

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

Application No. Z-4-2017

Applicant: Daphne D. Cox
68 Campbell Avenue
Doylestown, PA 18901

Owners: Harry W. & Daphne D. Cox
68 Campbell Avenue
Doylestown, PA 18901

Subject Property: Tax Parcel No. 09-011-018, which is located at the address of the Applicant set forth above.

Requested Relief: The Applicant requests a special exception pursuant to §175-37.B of the Doylestown Township Zoning Ordinance (“Ordinance”) to permit the construction and use of an in-law suite on the Subject Property. In addition, the Applicant requests the following variances from the Ordinance:

1. from §175-16.H-12.a, to permit the floor area of the in-law suite to exceed 25% of the total usable floor area of the principal residence;
2. from §175-16.H-3.d.2, to permit the location of a storage shed at a side yard setback distance of less than the required 25 feet; and
3. from §175-38, to permit an impervious surface coverage ratio of greater than 20%.

Hearing History: The application was filed in Doylestown Township on June 19, 2017. The hearing was held on July 27, 2017 at the Doylestown Township Building, 425 Wells Road, Doylestown, PA 18901.

Appearances: Applicant, Pro Se’

Mailing Date: August 28, 2017

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-1, Residential Zoning District of Doylestown Township. It accommodates the Applicant's single-family detached home with typical residential access walkways and a driveway.
4. The Subject Property is undersized and nonconforming to the minimum lot area requirement of 40,000 square feet set forth at Ordinance §175-38. It is 18,809 square feet in size.
5. The Applicant proposes the construction of an attached addition to the home on the Subject Property to enable the creation of an in-law suite for occupation by her mother.
6. An in-law suite is permitted in the R-1 Zoning District of Doylestown Township by special exception pursuant to Ordinance §175-37.B.
7. The existing home is occupied by the Applicant, her husband, and their two children. Its floor area, as defined at Ordinance §175-16.H-12.a, is 1741.88 square feet as depicted on Exhibit B-1.B.
8. The proposed in-law suite will contain a bedroom, bathroom, full kitchen, living room and dinette. The bathroom and room entryways will be ADA compliant in order to accommodate the Applicant's mother in her senior years. It will be a one-story addition at ground level for accessibility.
9. To accommodate the features proposed, the size of the addition is 904 square feet.
10. 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.
11. Based upon the competent and credible evidence presented during the hearing, the Board finds, relative to those criteria, as follows:
 - a. The size of the in-law suite proposed represents a 51.9% increase in the total useable floor area of the principal residence, not including its garage. §175-16.H-12.a limits the size of in-law

suites to 25% of that floor area. In this case, the size of the in-law suite would be required to be limited to approximately 436 square feet which this Board finds is insufficient to accommodate a reasonably sized, handicapped accessible, living unit.

- b. The in-law suite is proposed for related family members to the Owners of the Subject Property who understand that they are prohibited from creation of for-profit apartments.
- c. The in-law suite will contain separate cooking, sleeping, living and bathroom facilities.
- d. The in-law suite addition will be part of the principal residence. No new separate structure is proposed. It will not be located in cellar areas.
- e. Ordinance §175-22.E requires two off-street parking spaces for the existing residential use which cannot be located within the garage. The evidence establishes that there will be a total of four off-street parking spaces available in the wider portion of the driveway on the Subject Property as depicted on the sketch plan.
- f. The in-law suite will be occupied only by family members related to the Owners and occupants of the principal residence.
- g. There will be no changes to the exterior of the residence which suggests that the dwelling unit is other than a single-family dwelling.
- h. The Applicant understands that only one in-law suite is permitted on the Subject Property.
- i. 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.
- j. The Subject Property is served by public water and sewer.

12. The evidence therefore establishes that the proposed addition will comply with all of the criteria necessary to obtain a special exception, except for the limitation on its size set forth in §175-16.H-12.a.

13. The Board finds that the 904 square feet proposed for the in-law suite is reasonable and necessary.

14. 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.

15. The addition is proposed to be constructed over a portion of an existing concrete pad, 279 square feet in size. The net addition, therefore, results in an impervious surface coverage ratio of 34.17%.

16. §175-38 of the Ordinance limits the impervious surface coverage ratio for a single-family detached dwelling in the R-1 District to 20%.

17. The Board finds that the nonconforming lot area of the Subject Property precludes any necessary, reasonably sized, or logically located addition to the home on the Subject Property.

18. The addition is proposed to be located in an area of the property that presently accommodates a 160 square foot detached storage shed. Accordingly, it must necessarily be relocated. The application proposes its relocation at a 5 foot setback distance from the rear property line.

19. Ordinance §175-16.H.3.d.2 requires that structures, other than detached garages, with a floor area of more than 144 square feet shall meet the setback requirement for principal buildings for the applicable zoning district.

