

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

IN RE:

JASON FOOR
Applicant

Docket No: 2023-002
Hearing Date: May 22, 2023

FINAL DECISION

AND NOW, this 22nd day of May, 2023, after consideration and a hearing upon the special exception application filed by Jason Foor, the Zoning Hearing Board of Carroll Township hereby grants the requested special exception to allow the proposed short-term rental use of the property as set forth more fully herein.

FINDINGS OF FACT

1. On April 5, 2023, Jason Foor (hereinafter, the “Applicant”) submitted an application to the Zoning Hearing Board of Carroll Township (hereinafter, the “Board”).
2. The Applicant owns and controls the real property situate at 65 Spring Lane Road, Dillsburg, PA 17019 (UPI #: 20-000-PC-0316.00-00000) (hereinafter, the “Property”).
3. Applicant’s Property is located in the Residential Suburban-1 (hereinafter, “RS-1”) Zoning District of Carroll Township.
4. A single-family detached dwelling is located on the Property and the present use of the Property is residential in nature.
5. A hearing upon this application, Application 2023-002 (hereinafter, the “Hearing”), was held before the Board on May 22, 2023, at approximately 6:05 P.M.
6. The Board conducted the Hearing at the Carroll Township Municipal Building located at 555 Chestnut Grove Road, Dillsburg, PA 17019.

7. A quorum of Board members were present to hear Applicant's request for a special exception to operate a short-term rental within the existing dwelling located on the Property pursuant to the criteria established in the Carroll Township Zoning Ordinance (hereinafter, the "Ordinance").

8. The Applicant was not represented by legal counsel, and as such, both the Applicant and Zoning Officer Slatt were duly sworn in.

9. Zoning Officer Slatt 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.

10. Applicant provided the following general testimony in relation to the special exception request to operate a short-term rental at the Property:

- (a) The Property is Applicant's primary residence, and Applicant lives at this location;
- (b) Applicant seeks the flexibility to rent out the residence on the Property as a short-term rental through the AirBNB platform when Applicant is traveling;
- (c) Applicant will not be simultaneously living in the residence when renters are present, but Applicant will be managing and maintaining the Property;
- (d) Due to the Property's size, a short-term rental will allow Applicant to maintain the Property more effectively than a long-term arrangement;
- (e) The AirBNB platform sets a minimum age restriction of twenty-five (25) years of age for individuals seeking to rent on this platform;

- (f) Only one short-term rental unit is located in the residence on the Property;
- (g) To Applicant's knowledge, no HOA or deed restrictions prevent Applicant from using the Property as a short-term rental;
- (h) An approved means of sewage disposal and potable water supply is available and utilized on the Property;
- (i) An approved means of trash disposal will be used on the Property;
- (j) Applicant obtained coverage through Erie Insurance for Applicant's proposed short-term rental use of the Property;
- (k) Applicant will not have any more than eight (8) transient occupants within the residence at any given time;
- (l) Applicant will not rent the residence to a guest for longer than twenty-one (21) days in a given calendar year;
- (m) Applicant's proposed short-term rental use will adhere to the UCC requirements for said use;
- (n) The residence on the Property has the requisite means of escape to ground level as contemplated by the Ordinance;
- (o) All off-street parking at the Property shall be behind the applicable setbacks;
- (p) Applicant does not need any land development approvals to operate the existing residence as a short-term rental;
- (q) Applicant will apply for a zoning permit, which will identify an emergency contact person, the number of units, and the owner authorization for any required municipal inspections and hotel sales tax documentation; and

(r) Upon reviewing the general exception criteria set forth under § 450-605.B.2, the Applicant testified that each of these criteria have been or will be met with respect to the proposed short-term rental use.

11. Zoning Officer Slatt testified that Applicant's request was the first of its kind in the Township and that he was not aware of any other approved short-term rental use in the Township.¹

12. John Gribble (71 Spring Lane Road, Dillsburg, PA) expressed concern regarding negative externalities commonly associated with transient residents (rowdy and unruly occupants).

13. Joanne Williamson (63 Spring Lane Road, Dillsburg, PA) expressed similar concerns to Mr. Gribble and inquired whether the special exception, if granted, would "run with the land" or terminate with a change in ownership.

