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

IN RE:	:	Docket No.: 2024-001
	:	
TIDAY BORS HOMES, LLC	:	Hearing Date: February 26, 2024
<i>Applicant.</i>	:	
	:	

FINAL DECISION

AND NOW, this 26th day of February, 2024, after consideration and hearing upon the application for two (2) variances from § 450-112.C and § 450-407.J of the Zoning Ordinance of Carroll Township filed by Tiday Bors Homes, LLC, the Zoning Hearing Board of Carroll Township hereby grants the requested variances in relation to (1) the requirement that a single-family, semi-detached dwelling be located on two separate lots, and (2) the prohibition on driveways being located within three (3) feet of a property line, as set forth more fully herein:

FINDINGS OF FACT

1. On January 31, 2024, Tiday Bors Homes, LLC (“Applicant”) submitted an application (“Application”) to the Zoning Hearing Board of Carroll Township (“Board”) requesting two (2) variances from § 450-112.C and § 450-407.J of the Zoning Ordinance of Carroll Township (“Ordinance”).
2. The Applicant owns and controls the real property situate at 509 South Baltimore Street, Dillsburg, Pennsylvania 17019 (UPI #: 20-000-OC-0110.00-00000) (“Property”).
3. The Property is located in the Residential Suburban – 3 (“RS-3”) Zoning District of Carroll Township.
4. Currently, the 0.46-acre Property does not have any improvements located thereon (undeveloped) and is vacant.
5. Applicant intends to develop the Property by constructing a single family, semi-detached dwelling towards the middle of the lot.

6. A hearing upon Application 2024-001 (“Hearing”) was held before the Zoning Hearing Board of Carroll Township (hereinafter, “Board”) on February 26, 2024, at approximately 6:05 P.M.

7. The Board conducted the Hearing at the Carroll Township Municipal Building located at 555 Chestnut Grove Road, Dillsburg, PA 17019.

8. Present at the hearing was Chairman Reihart, Board Member Setlak, and Board Member Gensler, together constituting a quorum of members that were able to attend the Hearing, participate in the proceeding, and vote on the Application.

9. Also in attendance were Alternate Members Mark Heishman and Linda Fiscus, who participated in the Hearing but did not take any part in the vote.

10. The following individuals expressed the intention to become a party to this Hearing and/or were sworn in for the purpose of providing testimony:

- (a) Christian Bors (on behalf of the Applicant), 9 White Oak Boulevard, Mechanicsburg, PA 17050;
- (b) Robert Glynn, 50 Hartman Lane, Dillsburg, PA 17019;
- (c) Michael Franks, 35 Hartman Lane, Dillsburg, PA 17019;
- (d) Justin Sipe, 40 Hartman Lane, Dillsburg, PA 17019;
- (e) Michael Kiesinger, 31 Hartman Lane, Dillsburg, PA 17019; and
- (f) Brandon Slatt (Zoning Officer), 555 Chestnut Grove Road, Dillsburg, PA 17019.

11. 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.

12. Following Zoning Officer Slatt’s testimony, Applicant provided testimony through its sole witness, Mr. Christian Bors, as follows:

- (a) Mr. Bors is one of the owners of Tiday Bors Homes, LLC;
- (b) Both semi-detached dwellings (a/k/a “duplexes”) and attached dwellings (a/k/a “townhomes”) are uses permitted by right in the RS-3 Zoning District;
- (c) Applicant is seeking authorization to construct a duplex on the Property, but the Ordinance requires that a semi-detached dwelling be located on two different lots;
- (d) The Ordinance has no such “multi-lot” requirement for townhomes, which is higher density housing;

- (e) Access to the Property would come off of South Baltimore Street, which is a state road regulated by PennDOT;
- (f) After discussing access with PennDOT, Applicant was only able to gain approval for a single access off of South Baltimore Street;
- (g) Accordingly, Applicant cannot have multiple access points off of South Baltimore Street and needs a dimensional variance from § 450-407.J of the Ordinance;
- (h) The duplex to be constructed will consist of “nicer units,” and each unit will be over 2,000 square feet;
- (i) Each unit will have a turn-around in the driveway area, which will eliminate any need for vehicles to back out onto South Baltimore Street;
- (j) While the Applicant wishes to commence construction as soon as possible, there is a strong possibility (90-95%) that Applicant will be subdividing the Property and then selling the two different units to individual owners in the future;
- (k) However, there is a possibility that Applicant would sell both units to a common owner and no subdivision would be required (unless the variance request were denied); and
- (l) Applicant wishes to incorporate its narrative submitted along with the application as part of Applicant’s testimony.

