

**BEFORE THE ZONING HEARING BOARD OF WASHINGTON TOWNSHIP
YORK COUNTY, PENNSYLVANIA**

**In re: Application of
Karen Benn
1981 Ridge Road
Wellsville, PA 17365**

**: Docket No. ZHB-13-02
:
:
: Variance from Section 303
: Permitted Uses in the Rural
: Residential Zone and Section 203
: Definitions of Principal Use to
: have a second single-family
: dwelling on a single lot**

PRESIDING: RICK RIDDLE, CHAIRMAN; GERALD MYERS, MEMBER¹

FINDINGS OF FACT AND CONCLUSIONS OF LAW

FINDINGS OF FACT

1. The applicant is Karen Benn, 1981 Ridge Road, Wellsville, PA 17365, property in the Rural Residential (R) Zone. Applicant seeks zoning approval to construct a second single-family residential dwelling on a lot already improved with a residence. Ms. Benn appeared at the hearing along with Joshua Dourte, of Roost Architecture, Inc., Boiling Springs, PA.

2. A hearing was held on Wednesday, October 2, 2013 at 7:00 P.M. at the Washington Township Municipal Building, 14 Creek Road, East Berlin, PA 17316, with all notices provided as required by law and no objection being made thereto at the hearing.

3. Applicant owns a 28.6 acre property at the southwest corner of Ridge Road and Kralltown Road in the Township. The property is in two tracts. Tract No. 1 is 3.6 acres at the intersection of Ridge Road and Kralltown Road and is improved with a single-family residence, being the farmstead, and a garage and barn. The second tract is 25 acres and borders Tract No. 1,

¹ Michael Packinham, Vice-Chairman, was absent. The applicant elected to proceed with the hearing with the two member quorum.

on the west and south, extending west from Tract No. 1 along Ridge Road and extending south from Tract No. 1 along Kralltown Road. Tract No. 2 has no building improvements on it.

4. Applicant wants to construct a second single-family dwelling, in the nature of a one floor cottage, approximately 1,064 sq. ft., for the purpose of housing applicant's mother. The existing garage would be demolished and the cottage constructed in its place and, thus, located at the existing driveway and in proximity to the principal residence where applicant resides. The cottage would need at least a separate septic service. The design of the cottage would mimic a garage type structure so as to be consistent with the rural character of principal farmstead.

5. Two Family Dwellings are permitted as a use by right in the Rural Residential (R) Zone. A Two Family Dwelling, as defined in the Ordinance, is a single building with two dwelling units having one (1) partition, or wall, in common between them. Applicant testified that the existing dwelling could be expanded to the west or south to create the second dwelling for a Two-Family Dwelling. The principal farmstead was constructed prior to zoning and sits within the current building setbacks. Expanding the existing structure along current building lines would impact the building setback line, but such an expansion would require a minimal encroachment on the existing setback lines; and the property would have the equities of being a non-conforming structure. Also, applicant's Tract No. 2, with no current improvements, could qualify for construction for its own single family dwelling, which is also a use permitted by right in the Rural Residential (R) Zone.

6. Several people spoke at the hearing. Winnie Keiser, 420 Kralltown Road said that the separate cottage would look better than expanding the existing home. Virginia Boden, 2132 Baltimore Pike, was concerned about the long-term use of a second residence after the immediate need was no longer present. Melinda Propps, 1715 Baltimore Pike, expressed concern about the precedent of a variance of this type. John Shreve, 1991 Ridge Road, an adjoining landowner, spoke of the impracticability of expanding the existing structure and supported the application.

CONCLUSIONS OF LAW

1. Uses by right in Section 303(b) and uses by Special Exception in Section 303(c) are limited to one (1) principal use per lot in the Rural Residential (R) Zone. Principal Use is defined in Section 203 as the “main or primary use of property, buildings, or structures” such as “only one (1) single family dwelling unit.” Applicant’s proposed construction of a second dwelling, in the nature of a cottage, is an additional Principal Use and, as such, is expressly prohibited in the Rural Residential (R) Zone. A variance would be required for applicant to construct the cottage.

2. Section 303(b) allows a Two Family Dwelling as a use by right, but the definition of a Two Family Building is a single building with two dwellings sharing a common wall. Applicant’s proposed construction does not meet the definition of a Two Family Dwelling

3. Pursuant to Section 603(c), the Zoning Hearing Board finds that the requirements for the grant of variance have not been met.

A. Section 603(c)(1): The construction of the principal farmstead prior to zoning and within the current building setback lines are not the unique or exceptional circumstances peculiar to the property that creates an unnecessary hardship for the applicant in the use of the land as set out in the Ordinance. With the grant of a minimal variance to the setback lines, Applicant can construct an addition to the existing dwelling and meet the requirements of a Two Family Dwelling, which is a permitted use.

B. Section 603(c)(2): The property is being used presently in conformity with the permitted uses in the Rural Residential (R) Zone. With the grant of the variance by the Board for expansion of the existing dwelling within the building setback lines, applicant can construct the permitted Two Family Dwelling.

C. Section 603(c)(3): The Board finds that there is no unnecessary hardship.

D. Section 603(c)(5): The variance is not the least modification of the Ordinance. Applicant can construct a Two Family Dwelling as permitted by the Ordinance with a variance from the building setback lines.

E. Section 603(c)(4): The Board does find that the variance would not alter the essential character of the neighborhood or be detrimental to the public interest.

DECISION

1. On a motion by the Board (Mr. Myers moving and Mr. Riddle seconding) to deny applicant's variance request from Section 303, permitted uses, and Section 203, the definition of Principal Use, to construct a second principal use, being a second single family dwelling, on property at 1981 Ridge Road, the motion to deny passed two votes in favor and no votes against.

2. On a motion by the Board (Mr. Riddle moving and Mr. Myers seconding) to grant the applicant a variance from Section 303(e)(1), front yard setback, to construct an addition to existing farmstead so as to create a permitted Two Family Dwelling, along either Ridge Road or Kralltown Road, the property being a Corner Lot and subject to front yard setback regulations along both roads, the motion to grant the variance passed two votes in favor and no votes against.

WASHINGTON TOWNSHIP
ZONING HEARING BOARD

10/31/13
Date

By: Rick Riddle
Rick Riddle, Chairman

10/31/13
Date

By: Gerald E. Myers
Gerald Myers, Member

ANY PERSON AGGRIEVED BY THE DECISION OF THE WASHINGTON TOWNSHIP ZONING HEARING BOARD MAY APPEAL TO THE COURT OF COMMON PLEAS OF YORK COUNTY. THE APPEAL MUST BE FILED WITHIN 30 DAYS FROM THE DATE OF THE SIGNING OF THESE FINDINGS OF FACT AND CONCLUSIONS OF LAW.

MAIL DATE: 10/31/13