14. Brian Benson (64 Spring Lane Road, Dillsburg, PA) indicated that the Applicant is a good neighbor but expressed similar concerns to Mr. Gribble and Ms. Williamson with respect to the proposed short-term rental use.

15. Nicole Chizmar (61 Spring Lane Road, Dillsburg, PA) expressed similar concerns regarding the proposed short-term rental use and possible threat to the safety of Ms. Chizmar's two teenage daughters.

16. Rachel Yost (59 Spring Lane Road, Dillsburg, PA) expressed similar concerns regarding negative externalities commonly associated with transient residents and the capacity of the existing police force to address these possible issues.

¹ Throughout this proceeding, the Board came to the conclusion that § 450-376 of the Code of Carroll Township lacked the requisite clarity and safeguards necessary for such a significant topic. The Board is cognizant of the current trends and analyses predicting the exponential growth of Pennsylvania's short-term rental market in the coming years. Accordingly, the adoption of a comprehensive and concrete ordinance by this Township that sets forth unambiguous requirements in order to obtain approval for a short-term rental is of paramount importance. Doing so will mitigate against the exact type of concerns expressed by adjoining property owners in the subject proceeding. For these reasons, the Board respectfully requests that the Township's legislative body revisit and amend § 450-376 of the Code of Carroll Township. The Board is willing to provide feedback to the Township's legislative body to the extent that the same is desired and requested.

17. Kerrie Richardson (62 Spring Lane Road, Dillsburg, PA) inquired as to how the transient occupants of the Property would know where the property lines are located.

CONCLUSIONS OF LAW

18. Pursuant to § 450-212, short-term rentals are permitted by special exception in the RS-1 Zoning District.

19. Pursuant to § 450-605, all applicants for a special exception must demonstrate compliance with each of the general criteria set forth therein.

20. Applicant presented evidence and testimony sufficient to establish compliance with each of the criteria set forth under § 450-605.

21. Pursuant to § 450-376, all short-term rental uses within Carroll Township are subject to the criteria set forth therein.

22. Applicant presented evidence and testimony sufficient to establish compliance with each of the criteria set forth in § 450-376.

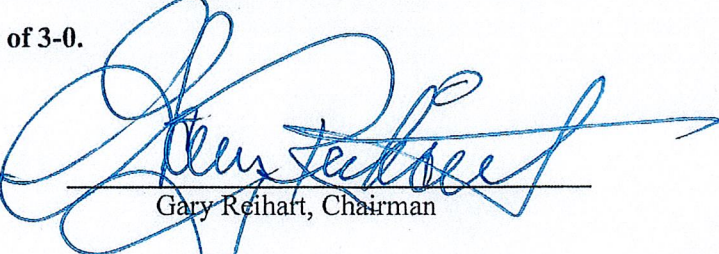
A motion was made by Frank Setlak and seconded by Rich Gensler to grant the Applicant's request for a special exception under § 450-203.B, which would allow the Applicant to operate a short-term rental at the Property in accordance with the testimony presented at the Hearing and subject to the following conditions:

- (1) The administration of a water test at the Property and the submission of the results of said water test;**
- (2) The submission of proof that an approved means of trash removal is being administered at the Property;**
- (3) The submission of proof of insurance for an AirBNB short-term rental use at the Property;**
- (4) The submission of a copy of the short-term rental agreement that Applicant intends to use for his renters; and**
- (5) The submission of a copy of the short-term rental Rules and Regulations to be provided to renters of the Property.**


Furthermore, all documentation necessary to satisfy the above-referenced conditions must be submitted to the Township Zoning Officer for review and approval within thirty days of the Hearing. The sixth and final condition imposed by the Board on this special exception application is that the Board's approval is specific to the Applicant, the special exception does not "run with the land," and will expire with a change in ownership of the Property.

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


BOARD SIGNATURES:



Gary Reihart, Chairman



Richard Gensler, Vice-Chairman



Frank Setlak, Secretary

Dated: 7-5-23

Date of Mailing: 7-5-23

Note: Any party aggrieved by this decision that made a timely appearance of record before the Board may appeal to the Court of Common Pleas of York County within thirty (30) days of the date of this written decision.