

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

IN RE: :
 :
DALE, RETA, & BRIAN STEAGER : **Docket No.: 2023-003**
Applicants. : **Hearing Date: June 26, 2023**
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FINAL DECISION

AND NOW, this 26th day of June, 2023, after consideration and a hearing upon the application for zoning relief filed by Dale, Reta, and Brian Steager, the Zoning Hearing Board of Carroll Township hereby grants the requested variances, which will enable Applicants to construct a second single-family dwelling on a single lot located at 97 Creek Road, Dillsburg, Pennsylvania.

FINDINGS OF FACT

1. On May 31, 2023, Dale and Reta Steager (hereinafter, the “Applicants”) submitted an application to the Zoning Hearing Board of Carroll Township (hereinafter, the “Board”).
2. Applicants own and control the real property situate at 97 Creek Road, Dillsburg, Pennsylvania 17019 (UPI #: 20-000-PC-0064.B0-00000) (hereinafter, the “Property”).
3. Applicants’ Property is located in the Agricultural Conservation (hereinafter, “AC”) 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 2023-003 (hereinafter, the “Hearing”), was held before the Board on June 26, 2023, at approximately 6:02 P.M.
6. The Board conducted this hearing at the Carroll Township Municipal Building located at 555 Chestnut Grove Road.

7. A quorum of Board members were present to hear Applicants' request for two variances from:

- (a) § 450-201.G (Minimum lot width at street right-of-way); and
- (b) § 450-409 (Erection of more than one principal use on lot) of the Carroll Township Zoning Ordinance (hereinafter, "Ordinance").

8. The Applicants were not represented by legal counsel at the Hearing, but rather, offered testimony by and through Brian and Reta Steager.

9. Accordingly, both Brian Steager, Reta Steager, and Zoning Officer Slatt were duly sworn in at the beginning of the Hearing.

10. 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 Applicants.

11. Brian Steager provided the following general testimony in relation to the proposed use of the Property:

- (a) The Property is owned by the Applicants, who are Brian Steager's parents;
- (b) Applicants are advanced in years, and due to their age and the size of the Property (approximately 12 acres), the Applicants have difficulty maintaining it on their own;
- (c) Brian Steager and his wife have agreed to move to the Property and assist his parents with maintaining the Property;

- (d) Applicants desire to keep ownership of the Property in the family and do not intend to sell the Property;
- (e) Applicants do not intend to subdivide the Property unless they are required to do so; however, it is the Applicants' understanding that they are required to prove the property could be subdivided;
- (f) Applicants testified that the second dwelling being proposed will comply in all respects with § 450-409;
- (g) The Property currently has One Hundred Sixty (160') feet of road frontage along Creek Road;

12. Regarding the traditional criteria for a variance, Brian Steager testified:

- (a) There are unique physical circumstances or conditions, including the size, topography, and shape of Applicants' Property, that cause an unnecessary hardship in this case;
- (b) Because of these physical characteristics of the Property, the authorization of a variance is necessary to enable reasonable use of the Property;
- (c) The unnecessary hardship was not created by the Applicants;
- (d) That the variance, if authorized, will not alter the essential character of the one or neighborhood; and
- (e) That the variance, if authorized, will represent the minimum variance that will afford relief in this case.

13. Zoning Officer Slatt testified that if the Property must be subdivided, both of the newly-formed lots would need to independently meet the One Hundred Ten (110') foot minimum lot width requirement.

14. Board Member Gensler observed that if the Property were subdivided at the location proposed in Applicants' plan, then both of the proposed lots would not satisfy the One Hundred Ten (110') foot requirement – underscoring the need for zoning relief.

15. In the alternative, Zoning Officer Slatt testified that in the absence of a subdivision, the Property must have sufficient road frontage for both dwellings to independently meet the One Hundred Ten (110') foot minimum lot width requirement.

16. Put differently, Zoning Officer Slatt testified that if a second dwelling is to be located on the Property, then the One Hundred Ten (110') foot minimum lot width requirement set forth in § 450-409 must be multiplied by a factor of two (2).

17. When asked regarding the legislative intent underlying the One Hundred Ten (110') feet minimum lot width requirement, Zoning Officer Slatt testified that this standard is intended to keep lots within the AC Zone consistent and appropriately spread out.

18. Furthermore, Zoning Officer Slatt testified that the Property is larger than most lots in the AC Zone (which are typically 2-2.5 acres), and due to the size of the Property, a variance from this minimum standard would not create the type of harm that § 450-201.G and § 450-409 seek to mitigate against.

19. When asked regarding recent requests of this nature, Zoning Officer Slatt testified that approximately two years ago the Board granted a similar request to permit an “in-law quarters” in a separate building on a nearby property.

20. Upon invitation by the Chairman after Applicants concluded their presentation, no one in attendance at the Hearing cross-examined the Applicants.

21. Furthermore, no one in attendance at the Hearing offered testimony or evidence either in support or in opposition to this application.

22. At the conclusion of the Hearing, the following exhibit was admitted by the Board:

(a) Exhibit 1 – Site Plan.

