

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

<b>IN RE:</b>	:	
	:	
<b>SPECIAL EXCEPTION/VARIANCE</b>	:	<b>DOCKET NO.: 2022-009</b>
<b>APPLICATION OF DEVSPIRE, LLC</b>	:	<b>HEARING DATE: AUGUST 22, 2022</b>
	:	
<i>Applicant.</i>	:	
<hr/>	:	

**FINAL DECISION**

**AND NOW**, this 22 day of September, 2022, after consideration and a hearing upon the application for a special exception/variances of Devspire LLC, the Zoning Hearing Board of Carroll Township hereby grants both the special exception and requested variances in relation to the enlargement of a continuing nonconforming use at 54 Old York Road, Dillsburg, PA 17019.

**FINDINGS OF FACT**

1. The applicant for this special exception for the enlargement of a continuing nonconforming use, and certain incidental variances, is Devspire LLC (“Applicant”).
2. The Applicant owns and controls the real property situate at 54 Old York Road, Dillsburg, Pennsylvania 17019 (UPI #: 20-000-OC-0158.A0-00000) (“Property”).
3. Applicant’s Property is located in the Residential Suburban – 2 (“RS-2”) Zoning District of Carroll Township.
4. A hearing upon Application 2022-009 was held before the Zoning Hearing Board of Carroll Township (“Board”) on August 22, 2022, at approximately 6:05 P.M.
5. The Board conducted this hearing at the Carroll Township Municipal Building located at 555 Chestnut Grove Road.
6. Due to the absence of two Board members, the Board designated two alternate members as voting members, pursuant to 53 P.S. § 10906(b) of the Municipalities Planning Code,

to hear Applicant's request for a special exception according to § 450-502.A and for variances from § 450-502.A(1) and (3) of the Code of the Township of Carroll ("Code").

7. Brandon Slatt, Zoning Officer of Carroll Township ("Slatt"), was duly sworn in and provided the following testimony:

- (a) the Property was posted and notice was provided to the appropriate parties in accordance with the law;
- (b) the hearing was advertised in accordance with the Ordinance; and
- (c) the application fee was paid by the Applicant.

8. The Applicant was not represented by counsel and was duly sworn in. Testimony on behalf of the Applicant was provided by Andrew Reese, Senior Scientist and Project Manager at ARM Group LLC, and Isaac Tucker, Director of Business Development at Katapult Engineering.

9. As part of Applicant's application, Applicant submitted to the Board a narrative ("Application Narrative"), which provided factual background and outlined Applicant's specific zoning requests. Applicant incorporated the contents of this Application Narrative as part of Applicant's testimony.

10. The following exhibits were introduced by Applicant and admitted by the Board:

- (a) Exhibit A – List of Adjoining Property Owners;
- (b) Exhibit B – Final Minor Subdivision Plan (Eli Dobrinoff, Jr.);
- (c) Exhibit C – Plan of Property/Reverse Subdivision Plan (Devspire LLC);
- (d) Exhibit D – Parking Expansion & Future Building Concept; and
- (e) Exhibit E – Devspire LLC Future Building Concept;
- (f) Exhibit F – CGI Depiction of Proposed Building and Parking Area;

11. Applicant provided the following general testimony regarding the nature of the Application:

- (a) The original tract at 54 Old York Road was created on July 27, 1988, and consisted of 0.96 acres.
- (b) Applicant purchased this original tract and used the same for a commercial use prior to the Township changing the zoning classification of the Property from commercial to RS-2.
- (c) The current use of the Property is commercial in nature (as an office building/parking), which is permitted as a continuing nonconforming use.
- (d) This continuing nonconforming use has a total existing impervious area of 0.19 acres, which is approximately 20% of the total lot area and well beneath the maximum coverage permitted in the RS-2 Zoning District.
- (e) In 2021, Applicant purchased a tract of land (1.4 acres) directly to the west of the original tract in order to create a newly combined parcel (2.35 acres) by means of reverse subdivision.
- (f) Applicant wishes to expand their existing operations on the Property by way of a new, larger building (100' x 120' building area) and an expanded parking area (32 new spaces).
- (g) Applicant purchased the additional land for the purpose of meeting the 35% maximum impervious coverage threshold in the RS-2 Zoning District.
- (h) The total impervious area of Applicant's proposed expansion is approximately 0.83 acres (2.35 acres x 0.35), and therefore, complies with the RS-2 Zoning District requirement for impervious coverage.

- (i) The Property is adjoined by other existing commercial nonconforming uses which operate business of a similar nature.