20. §175-39 requires a 25 foot rear yard setback distance for principal buildings in the R-1 Zoning District.

21. However, the Applicant credibly established that the Subject Property is bordered to its rear by a parking lot owned and operated by the Thompson Organization, a car dealership. When that property was developed, a berm was required along the property line in order to shield the parking lot use from the residential use of the Subject Property.

22. Accordingly, the storage shed will be located 5 feet from the property line and that berm. It will have no impact upon the parking lot property or any residential property in the neighborhood.

23. 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. The proposed in-law suite use on the Subject Property is permitted by special exception pursuant to §175-37.B.

3. Having concluded that the variance from §175-16.H-12.a is warranted, the Board concludes that the Applicant has met all of the criteria set forth at §175-16.H-12 necessary to obtain the requested special exception.

4. 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.

5. The lawful lot area nonconformity of the Subject Property, and the limited size of the usable floor area of the principal residence, creates a hardship on the property which precludes that construction of a reasonably sized, ADA compliant in-law suite.

6. The Board concludes that the 904 square foot proposed size of the in-law suite is necessary and reasonable for its intended use.

7. The impervious surface coverage limitation of 20% set forth at Ordinance §175-38 operates as a hardship on the Subject Property due to its nonconforming lot area that precludes any reasonably sized addition.

8. The Applicant has established her attempt to minimize the variance from the impervious surface coverage limitations by locating a portion of the proposed in-law suite over a portion of the existing concrete pad.

9. The Board concludes that the proposed location of the storage shed, at a 5 foot rear yard setback distance, will have no negative impact upon the car dealership parking lot located to the rear of the Subject Property, or any of the residential properties in the neighborhood.

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

11. The Applicant has presented evidence of sufficient factors to warrant the grant of the dimensional variances requested.

12. 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 construction of an in-law suite addition to the residence on the Subject Property as depicted on the sketch plan (B-1.A):

1. a special exception, pursuant to §175-37.B, to permit the construction and use of an in-law suite on the Subject Property;
2. a variance from §175-16.H-12.a, to permit the floor area of the in-law suite to constitute 51.9% of the total usable floor area of the principal residence;
3. a variance from §175-16.H-3.d.2, to permit the location of a storage shed at a side yard setback distance of 5 feet, instead of the required 25 feet; and
4. a variance from §175-38, to permit an impervious surface coverage ratio of 34.17%, instead of the maximum permitted 20%.

The relief herein granted is subject to compliance with all other applicable governmental ordinances and regulations and the specific condition that if determined as necessary by appropriate Township personnel, including the Doylestown Township Municipal Engineer, stormwater facilities shall be designed to accommodate stormwater runoff in excess of the permitted 20% impervious surface coverage ratio.

**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-5-2017

Applicant: 651 N. Shady Retreat Road, LP
301 Oxford Valley Road, Suite 702
Yardley, PA 19067

Co-Applicant: Doylestown Township
425 Wells Road
Doylestown, PA 18901

Owners: 651 N. Shady Retreat Road, LP
301 Oxford Valley Road, Suite 702
Yardley, PA 19067

Doylestown Township
425 Wells Road
Doylestown, PA 18901

Subject Property: Tax Parcel No. 9-9-39, which is located at 651 N. Shady Retreat Road and Tax Parcel No. 9-47-170, which fronts on Limekiln Road, Doylestown Township, Bucks County, PA.

Requested Relief: The Applicant and Co-Applicant request a variance from §175-27.D.1.b of the Doylestown Township Zoning Ordinance (“Ordinance”) to permit the placement of piping and other sanitary sewer and water line structures within the floodplain areas located on these properties.

Hearing History: The application was filed in Doylestown Township on June 30, 2017. The hearing was held on July 27, 2017 at the Doylestown Township Building, 425 Wells Road, Doylestown, PA 18901.

Appearances: Applicant by: Joseph Blackburn, Esq.
Wisler Pearlstine, LLP
P.O. Box 1186
301 N. Sycamore Street
Newtown, PA 18940

Mailing Date: August 28, 2017

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 Tax Parcel No. 9-9-39, located at 651 N. Shady Retreat Road, which consists of approximately 3.986 acres and is improved with a single-family dwelling unit and barn. Portions of this property are designated as floodplain according to FEMA's floodplain mapping of March 16, 2015.

3. Co-Applicant's property consists of approximately 8.699 acres and abuts the Applicant's property to the east (rear). The Co-Applicant's property, identified as Tax Parcel No. 9-47-170, is vacant and designated as Doylestown Township open space. This property also contains areas designed as floodplain based on FEMA's floodplain mapping of March 16, 2015.

