

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

Applicants: HMK Group Holdings, LLC
304 General Hancock Boulevard
North Wales, PA 19454

Owners: Same.

Subject Property: Tax Parcel No. 09-004-014, which is located at the address of the Applicants set forth above.

Requested Relief: Applicant seeks to construct a residential accessory structure and a first floor addition to the existing single-family dwelling. Due to the proposed placement of the accessory structure, Applicant seeks variances from the Doylestown Township Zoning Ordinance ("Ordinance") as follows: (1) from Article IV §175-16.H(3)(d)(1), to authorize a residential accessory structure closer than 7 feet from the nearest property line; (2) from Article IV §175-16.H(3)(d)(6), to authorize the construction of a residential accessory structure that is not behind front yard setback line for the principal building; and (3) from Article IV §175-34, to authorize the construction of a residential accessory structure that is located within the required 100 foot front yard setback and 35 foot side yard setback.

Hearing History: The application was filed in Doylestown Township on July 30, 2020. The hearing was held on August 27, 2020 at the Doylestown Township Building, 425 Wells Road, Doylestown, PA 18901.

Appearances: Applicant, William E. Benner, Esq., 174 West State Street, Doylestown, PA 18901

Mailing Date: October 9, 2020

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. The Applicant and Owner is a limited liability company identified as HMK Group Holdings, LLC. Mr. Mithun Rathore, is the managing member. HMK is an LLC which includes Mr. Rathore, his father and his brother. The purpose of the LLC is to purchase and develop real estate.

3. The Subject Property is located in the R-1a Zoning District of Doylestown Township.

4. The Subject Property carries multiple pre-existing legal non-conformities, including lot size of 41,533 square feet where 87,120 square feet (2 acres) is required. Minimum lot width of 184 feet, where 200 feet is required, minimum front yard of 3.65 feet, where 100 feet is required, minimum side yard (each side) of 35 feet where one side yard is 3.89 feet. Minimum rear yard of 40 feet, where 75 feet is required, and maximum impervious surface coverage of 26.4% where up to 15% is permitted.

5. Applicant seeks to construct a residential accessory structure and a first floor addition to the existing single-family dwelling. Due to the proposed placement of the accessory structure, Applicant seeks variances from the Doylestown Township Zoning Ordinance ("Ordinance") as follows: (1) from Article IV §175-16.H(3)(d)(1), to authorize a residential accessory structure closer than 7 feet from the nearest property line; (2) from Article IV §175-16.H(3)(d)(6), to authorize the construction of a residential accessory structure that is not behind the principal building's front yard setback line; and (3) from Article IV §175-34, to authorize the construction of a residential accessory structure that is located within the required 100 foot front yard setback and 35 foot side yard setback.

6. The Applicant purchased the property with the idea of using the property as a residential dwelling for Mr. Rathore's father. Those plans have changed. Nonetheless, Applicant owns the property and seeks to improve it. The property was described as having a "beautiful view", close to town, and representing a nice property to improve.

7. The existing structure is a two-story raised ranch style home. Applicant intends to replace all mechanical systems, provide new exterior siding, install a new septic system, and extend the size of the building to accommodate a larger bedroom.

8. In addition, Applicant seeks to construct a detached garage, identified as a 20 foot by 20 foot “pole building”. The purpose of the garage is security and safety. The garage will be placed on the side of the house, four (4) feet from the side lot line.

9. The placement of the pole barn in close proximity to the side lot line is a result of the steep slopes on the subject property. The proposed location is flat ground.

10. The pole barn is not placed behind the principle structure, as required by ordinance, for safety and accessibility reasons. Further, the building simply cannot be placed elsewhere on the site due to the topographical restraints.

11. In order to reduce the impact of the proposed building and building addition, Applicant plans to remove a portion of an existing tennis court which is no longer useful as a tennis court.

12. In addition to the aforementioned pre-existing non-conformities, the property is further burdened by two street frontages and therefore two front yards with two front yard setbacks. The property has a steep, 100 foot, elevation from Pine Run Road to Ferry Road. Applicant asserts that it is not practical to take access to the Subject Property from Pine Run Road because the elevation is too steep and there is a swale and a creek between the road and the property.

13. Applicant considers the placement of the buildings neutral with respect to impact on adjacent property owners. The nearest dwelling is 300-440 feet away from the dwelling and proposed pole barn on the Subject Property. The immediately adjacent lot on the affected side is heavily wooded.

14. Upon completing all improvements, the Applicant intends to list the property for sale.

15. No one spoke in opposition to the application.

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

CONCLUSIONS OF LAW:

1. The Subject Property carries a number of pre-existing non-conformities, consistent with the Findings of Fact in this Decision. The dimensional non-conformities associated with the property qualify as legal hardship.

2. The Applicant has presented evidence of sufficient factors to warrant a grant of the dimensional variances requested. Specifically, the ZHB finds the dimensional non-conformities in conjunction with the Applicant’s testimony and the Zoning Hearing Board plan prepared R. L. Showalter & Associates, dated 07/23/2020 as sufficient evidence to warrant the grant of the dimensional variances requested.

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.

4. The Board observes that the nearest dwelling is in excess of 300 feet away from the existing property. The immediately adjacent property is heavily wooded.

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

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

7. 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 the variances requested by Applicant to permit applicant to construct a residential accessory structure and a first floor addition to the existing single family dwelling. The relief granted follows.