13. Regarding the variance being requested from § 450-407.J, the Board discussed the prospective nature of the requested relief. The Applicant is reminded of the time limitations set forth in § 450-604.B.¹

14. Questions of the Applicant were asked by Mr. Franks, Mr. Glynn, Mr. Sipe, and Mr. Kiesinger.

15. Specifically, Mr. Kiesinger inquired about how children would get to their bus stop if the sidewalk was not accessible during construction, since these children currently utilize that sidewalk in front of the Property.

16. Testimony was provided by Mr. Glynn in opposition to the relief being requested by the Applicant.

17. At this time, Chairman Reihart closed testimony, and pursuant to 65 Pa.C.S.A. § 708, the Board recessed the Hearing to hold an executive session for purposes of quasi-judicial deliberations.

¹ § 450-604.B.2: “Should the appellant or applicant fail to obtain the necessary permits within said one-year period or, having obtained the permit, should s/he fail to commence work thereunder within such one-year period, it shall be conclusively presumed that the appellant or applicant has waived, withdrawn, or abandoned his/her appeal or his/her application, and all provisions, variances and permits granted to him/her shall be deemed automatically rescinded by the Zoning Hearing Board.”

18. Following this executive session, the Board reconvened the Hearing and rendered its decision on the Application.

CONCLUSIONS OF LAW

19. Pursuant to § 450-112.C of the Ordinance, a single family semi-detached dwelling use must be located on two separate lots.

20. The Property is composed of a single lot, and Applicant would need to subdivide the Property into two separate lots to comply with § 450-112.C.

21. Applicant requires a variance from § 450-112.C in order to develop the Property as proposed.

22. Pursuant to § 450-407.J of the Ordinance, a driveway may not be located within three (3) feet of a property line.

23. However, if Applicant ends up subdividing the Property, the shared driveway will necessarily be within three (3) feet of the property line.

24. Applicant requires a variance from § 450-407.J to the extent that the Property will ultimately be subdivided.

25. The Board finds the testimony provided by the Applicant in this case to be credible.

26. The Board finds that the Applicant provided testimony and evidence sufficient to establish each of the variance criteria set forth in § 450-605.C of the Ordinance.

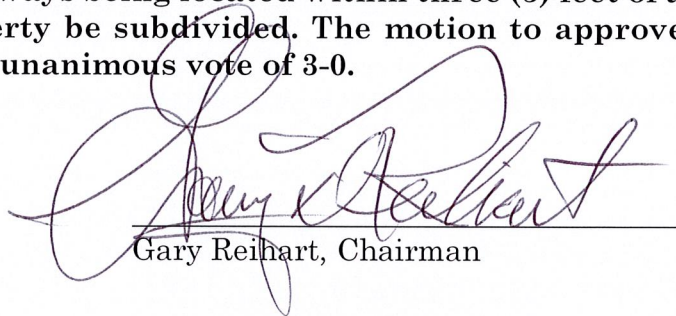
27. The Board finds that the grant of both of the requested variances is warranted in this case.

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A motion was made by Board Member Gensler, and seconded by Chairman Reihart, to conditionally approve the Applicant's request for a variance of Article I, § 450-112.C, which definitionally requires a single-family, semi-detached dwelling to be located on two different lots. As a condition, the Applicant must maintain the integrity and usability of the sidewalk throughout construction, and if that proves to be not feasible, an alternative route shall be provided around the Property. The motion to conditionally approve was passed by the Board with a unanimous vote of 3-0.

A motion was made by Board Member Setlak, and seconded by Chairman Reihart, to approve the Applicant's request for a variance of Article IV, § 450-407.J, which prohibits driveways being located within three (3) feet of a property line, should the Property be subdivided. The motion to approve was passed by the Board with a unanimous vote of 3-0.

BOARD SIGNATURES:



Gary Reihart, Chairman



Richard Gensler, Vice-Chairman



Frank Setlak, Secretary

Dated: 3-25-24

Date of Mailing: 3-26-24

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.