

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

Application No. Z-19-2019

Applicants: Mark Fischer and Frances KH Fischer
1730 Lower State Road
Doylestown, PA 18901

Owners: Same.

Subject Property: Tax Parcel No. 09-007-023 which is located at the address of the Applicants set forth above.

Requested Relief: Applicants seek a special exception under §175-112.B(3) of the Doylestown Township Zoning Ordinance (“Ordinance”) to expand an existing legal non-conforming business (grain mill), by adding ten (10) additional storage bins of various sizes. In the alternative, Applicants may require a variance from §175-32 to allow the expanded combination Residential/Farm/Mill use on the subject 15.47 acre property.

Hearing History: The application was filed in Doylestown Township on August 23, 2019. The hearing was held on September 26, 2019 at the Doylestown Township Building, 425 Wells Road, Doylestown, PA 18901.

Appearances: Applicants, Pro Se'

Mailing Date: November 8, 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 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-1a, Residential Zoning District of Doylestown Township. It accommodates the Applicants' single-family detached dwelling, a grist mill, barn and springhouse. The use is a combination residential/farm/mill.

4. The Applicants request authority to install up to 10 additional grain bins to store grain, in a safe and climate controlled environment for use in the grist mill.

5. Applicants seek a special exception under §175-112.B(3)(b) to expand an existing legal nonconforming business (the grain mill).

6. Applicants described the grist mill use in the following terms:

- a. The grist mill was originally built in 1798, with additions to the mill in 1850 and 1879, respectively.
- b. The mill has been fully restored. Applicants represent that the mill is the last operating grist mill in Bucks County, and on the east coast, which produces a "food product".
- c. As part of the grist mill production, the mill must purchase, at harvest, grain which must be stored in a clean and dry environment.
- d. Farms are not generally equipped to store the grain in the clean and dry environment required. Applicants seek to support the local farms by purchasing the grain, then storing the grains onsite at the grist mill.

7. The Applicants did submit with the application, an aerial photograph with the 10 grain bins superimposed on the photograph offering a rough depiction of where the proposed bins may be located. The location is in a functional area immediately adjacent to existing driveways, and outside of the adjacent floodplain limit.

8. Unrelated to the present application, but in the spirit of full disclosure, Applicants indicate that they may be seeking the opportunity to erect an additional

structure, in the nature of a pole barn. The permitting process for the pole barn is separate from the existing application.

9. Mr. Stanley McKenna, adjacent property owner, was present to offer support and indicated that the grist mill use as proposed by the Fischers is positive for the community.

10. No one spoke in opposition to the application.

11. Doylestown Township looked favorably upon the application. Through correspondence directed to the Zoning Hearing Board, the Township indicated, in part, “The staff met with the Fischers regarding their proposed application and found that what they are doing in preservation of the Castle Valley Mill (the Mill) to be a very worthwhile project. The staff truly finds that the applicant is a living the motto of the Township (sic) in terms of P reserving the Past and Embracing the Future. The Fischers operate the Mill as it was from its early days in the 1800’s. They continue that operation as a family business to this day. Multi-generations have operated the mill. In so doing, we recognize the importance of the work that they are doing and the Township supports their application before the Zoning Hearing Board.”

CONCLUSIONS OF LAW

1. The Subject Property has been developed and used as a combination residential, agricultural (farming), and business (grist mill) use which, combined is not a permitted use within the R1-a Residential Zoning District. Single-family dwelling and agricultural uses are permitted within the R1-a Residential Zoning District. However, the combination of uses, is permitted as a legally preexisting nonconforming use.

2. Applicants seek to expand that legally preexisting nonconforming use pursuant to §175-112.

3. 175-112 reads as follows:

§175-112 Nonconformities.
[Amended 4-9-1996 by Ord. No. 250]

A use, structure or lot which is nonconforming, as defined in § 175-9 of this chapter, shall be subject to the following regulations.

A. Continuance. The lawful use of a building or structure or the lawful use of any land as existing and lawful at the time of the enactment of this chapter or, in the case of an amendment to this chapter, then as hereinafter provided, may be continued although such use does not conform to the provisions of this chapter or subsequent amendments.