4. On or about September 20, 2016, the Applicant received preliminary land development approval from the Doylestown Township Board of Supervisors to develop the Subject Property into 6 lots, 4 of which would be improved with single-family dwelling units and 2 of which would be preserved as open space. Additionally, a lot was created to encompass the right-of-way for the proposed roadway access to the residential development.

5. The development of the Applicant's property is to be served with public water and sewer. Since receipt of preliminary land development approval, the Applicant and Co-Applicant have sought the direction of the Bucks County Water and Sewer Authority ("BCWSA") and the Doylestown Township Municipal Authority ("DTMA") with regard to the placement of water and sewer lines to serve the homes on the Applicant's property.

6. The credible evidence establishes that both BCWSA and DTMA prefer gravity fed sewer and water lines and have directed the placement of these facilities along the rear of the Applicant's property and across the Co-Applicant's property to accomplish that.

7. Due to the topography of the property and its contours, BCWSA and DTMA have suggested locating the proposed water and sewer lines within the floodplain on both properties as depicted on a Final Land Development Plan, consisting of 6 pages, prepared by Gilmore & Associates, Inc., dated November 11, 2015, last revised March 28, 2017 (Exhibit B-1.C).

8. Doylestown Township has joined in this application as Co-Applicant in order to seek the relief required to permit the installation of both sanitary sewer and water lines across both properties in accordance with the directives of BCWSA and DTMA.

9. The credible evidence presented by Ronald G. Monkres, a Pennsylvania licensed civil engineer, establishes that the only way gravity line feeds may be accomplished is by placement of them within the floodplain areas of both properties.

10. The sanitary sewer and water lines will access the existing sewer main located across Cooks Run Creek adjacent to the Co-Applicant's property. The water and sewer lines will run under Cooks Run Crook to accomplish that connection.

11. Exhibit B-1.B is a copy of the September 21, 2016 preliminary land Development approval letter.

12. Paragraph 6 of that letter establishes that the Doylestown Township Board of Supervisors will grant an easement through its property for the purpose of installing the water and sewer lines, consistent with the Final Plan, at the Applicant's expense.

13. Ordinance §175-27.D.1.b prohibits the location of structures, fill, or piping within the Floodplain District.

14. Mr. Monkres established that the pipes will be located underground but are still considered structures pursuant to Ordinance definition. He established that the minimum amount of floodplain soils necessary to lay the piping will be disturbed but that they will be remediated.

15. Monkres also credibly testified that the proposed location of the piping results in a minimum amount of tree removal on both properties.

16. Monkres, who was qualified to testify as an expert in civil engineering, established that there will be no hazards or impacts to the floodplain as a result of the proposed improvements. No residential properties, including those in the neighboring Mahogany Court residential development, will be impacted if the improvements are constructed as proposed. No increase in flood levels will result.

17. Three residents of the Mahogany Court development appeared at the hearing with questions but were satisfied with the testimony of Monkres that their properties will not be impacted by the proposed improvements.

CONCLUSIONS OF LAW

1. The Applicant's property is proposed to be developed consistent with Ordinance requirements and as preliminarily approved by Doylestown Township.

2. The Co-Applicant's property is Township open space.

3. Sanitary sewer and water lines are necessary in order to accomplish the provision of public water and sewer to the homes proposed in the development of the Applicant's property.

4. The determination as to the location of these lines is within the jurisdiction and authority of the BCWSA as to the sanitary sewer lines and the DTMA as to the water lines.

5. The competent and credible evidence establishes that the required location of the water and sewer lines must be as proposed, through the floodplain areas of both properties.

6. Strict application of Ordinance §175-27.D.1.b would preclude the necessary location of these improvements.

7. The floodplain areas of both properties create a hardship which prevents the logical and necessary location for the water and sewer lines proposed.

8. As the disturbance of floodplain soils necessary to lay the piping proposed will be adequately remediated, the Board concludes that there will be no appreciable impact upon the floodplain soils disturbed.

9. If the improvements are constructed as proposed, there will be no negative impacts upon the floodplain nor increase in flood levels.

10. The Board further concludes that there will be no negative impact upon any residential properties located in the neighborhood of the two properties through which the facilities are proposed.

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

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

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

14. 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 variance from §175-27.D.1.b of Doylestown Township Zoning Ordinance in order to permit the placement of piping and other sanitary sewer and water line structures within the floodplains areas of Tax Parcel Nos. 9-9-39 and 9-47-170 as depicted on the Final Plan, prepared by Gilmore & Associates, Inc., dated November 11, 2015 last revised March 28, 2017.

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.

FLOODPLAIN NOTE: Pursuant to the Doylestown Township Code of Ordinances §96-34.G, the Applicant and Co-Applicant are hereby notified that: (1) the granting of the variance may result in increased premium rates for flood insurance; and (2) such variances may increase the risk to life and property.