

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

Docket No. 18-03

Applicants: Devin and Ninette Harvey
1702 Lafayette Drive
Jamison, PA 18929

Owners: Same.

Subject Property: Tax Parcel No. 51-021-103, which is located at the address of the Applicants as set forth above.

Requested Relief: The Applicants propose to install an in-ground swimming pool and patio. The pool is proposed at 412.2 square feet. The patio is proposed at 616.2 square feet. The pool is proposed to be constructed 13.65 feet from the rear lot line. The Zoning Ordinance requires 15 feet. Applicants seek a variance from §195-16.B.12(g)[1] of the Warwick Township Zoning Ordinance (“Ordinance”). The project exceeds the maximum permitted impervious coverage percentage of 25%. The proposed impervious coverage percentage is 27.8%. Applicants seek a variance from §195-16.B(2)(d)[3][a][vii] of the Ordinance to exceed the maximum permitted impervious coverage. The uncovered patio is proposed to be constructed 11.85 feet from the rear lot line. The rear setback is 25 feet. The uncovered patio shall not encroach more than 50% into the rear setback, leaving a 12.5 foot setback from the patio to the rear lot line. Applicants seek a variance from §195-78.G of the Ordinance to allow the encroachment into the 12.5 foot rear yard patio setback.

Hearing History: The application was filed in Warwick Township on March 24, 2018. The hearing was held on May 1, 2018 at the Warwick Township Administration Building, 1733 Township Greene, Jamison, PA 18929.

Appearances: Applicants by: Gavin Laboski, Esq.
Laboski Law, P.C.
245 West Broad Street
Quakertown, PA 18951

Mailing Date: June 11, 2018

DECISION

FINDINGS OF FACT:

1. The Zoning Hearing Board of Warwick 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. A hearing was held on May 1, 2018, to consider Applicants' request for relief. During the course of the hearing, the Applicants described the Subject Property which supports the single-family dwelling. The property is a corner property. The front of the house faces Lafayette Drive. The driveway faces Bedford Circle, which is a cul-de-sac.

The lot is unusually shaped, almost five sided, as the Bedford Circle bulb continues the front yard along yet a third aspect of the property. As a result, the property is bordered by front yard more than the side and rear yards combined. The unusual shape of the lot and the orientation of the dwelling leaves little area for the rear yard.

Despite the site limitations, the Applicants seek to remove an existing concrete patio and replace it with a "small" in-ground swimming pool with accompanying concrete decking. Mrs. Harvey testified that she was required to pay for a minimum pool size, but is receiving a smaller size pool due to the site constraints.

4. Applicants seek the following variances from Warwick Township Zoning Ordinance. The first is to allow the pool to encroach into the 15 foot rear yard setback. The pool is proposed at 13.65 feet from the rear lot line. The second is from the impervious surface coverage provisions to allow 27.8% impervious surface coverage where 25% is allowed. Third, the Applicants seek a variance from the provisions allowing an uncovered patio to be located at 50% of the rear yard setback. The setback is 25 feet, therefore 12.5 feet is allowable. Applicants seek to have the patio encroach within 11.85 feet of the rear lot line. The patio in question is the concrete pool decking.

5. The pool permit plan, submitted with the application, and referred to by the Applicants during the hearing, reflects a swath of "deed restricted open space" running parallel to the rear lot line, immediately adjacent to the location of the pool and decking.

6. Applicants assert that the property carries a hardship due to its irregular shape and the orientation of the home on the lot bearing essentially three front yards on a five sided property.

7. Applicants did further indicate that there are no storm water problems on the property, but Applicants will be placing a seepage bed to the front of the property to

avoid any future water problems. In addition, a 6 foot privacy fence runs along the rear of the subject lot to provide safety and screening.

8. No one spoke in opposition to the application.
9. Warwick Township took no position with regard to this application.

CONCLUSIONS OF LAW:

1. The use of the property as a single-family detached home is permitted by right within the R-1 Residential Zoning District in which it is located.
2. Applicants seek dimensional relief in order to accommodate an in-ground swimming pool to be located within the undersized rear yard of the subject lot.
3. The Board concludes that the grant of relief will result in no negative impacts upon surrounding properties or uses.
4. The evidence establishes that the relief sought by the Applicants represents the minimum variances necessary.
5. The variances sought will not alter the essential character of the neighborhood or district in which the Subject Property is located.
6. The Applicants have presented evidence of sufficient factors to warrant the grant of the dimensional variances requested.
7. Accordingly, the Members of the Warwick Township Zoning Hearing Board, determined unanimously, to grant the Applicants' request for relief as is set forth hereafter.

ORDER

Upon consideration and after hearing, the Zoning Hearing Board of Warwick Township hereby GRANTS the variances requested by the Applicants to allow the swimming pool to encroach into the 15 foot rear yard setback leaving a 13.65 foot setback; allow the uncovered patio to encroach within the 50% of the 25 foot rear yard setback, leaving an 11.85 foot rear yard setback from the uncovered patio to the rear lot line; allow impervious surface coverage to increase beyond the allowable 25% to a maximum of 27.8%, subject to the following conditions:

1. The Board questions whether the present plan reflects an encroachment into the rear yard deed restricted area to accommodate the uncovered patio. The variance to allow the uncovered patio is subordinate to the deed restriction. If the two conflict, the deed restriction governs; therefore, the Applicants must reorient the proposed pool and decking if they are found to encroach into the deed restricted open space.
2. Applicants must in all other respects comply with the applicable governmental ordinances and regulations.

**ZONING HEARING BOARD OF
WARWICK TOWNSHIP**

/s/ Kevin J. Wolf

Kevin J. Wolf

/s/ Dave Mullen

Dave Mullen

/s/ Lorraine Sciuto-Ballasy

Lorraine Sciuto-Ballasy

IMPORTANT NOTE: Pursuant to §195-115 and §195-116 of the Warwick Township Zoning Ordinance, variances or special exceptions granted by the Zoning Hearing Board shall expire one (1) year from the date of the Decision, unless the applicant or owner or successor in interest has commenced construction within that time. Construction will be deemed commenced upon the issuance of a building and/or zoning permit for the approved use.