12. Attorney John Wilson, Solicitor for the Board (“Wilson”), observed that Applicant would also need a variance from § 450-502.A(1) in order to use the Property in the manner proposed by Applicant. Accordingly, Applicant orally amended the Application to include a variance from § 450-502.A(1) of the Code, which was contemporaneously accepted by the Board.

13. In relation to Applicant’s variance requests, Applicant provided the following testimony:

- (a) Applicant’s commercial use of the Property as a professional office building predated the Township’s decision to rezone the Property RS-2.
- (b) Strictly enforcing the Code would mean that Applicant’s nonconforming use could only be expanded 2,900 square feet.
- (c) Limiting Applicant’s expansion of its nonconforming use to only 2,900 square feet restricts expansion far beyond what the maximum impervious coverage requirements for the RS-2 Zoning District would dictate.
- (d) Limiting Applicant’s expansion of its nonconforming use to only 2,900 square feet would vastly inhibit Applicant’s current operations and existing business and would create an undue hardship on Applicant.
- (e) Applicant would not be limited in this manner if the Township had not rezoned the Property from commercial to RS-2.
- (f) Without these variances, Applicant would be forced to purchase another separate (non-adjoining) tract elsewhere in the Township just to expand its

business, which has been in operation for many years prior to the rezoning by the Township.

14. Applicant testified that the Applicant satisfied each of the filing requirements and general criteria for a special exception as set forth in § 450-605.B(1) and (2) of the Code.

15. The Board questioned the Applicant regarding the anticipated timeframe for commencing and completing the construction of the proposed new office building.

16. In response, the Applicant testified that the anticipated timeframe is dependent on how fast the Applicant grows but that two (2) years is a realistic estimate.

17. Out of concern for adjacent property owners, the Board questioned the Applicant regarding whether the roof of the proposed new office building would be sloped, as represented in a CGI image provided to the Board.

18. In response, the Applicant indicated that the overall design of the building has not been definitively determined, but that the entire roof area will be piped to an underground system under the parking area and no water will come off of the building.

19. The Board also questioned the Applicant regarding what happens when storm water is channeled under the parking lot into the drainage system.

20. In response, Applicant testified that much of the storm water will infiltrate into the surrounding soil, according to a number of infiltration tests performed by the Applicant.

21. Slatt asked the Applicant a number of questions regarding the hours of operation, the number of employees, and the nature of the work being done within Applicant's new building.

22. In response, the Applicant stated that the standard hours of operation will be between 9:00 A.M. and 4:30 P.M., that the number of current employees is between 65-70 (full-

time and part-time included), and that the entirety of the business (engineering services) will take place within the building.

23. Brian Pinamonti, an adjacent property owner, asked several questions of the Applicant in relation to certain externalities that may be imposed upon adjacent properties, such as those caused by refuse management, noise, lighting, *etc.*

24. In response, Applicant provided testimony that the Property would need to be screened in compliance with the Township's SALDO, that the party involved in collecting refuse from the Property would be reminded to schedule pick-up during regular business hours, and that dumpsters would need to be located at least 50 feet from property boundaries.

#### **CONCLUSIONS OF LAW**

25. The Board finds that the Applicant has offered sufficient evidence and testimony to establish each of the variance criteria set forth in § 450-605.C(1)-(6) of the Code.

26. The Board finds that the Applicant has offered sufficient evidence and testimony to warrant the grant of the requested variances from § 450-502.A(1) and (3) of the Code.

27. The Board finds that the Applicant has offered sufficient evidence and testimony to establish each of the special exception criteria set forth in § 450-605.B(2)(a)-(k) of the Code.

28. The Board finds that the Applicant has offered sufficient evidence and testimony in this case to warrant the grant of a special exception under § 450-502.A of the Code.

**A motion was made by Alternate Heishman, and seconded by Alternate Weaver, to approve the variance request for § 450-502.A(3) of the Code of the Township of Carroll.**

**The motion passed unanimously with a vote of 3-0.**

**A motion was made by Alternate Weaver, and seconded by Alternate Heishman, to approve the variance request for § 450-502.A(1) of the Code of the Township of Carroll.**

**The motion passed unanimously with a vote of 3-0.**

A motion was made by Alternate Weaver, and seconded by Alternate Heishman, to approve without any conditions the special exception request under § 450-502.A of the Code of the Township of Carroll.

The motion passed unanimously with a vote of 3-0.

**BOARD SIGNATURES:**



Frank Setlak, Secretary



Deana Weaver, Voting Alternate Member



Mark Heishman, Voting Alternate Member

Dated: 9-22-22

Date of Mailing: 9-23-22

**Note:** Any party aggrieved by this decision may appeal to the Court of Common Pleas of York County within thirty (30) days of the date of this written decision.