1. a variance from Article IV §175-16.H(3)(d)(1), to authorize a residential accessory structure closer than 7 feet from the nearest property line;
2. A variance from Article IV §175-16.H(3)(d)(6), to authorize the construction of a residential accessory structure that is not behind the principal building's front yard setback line; and
3. A variance from Article IV §175-34, to authorize the construction of a residential accessory structure that is located within the required 100 foot front yard setback and 35 foot side yard setback.

Subject to the following conditions:

1. Applicant must remove 560 square feet of the existing tennis court before obtaining a certificate of occupancy.
2. Applicant must in all other respects comply with all 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

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

Applicants: David Kawczynski and Kelly O’Neill
112 Ridgeview Lane
Doylestown, PA 18901

Owners: Same.

Subject Property: Tax Parcel No. 09-001-009-017, which is located at the address of the Applicants set forth above.

Requested Relief: Applicants seek to construct an in-ground swimming pool. The pool, as proposed, places the subject property over the maximum impervious surface ratio for the R-1a zoning district in which the single-family residential dwelling is located. Applicants seek a variance from §175-33 of the Doylestown Township Zoning Ordinance to allow the excess impervious surface coverage.

Hearing History: The application was filed in Doylestown Township on July 20, 2020. The hearing was held on August 27, 2020 at the Doylestown Township Building, 425 Wells Road, Doylestown, PA 18901.

Appearances: Applicant, Pro Se

Mailing Date: October 9, 2020

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 Zoning District of Doylestown Township. The gross lot area is 0.6886 acres (29,995 square feet). The zoning district requires a two acre minimum. The lot size is a pre-existing non-conformity.

4. The Texas Eastern Pipeline easement crosses the front corner of Applicant's property. Removing the easement area from the site area yields lot area of 0.627 acres (28,432 square feet).

5. The impervious surface ratio is defined as "the total area of all impervious surfaces divided by the net buildable site area, as defined in Article V" of §175-9 of the Doylestown Township Zoning Ordinance.

6. Net buildable site area and impervious surface ratio definitions and calculations are contained at §175-27.E of the Doylestown Township Zoning Ordinance. Net buildable site area is "... calculated for the purpose of determining allowable impervious surface ... Net buildable site area equals total lot area contained in the subdivision or land development application:

(a) minus ultimate rights of way of existing streets;

...

(d) minus all land restricted by easements or covenants

...

7. §175-27.E (2) provides that "impervious surface permitted to be developed equals net buildable site area times impervious surface ratio required by this chapter."

8. Net buildable site area of the Subject Property is 28,432 square feet.

9. Applicants seek to construct an in-ground swimming pool. The pool, as proposed, places the subject property over the maximum impervious surface ratio for the R-1a zoning district in which the single-family residential dwelling is located. Applicant seek a variance from §175-33 of the Doylestown Township Zoning Ordinance to allow the excess impervious surface coverage.

Existing impervious surface ratio is 20.31%. The proposed impervious surface ratio is 22.76%.

In proposing the pool, the Applicant has agreed not to provide decking for the pool, in order to reduce the amount of impervious surface added. Further, Applicant is removing 270.5 square feet of impervious surface by removing certain walkways and a fire pit area. The existing impervious surface is 5,775.7 square feet. The net change adds 696.6 square feet for a total of 6,472.3 square feet of proposed impervious surface.

10. Applicants believe that the smaller pre-existing non-conforming undersized lot, further reduced by the easement, drives the need for the variance.

11. No one spoke in opposition to the application.

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

CONCLUSIONS OF LAW:

1. The Subject Property has been developed and used consistent with the requirements of the Ordinance, except for certain pre-existing non-conformities, most significantly the undersized lot. Residential lots in the R-1a Zoning District are required to carry a lot area of 2 acres. The gross lot area for the subject lot is 6.886 acres (29,995 square feet).

2. The net buildable site area, removing rights-of-way and the Texas Eastern Pipeline easement, yields 0.6527 acres (28,432 square feet). Applicant's impervious surface coverage at present is 20.31%. 20% is permitted by §175-33 of the Zoning Ordinance. Impervious surface ratio is 22.76% after the construction of the proposed pool and removal of the identified walkways.

3. The Zoning Hearing Board concludes that the undersized lot and the additional easement drive the need for the dimensional variance being requested by the Applicant.

4. 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.

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

6. The Board observes that the applicant is removing existing impervious surface coverage and has mitigated the amount of new impervious surface by not providing concrete decking around the proposed pool.

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

swimming pool is a reasonable residential amenity. No evidence was presented to establish an storm water management issue.

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

9. 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 a variance from §175-33 of the Doylestown Township Zoning Ordinance to permit Applicant to construct an in-ground swimming pool which will increase the impervious surface ratio beyond the allowable 20% up to a maximum of 22.76%, subject to the following conditions:

1. Applicant must remove existing impervious surface coverage as reflected on the June 17, 2020 Crews Surveying plan marked as evidence during the zoning hearing.
2. Applicant must construct the pool substantially in compliance with the June 17, 2020 Crews Surveying plan presented.
3. Applicant must comply in all other respects with all other applicable governmental ordinances and regulations, including obtaining a pool permit which will include impervious surface calculations and addressing impervious surface run-off.

**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