

APPLICATIONS WITHDRAWN

The application of Crown Castle NG East LLC (Z-1-2019), the application of Crown Castle NG East LLC (Z-2-2019), the application of Crown Castle NG East LLC (Z-3-2019), the application of Crown Castle NG East LLC (Z-4-2019), the application of Crown Castle NG East LLC (Z-5-2019).

Have all been withdrawn.

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

Application No. Z-6-2019

Applicant: Toll Mid-Atlantic LP Company, Inc.
250 Gibraltar Road
Horsham, PA 19044

Owners: Daniel and Elizabeth Bray
3335 Bristol Road
Doylestown, PA 18901

Subject Property: Tax Parcel No. 09-007-002 which is located at the address of the Owners set forth above.

Requested Relief: Applicant seeks zoning relief to disturb a floodplain area for the installation of water and sewer main to service a subdivision site. Applicant requests a variance from §175-27.D(1), of the Doylestown Township Zoning Ordinance (“Ordinance”) accordingly. Applicant further seeks zoning relief to disturb streams/watercourses for the crossing of the Mill Creek and installation of water and sewer lines with open trenches in two (2) locations. Applicant seeks a variance from §175-27.D(4) of the Ordinance accordingly.

Hearing History: The application was filed in Doylestown Township on February 8, 2019. The hearing was held on March 28, 2019 at the Doylestown Township Building, 425 Wells Road, Doylestown, PA 18901.

Appearances: Applicant by: Gregg Adelman, Esq.
Daniel Rowley, Esq.
Kaplin Stewart Meloff Reiter & Stein
910 Harvest Drive, Suite 200
P.O. Box 3037
Blue Bell, PA 19422

Matthew Martin, Pro Se'
1538 Lower State Road
Doylestown, PA 18901

Mailing Date: May 10, 2019

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 an Agreement of Sale and therefore possessed of the requisite standing to make application to this Board.

3. Applicant is seeking zoning relief to disturb a floodplain area in order to install water and sewer mains to service the subdivision site. The residential site connection locations for the water and sewer are located on Lower State Road. The sanitary pump station, which is the Applicant's proposed tie-in, is located in the floodplain along Lower State Road. The waterline tie-in is just south of Lower State Road. Both are represented on the Plan marked as A-5.

4. The Applicant asserts that by locating the site connections as described, Applicant requires only one disturbance in crossing the creek in comparison to other possible routes.

5. During the course of the hearing, Applicant presented the testimony of Jeff Madden, PE. Mr. Madden referenced the plans prepared for Doylestown Walk by ESE Consultants dated October 29, 2018, last revised February 12, 2019. The plans are consistent with the testimony offered by Mr. Madden.

6. In summary fashion, Mr. Madden indicated that the Applicant proposes to open a trench through the watercourse, 4-10 feet below the surface, then cover the pipe, leaving minimal disturbance.

7. The details regarding floodplain disturbance are contained within Exhibit A-5.

8. Mr. Madden indicated that alternatives to the proposed location would require multiple crossings of the floodplain and would increase flood heights and elevations. The proposal as planned would not increase floodplain elevations and, in Mr. Madden's opinion, would not be detrimental to the health, safety and welfare of the community, is necessary for reasonable use of the property, would have no detrimental impact to the public, and represents the minimum variance to obtain reasonable use of the property.

9. Matthew Martin, who requested and was granted party status, inquired as to the technical details of the trenching and potential chance of pipe rupture. These inquiries were addressed by the Applicant.

Mr. Martin also underscored the need to “be kind to nature” in that wildlife is present onsite.

10. Nearby property owners Deborah and Heather Schmidt, 1425 Lower State Road, made inquiries regarding methodology and DEP permitting. These questions were answered by the Applicant.

11. Doylestown Township took a position with regard to this application, through a letter dated March 14, 2019, authored by Jeffrey Garton, Esq., Solicitor to Doylestown Township, indicating that, “the Board of Supervisors are in full support of the application and that decision was made as a result of a public discussion about the merits of the application at a duly advertised public meeting.” (ZHB-6)

CONCLUSIONS OF LAW

1. The Subject Property is in the process of being developed through the subdivision and land development process, as is permitted by right in the R1-A Zoning District (with Tradesville Public Improvement Overlay District B-4).

2. The Applicant has requested variances from the technical aspects of the provisions of the Ordinance which speak to the floodplain. Specifically, Applicant requests a variance from §175-27.D(1) of the Ordinance to disturb the floodplain area for the installation of water and sewer main to service the subdivision site. Applicant further seeks relief from §175-27.D(4) of the Ordinance to disturb streams/watercourses for the crossing of the Mill Creek to facilitate the installation of water and sewer lines in two (2) locations.

3. 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. The Applicant did testify to the additional permitting and safeguards in place through the DEP and Conservation District approval as well as the planning, subdivision, and land development reviews.

4. The evidence establishes that the relief sought by the Applicant is the minimum variance necessary. The Board takes note that the Applicant has attempted to reduce the impact on disturbances of wetlands, floodplains, and watercourses, by reducing the number of crossings.

5. The variances sought will not alter the essential character of the neighborhood or district in which the Subject Property is located. The Board reaches this determination mindful that the Applicant is in the process of developing the site as a residential subdivision – a permitted use.

6. The Applicant has presented evidence of sufficient factors to warrant the grant of the variances requested. The Board is persuaded by the testimony of Jeff Madden, PE, that the safeguards in place will mitigate any detrimental impacts and will provide for the reasonable use of the Subject Property.

7. Accordingly, the Doylestown Township Zoning Hearing Board determined, by a 2-0 vote, to grant relief to the Applicant and the Subject Property as is set forth hereafter.¹

ORDER

Upon consideration and after hearing, the Zoning Hearing Board of Doylestown Township hereby GRANTS the following variances from the Doylestown Township Zoning Ordinance based upon the plans prepared by ESE Consultants, for Doylestown Walk, dated October 29, 2018, last revised February 12, 2019 (Exhibit A-5):

1. from §175-27.D(1), to disturb a floodplain area for the installation of water and sewer main to service a subdivision site consistent with Exhibit A-5; and
2. from §175-27.D(4), to disturb streams/watercourses for the crossing of the Mill Creek and installation of water and sewer lines with open trenches consistent with Exhibit A-5.

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/ Mitchell Aglow
Mitchell Aglow, Vice Chairman

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.

¹ Board Member Samuel Costanzo was not present for this hearing and did not participate in the Decision.