B. Extensions and alterations.

(1) Nonconforming structures may be altered, reconstructed or enlarged, provided that such alteration, reconstruction or enlargement does not increase the extent of the nonconformity existing on the effective date of this chapter. In the case of a nonconforming structure which is used for a nonconforming use, such alteration, extension or enlargement shall also meet the requirements of Subsection B(3) of this section.

(2) Nonconforming lots. A building or structure may be erected or altered on any lot held at the effective date of this chapter in a single and separate ownership that is not of the required width or minimum area, provided the following requirements are observed:

[Amended 1-15-2019 by Ord. No. 394]

(a) The lot is of sufficient size to assure adequate and safe facilities for the disposal of sewage and waste products, and there is adequate separation between the sewage and waste disposal system and all water supplies as determined by the Bucks County Department of Health or another authorized agency.

(b) Such lot must be in single and separate ownership, and not form part of a continuous frontage with other lots in the same ownership. If two or more lots with continuous frontage in single ownership are of record at the time of passage or amendment of this chapter, and if all or part of the lots do not meet the requirements for lot width and area established by this chapter, the lands involved shall be considered an undivided parcel, and no portion of such parcel shall be occupied that does not meet lot width and area requirements established by this chapter.

(3) Nonconforming uses shall not be altered, reconstructed, extended or enlarged, except in accordance with the following provisions:

(a) Such alterations, reconstruction, extension or enlargement shall be only upon the same lot as in existence at the date the use became nonconforming and shall be prohibited from encroaching on another lot subsequently added to the original parcel.

(b) Any increase in volume or area shall not exceed an aggregate of more than 50% of the volume or area existent at the date the use

became nonconforming, during the life of the nonconformity, and shall require approval as a special exception under the provisions of §175-137 (Zoning Hearing Board). Structures or land uses that have reached their maximum expansion allowance under previous ordinances are not eligible for any increase in volume or area under this chapter.

(c) No expansion or increase shall be permitted which would not comply with the dimensional requirements of the zoning district in which the lot is located.

(d) No nonconforming use shall be extended to displace a conforming use.

4. §175-9 of the Doylestown Township Zoning Ordinance defines a nonconforming use as follows:

NONCONFORMING USE

A use of a building or lot which does not comply with the applicable use regulations of this chapter or amendments thereto for the district in which it is located but which was in existence at the time the use regulations became effective and was lawful at the time it was established.

5. The Zoning Hearing Board concludes that the Applicants are not in need of a variance from §175-32 to allow the combined uses in that the combined uses represent a preexisting legally nonconforming use.

6. The Zoning Hearing Board concludes that the Applicants are entitled to expand the nonconforming use, (combination residential, agricultural, business), consistent with §175-112.B(3). In so concluding, the Board does observe that the Applicants have not presented engineered drawings and plans showing the dimensional aspects of the 15.47 acre lot. As a result, Applicants must demonstrate compliance with all dimensional requirements of the Ordinance to the Zoning Officer prior to installation of the bins.

7. In that a special exception is a permitted use, provided the Applicants establish the use consistent with the Ordinance, the Zoning Hearing Board concludes that the special exception shall be granted.

8. Accordingly, the Doylestown Township Zoning Hearing Board determined, unanimously, to grant the special exception 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 special exception under §175-112.B(3), to permit Applicants to expand an existing legal non-conforming business (grain mill), by adding ten (10) additional storage bins of various sizes¹.

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

/s/ Samuel Costanzo
Samuel Costanzo, 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.

¹ The Zoning Hearing Board concludes that the Applicants do not require a variance from §175-32 to allow the expanded combination residential/farm/mill use on the subject 15.47 acre property, in that the use is a preexisting legally nonconforming combination use.

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

Application No. Z-18-2019

Applicant: Matthew O'Brien
1464 Turk Road
Warrington, PA 18976

Owner: Same.

**Subject
Property:** Tax Parcel No. 09-040-013 which is located at the address of the Applicant set forth above.

**Requested
Relief:** Applicant seeks to construct an addition to the existing single-family dwelling on the subject corner property and in order to do so, requests a variance from §175-39 of the Doylestown Township Zoning Ordinance ("Ordinance") to allow a 36 foot 8 inch front yard, where 50 feet is required and a 42 foot 3 inch rear yard, where 50 feet is required.

