finds that the Applicant is entitled to a special exception to operate a riding academy on the Subject Property as outlined above.

17. The Applicant agreed that the riding lessons shall be limited to ponies that reside within the horse barn. There will be no horse shows or events conducted on the Subject Property and there will be no lighting in the riding arena.

18. 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-1A Zoning District.
2. The Subject Property is located in a rural residential area in Doylestown Township in a neighborhood that accommodates large residential lots which are conducive to the use proposed.
3. The Board concludes that the riding academy use proposed is consistent with the neighborhood in which the Subject Property is located and is located directly across the street from an existing larger riding academy.
4. The use proposed meets the definition of a home-based business as defined at §175-16.H-1.
5. The variances sought from the criteria of that Ordinance section are, the Board concludes, necessary and reasonable in order to enable the permitted use of the Subject Property.
6. Strict compliance with these Ordinance requirements would preclude this otherwise logical and permitted use.
7. As required by Ordinance §175-138, the Board must consider additional factors in the grant of a special exception.
8. The Board grants the special exception requested after consideration of those factors and concludes that the proposed use is compatible with existing development and development anticipated in the foreseeable future.
9. The riding academy proposed is compatible with the spirit, purpose and intent of the Township's Comprehensive Plan and does not require land development.
10. The special exception and variances necessary to use the Subject Property as proposed will not result in additional threats to public safety or extraordinary public expense, create nuisances, cause fraud, victimize the public, or conflict with local laws or ordinances.
11. The competent evidence presented leads the Board to conclude that the grant of the special exception and variances requested will result in no negative impacts upon surrounding properties or uses.
12. The variance relief sought by the Applicant is the minimum variance necessary to permit the use of the Subject Property as a home-based business.
13. The relief sought will not alter the essential character of the neighborhood or district in which the Subject Property is located.

14. The Applicant has presented evidence of sufficient factors to warrant the grant of the special exception and the dimensional variances requested.

15. 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 the following relief from the Doylestown Township Zoning Ordinance in order to permit a home-based business on the Subject Property:

- 1. a special exception, pursuant to §175-32.B, to permit the use of the Subject Property as a home-based business, in the nature of a riding academy, as defined at §175-16.H-1;
- 2. a variance from §175-16.H-1.a, to permit a portion of the home-based business to be operated outdoors within the existing paddock area;
- 3. a variance from §175-16.H-1.m, to permit the floor area devoted to the riding academy to occupy the existing horse barn and paddock area.

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

- 1. that no horse shows or events shall be conducted on the Subject Property; and
- 2. there shall be no lighting in the outdoor paddock area.

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.