23. Upon admission of the Site Plan into the record, Chairman Reihart adjourned the Hearing.

CONCLUSIONS OF LAW

24. Pursuant to § 450-201.G, the minimum lot width of any property within the AC Zone must be no less than One Hundred Ten (110') feet at the street right-of-way.

25. The Property's current lot width at the street right-of-way along Creek Road is approximately One Hundred Sixty (160') feet and is therefore in compliance with § 450-201.G's minimum lot width requirement at the street right-of-way.

26. However, Applicants are proposing either (1) another principal use on the Property, or in the alternative, (2) subdivision of the Property into two separate lots.

27. On the one hand, if Applicants are not required to subdivide and are permitted to simply use the Property for an additional principal use, the Property does not have sufficient road frontage for both single-family detached dwellings to independently meet this One Hundred Ten (110') foot minimum lot width requirement at the street right-of-way.¹

28. The standards imposed by § 450-409 only impact this application if the Applicants are not required to subdivide the Property.

¹ The Board must acknowledge a lack of certainty with respect to the interplay between § 450-201.G and § 450-409 of the Ordinance. More specifically, the Board does not expressly adopt the interpretation that, when a second principal use is located on a lot, this dictates that the requirements of § 450-201.G be multiplied by a factor of two. For example, the Board does not interpret § 450-409 as meaning that the applicable setback requirements for a second principal use on a lot would be double what is set forth in § 450-201.G. Accordingly, if the Applicants are permitted to construct a second dwelling without subdividing the Property, then it is at least arguable that the One Hundred Sixty (160') of road frontage existing on the Property would be sufficient to satisfy the One Hundred Ten (110') feet minimum lot width requirement regardless of the number of principal uses on the Property. However, if the Property ultimately has to be subdivided (as appears to be the case), then a variance from § 450-409 would be necessary. For these reasons, the Board interprets § 450-409 as set forth in this written decision.

29. If, on the other hand, the Property is required to be subdivided (as appears to be the case), then two separate lots would be created, both lots would have to meet § 450-201.G's One Hundred Ten (110') foot minimum lot width requirement at the street right-of-way, and § 450-409 would be irrelevant to the analysis.

30. As proposed in Applicants' plan, the lot to include the new dwelling would have approximately Fifty (50') feet of road frontage, whereas the lot including the original dwelling would have approximately One Hundred Ten (110') feet of road frontage.

31. Accordingly, Applicants requested a dimensional variance of up to Sixty (60') feet from the Two Hundred and Twenty (220') feet of road frontage required by the Ordinance regardless of whether the Property was subdivided or not.

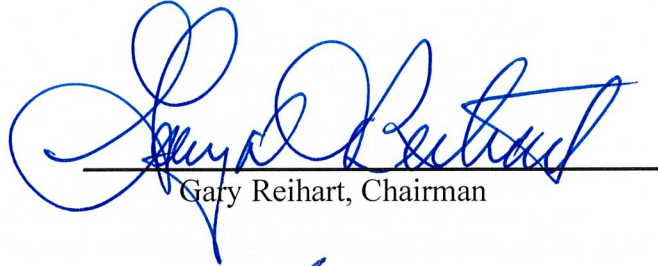
32. With respect to Applicants' variance requests from the regulations set forth in § 450-201.G and § 450-409, Applicants presented evidence and testimony sufficient to establish compliance with each of the traditional variance criteria set forth under § 450-605.

- (a) There are unique physical circumstances or conditions, including the size, topography, and shape of Applicants' Property, that cause an unnecessary hardship in this case;
- (b) Because of these physical characteristics of the Property, the authorization of a variance is necessary to enable reasonable use of the Property;
- (c) The unnecessary hardship was not created by the Applicants;
- (d) That the variance, if authorized, will not alter the essential character of the one or neighborhood; and
- (e) That the variance, if authorized, will represent the minimum variance that will afford relief in this case.

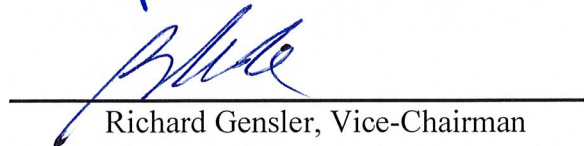
A motion was made and seconded to approve Applicants' variance request of Article 2 (Zone Regulations) – Section 450-201.G – Table of Dimensional Requirements for the Agricultural Conservation Zone to construct an additional single family dwelling with a minimum lot width at the street right-of-way of Fifty (50') feet. The motion passed unanimously with a vote of 3-0.

A motion was made and seconded to approve Applicants' variance request of Article 2 (Zone Regulations) – Section 450-409 to erect more than one principal use on a lot based on the Applicants' testimony of meeting the requirements of Section 450-409. The motion passed unanimously with a vote of 3-0.

BOARD SIGNATURES:



Gary Reihart, Chairman



Richard Gensler, Vice-Chairman



Frank Setlak, Secretary

Dated: 8-8-2023

Date of Mailing: 8-8-2023

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.