**Hearing
History:** The application was filed in Doylestown Township on August 13, 2019. The hearing was held on September 26, 2019 at the Doylestown Township Building, 425 Wells Road, Doylestown, PA 18901.

Appearances: Applicant, Pro Se'

Mailing Date: November 8, 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 Owner of the Subject Property and therefore possessed of the requisite standing to make application to this Board.
3. The Subject Property is located in the R-1, Residential Zoning District of Doylestown Township. It accommodates the Applicant's single-family detached dwelling.
4. Applicant seeks to construct an addition to the existing single-family dwelling on the subject corner property. The plan results in a request for a variance from §175-39 of the Doylestown Township Zoning Ordinance to allow a 36 feet 8 inch front yard, where 50 feet is required and a 42 feet 3 inch rear yard, where 50 feet is required.
5. Applicant presented a Zoning Plan prepared by Matthew V. Piotrowski, Architect, dated August 7, 2019. The plan reflects the relief requested for the front yard along Linda Lane to accommodate a covered front porch as part of the building improvements. The front porch measures 36 feet 8 inch from the "property line", which is presumably the ultimate right-of-way. No relief is requested for the front yard setback along the second legal front yard adjacent to Turk Road.
6. Applicant's addition to the rear yard represents removing an existing addition and rebuilding a new two-story addition in the existing footprint.
7. The front porch addition is a design element to reduce the visual impact of vertical massing, to soften the appearance of the single-family dwelling.
8. Applicant indicated through his design professional, that there is no way to add to the rear of the existing dwelling without encroaching on the 50 foot rear yard setback.
9. Applicant has spoken to his neighbor who has no objection.
10. During the hearing, there was some discussion with regard to the nature of the impervious surface calculations on the plan, and whether the calculations took into account net buildable site area, as defined by the Doylestown Township Zoning Ordinance. Applicant represented that no relief was being requested from the impervious surface coverage provisions of the Ordinance.
11. 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. In that the dwelling has an existing addition to the rear lot line (opposite Linda Lane), which encroaches into the 50 foot rear yard setback, leaving a 42 foot 3 inch setback, and the Applicant intends to build a two-story addition in the same location, the Zoning Hearing Board concludes no legal need for variance, treating the encroachment as a preexisting legal nonconformity.

3. With respect to the remaining request for a front yard variance (to allow 36 feet 8 inch, instead of the 45 feet 8 inch existing, or the 50 feet required), the Zoning Hearing Board draws the following conclusions:

- a. 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.
- b. The evidence establishes that the relief sought by the Applicant is the minimum variance necessary.
- c. The variance sought will not alter the essential character of the neighborhood or district in which the Subject Property is located.
- d. The Applicant has presented evidence of sufficient factors to warrant the grant of the dimensional variance requested. Significant to this Conclusion is the fact that the lot is a long narrow lot with the house oriented away from Turk Road, leaving no room for any addition to the dwelling without requiring zoning relief. The Zoning Hearing Board concludes that the long narrow lot and the house orientation along with the property being a corner lot, lead to hardship warranting the grant of the dimensional variances.

4. In order to address any concerns regarding impervious surface calculations, the Zoning Hearing Board imposes a condition addressing same.

5. 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 §175-39 of the Doylestown Township Zoning Ordinance in order to construct an addition to the existing single-family dwelling on the subject corner property with a 36 foot 8 inch front yard, where 50 feet is required, subject to the following conditions:¹

1. Applicant must recalculate the impervious surface coverage using the Doylestown Township Zoning Ordinance definition of net buildable site area, and must verify the boundary lines by way of street classifications at the time of building permit.
2. 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

/s/ Samuel Costanzo
Samuel Costanzo, 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.

¹ The Zoning Hearing Board concluded that the rear yard variance providing a 42 foot 3 inch rear yard, accommodating a two-story addition, is not legally required in that the existing dwelling contains a one-story encroachment into the rear yard leaving a 42 foot 3 inch rear yard.