

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

Docket No. 18-08

Applicants: Christopher J. and Juli E. Lowe
2399 W. Rockspray Road
Jamison, PA 18929

Owners: Same.

**Subject
Property:** Tax Parcel No. 51-006-144, which is located at the address of the Applicants set forth above.

**Requested
Relief:** The Applicants propose to construct an accessory family apartment, as defined by Warwick Township Zoning Ordinance (“Ordinance”) §195-16.B.(8), at the rear of an existing single-family dwelling. In order to do so, the Applicants request the following relief from the Ordinance:

1. a special exception, pursuant to §195-18.C, to permit the Accessory Family Apartment or Dwelling Unit (Use B(8)) in the RA, Residential - Agricultural Zoning District; and,
2. a variance from §195-16.B(2)(e)[3][a][v], to allow the new construction to encroach into the 20 foot required side yard setback.

**Hearing
History:** The application was filed in Warwick Township on October 25, 2018. The hearing was held on December 4, 2018 at the Warwick Township Administration Building, 1733 Township Greene, Jamison, PA 18929.

Appearances: Applicants, Pro Se

Mailing Date: January 3, 2019

DECISION

FINDINGS OF FACT:

1. The Zoning Hearing Board of Warwick Township met the requirements of the 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 RA, Residential Agricultural Zoning District of Warwick Township.

4. The Subject Property is an 18,900 square feet, irregularly shaped parcel of land.

5. The in-law suite proposed is classified as an “Accessory Family Apartment or Dwelling Unit” pursuant to §195-16.B.(8) of the Ordinance.

6. The proposed in-law suite is 520 square feet and located at the rear of the existing single family dwelling as shown on the site plan prepared by CLC Contractors, dated September 24, 2018, and submitted with the application.

7. An Accessory Family Apartment or Dwelling Unit is permitted by special exception in the RA, Residential-Agricultural Zoning District pursuant to §195-18.C.

8. In order to obtain a special exception, the Applicants must satisfy the Board that the in-law suite conforms to the Ordinance criteria defining that use found at §195-16.B.(8).

9. The proposed in-law suite is intended to allow for family members related by blood to the proposed owners of the principal residence to reside there.

10. The Owners acknowledge that the creation of a “for profit” apartment in the Zoning District is prohibited by the Ordinance.

11. Based upon the application, site plan and credible evidence presented, the Board finds, in relation to the criteria set forth at §195-16.B.(8), as follows:

A. The size of the proposed in-law suite complies with Ordinance §195-16.B.(8)(a).

B. Occupancy of the proposed in-law suite shall include only relatives of the family occupying the principal residence.

C. The in-law suite will include separate cooking, sleeping, living and bathroom facilities.

D. The in-law suite will be part of the principal residence, and will not occupy a cellar or basement.

E. The in-law suite proposed shall be the only accessory family apartment on the Subject Property. No changes will be made to the exterior of the residence which suggest that the dwelling unit is other than a single family detached dwelling.

F. The Accessory Family Apartment use is permitted by special exception.

G. The Applicants have agreed to provide evidence of approval by the Bucks County Board of Health, or the Warwick Water and Sewer Authority, as to the adequacy of the water and sewer facilities serving the site at the time of building permit application.

H. The Applicants have proposed two additional off-street parking spaces for the proposed in-law suite use.

I. The Applicants agreed, as required by §195-16.B.(8)(i), to record a deed restriction limiting the use of the in-law suite in accordance with the foregoing findings. The deed restriction will be prepared and submitted to Owners by the Warwick Township Solicitor. Owners shall incur all costs related to the preparation and recording of the deed restriction.

12. The proposed construction is in compliance with the minimum front and rear yard setbacks, maximum building height, and maximum impervious surface criteria of the Ordinance.

13. The existing side yard setback to the north of the existing single family dwelling is nonconforming at 16' 10". The Ordinance requires 20'.

14. The Application proposes a 16' side yard setback to the south of the proposed addition.

15. Due to the existing non-conformity and the irregularly shaped lot, the side yard variance is required to prevent an unnecessary hardship to the Applicants.

16. The dimensional variance is the minimum variance required to afford relief.

17. The dimensional variance will not be injurious to the health, safety or welfare of the community nor alter the essential character of the neighborhood.

18. Warwick Township took no position with regard to this application.

CONCLUSIONS OF LAW:

1. The use of the Subject Property as a single-family detached dwelling is permitted by right in the RA, Residential Agricultural Zoning District in which it is located.

2. An accessory family apartment, in the nature of an in-law suite, is permitted by special exception in the RA, Residential Agricultural Zoning District in which the Subject Property is located.

3. As set forth in the Findings of Fact, the Applicants have evidenced compliance with all of the criteria necessary to establish its right to a special exception permitting an accessory family apartment use.

4. §195-118 of the Ordinance requires the Zoning Hearing Board to grant a special exception if the applicable Ordinance criteria are met. It also permits the Zoning Hearing Board to attach reasonable conditions and safeguards as it may deem necessary.

5. The Applicants have agreed to each of the conditions articulated in §195-16.B.(8) of the Ordinance. The Board concludes that the standards required for the special exception approval have been met.

6. The grant of a special exception will result in no negative impacts upon surrounding properties or uses.

7. The site plan and competent evidence presented leads the Board to conclude that if the side yard dimensional variance relief is granted, there will be no negative impacts upon surrounding properties or uses.

8. The evidence further establishes that the side yard dimensional variance sought by the Applicants is the minimum variance necessary.

9. The side yard dimensional variance sought will not alter the essential character of the neighborhood nor district in which the Subject Property is located.

10. The Applicants have presented evidence of sufficient factors to warrant the grant of the side yard dimensional variance requested.

11. Accordingly, 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 Warwick Township Zoning Hearing Board hereby GRANTS the following relief from the Warwick Township Zoning Ordinance in order to permit the construction of an accessory family apartment unit as defined at §195-16.B.(8):

1. a special exception, pursuant to §195-18.C, to permit the Accessory Family Apartment or Dwelling Unit (Use B(8)); and
2. a variance from §195-16.B(2)(e)[3][a][v], to allow the new construction to encroach into the required 20 foot side yard setback.

The relief herein grant is subject to compliance with the application, site plan, exhibits and testimony, and all applicable federal, state and local laws, ordinances and regulations, and the following specific conditions:

1. The preparation and recording of a deed restriction in compliance with §195-16.B.(8)(i);
2. The Applicants will provide evidence of approval by the appropriate municipal entity, to wit, Warwick Water and Sewer Authority, as to the adequacy of water and sewer facilities serving the site at the time of building permit application; and,
3. The Applicants shall confirm to the satisfaction of Warwick Township Code Enforcement, at the time they apply for a building permit, that the minimum side yard setback will be no less than 16'.

**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.