

YORK TOWNSHIP

190 Oak Road, Dallastown, Pennsylvania 17313
Phone (717)741-3861 Fax (717)741-5009

The August meeting of the York Township Zoning Hearing Board was called to order by John Myers, Chair.

Those in attendance were:

John Myers, Chair
James Barnes, Vice Chair
William Descar, Secretary
Glen Myers, Asst. Secretary
Timothy Salvatore, Member
Anthony Pantano, Member
Kathleen Cronin, Member
Jeffrey Rehmyer, Esquire, Solicitor
Lisa Frye, Zoning Officer

MINUTES OF JULY 28, 2020

The Zoning Hearing Board minutes of the July 28, 2020, meeting were approved.

DECISIONS OF JULY 28, 2020

The Zoning Hearing Board decisions of the July 28, 2020, meeting were approved.

SPECIAL EXCEPTIONS/VARIANCES/APPEALS

Application 2020-17: Burkentine Builders, Inc. requests a Special Exception to establish Multi-Family Dwelling Use on properties located at 50 Yoe Drive and 70 Yoe Drive, Red Lion, PA, in a Residential High Density (RH) District.

York Stenographic Services, Inc.
34 North George St., York, PA 17401 - (717) 854-0077

York Township Zoning Hearing Board
Tuesday, August 25, 2020
Page 2

Present: Paul Minnich, Esquire
Mickey Thompson
Joshua George

MOTION: On Application 2020-17, Burkentine Builders, Inc. requests a Special Exception to establish Multi-Family Dwelling Use on properties located at 50 Yoe Drive and 70 Yoe Drive, Red Lion, PA, in a Residential High Density (RH) District, that the application be approved.

CONDITIONS: (1) The fire safety condition which includes exploration of emergency access in the buffer area for all portions behind Units 114 to 143 which will be done during land development consistent with honoring the buffer requirements under the Subdivision/Land Development Ordinance. (2) The sprinkling of all units, the annual inspections for carbon monoxide and proof of that being provided to the Township. (3) The existence of dedicated management to be from within the ownership organization or through a qualified third party organization.

MOTION MADE BY: James Barnes
SECONDED BY: William Descar
MOTION PASSED 3-2, Timothy Salvatore and Glenn Myers voted negatively

ATTEST:



William Descar, Secretary

DECISION OF THE YORK TOWNSHIP ZONING HEARING BOARD

Application Number: 2020-17
Hearing Date: August 25, 2020
Applicant: Burkentine Builders, Inc.
Property Owner: Richard Anderson IV
Property: 50 Yoe Drive
UPI #54-000-HJ-0144-00-0000
70 Yoe Drive
UPI: 54-000-HJ-0146-00-00000
Existing Zoning District: Residential High (RH)

Relief Requested- Special Exception under the York Township Zoning Ordinance of 2012 (the "Ordinance") and pursuant to Section 265-403.C.7. thereof.

FINDINGS OF FACT

Based upon the evidence presented, and its evaluation of the credibility of the witnesses, the Board finds as follows:

1. The foregoing information and the Application, including its attachments, are incorporated by reference.
2. Paul Minnich, Esquire of the law firm Barley Snyder represented the Applicant. Additionally, Mickey Thompson, Esquire, land development manager and in-house counsel of the Applicant was present. Finally, Joshua George, PE of Snyder, Secary & Associates, LLC was project engineer.
3. The Applicant has applied for a Special Exception for the construction of Multi-Family Dwellings (the "Proposed Use") on the Property.
4. Attorney Minnich provided background information as follows:
 - a. The Property consists of 2 parcels, 50 Yoe Drive and 70 Yoe Drive.
 - b. Between the 2 parcels, there is a total of 50 acres.
 - c. He presented 1 exhibit for the hearing, entitled Conceptual Site Plan #1 for Anderson Property for Burkentine Builders, Inc. by Snyder, Secary & Associates, LLC (which was later confirmed to be the same Plan as was filed with the Application but described as Zoning Exhibit Plan).
5. Attorney Minnich called engineer Joshua George who testified as follows:
 - a. He is a licensed Professional Engineer in the Commonwealth of Pennsylvania.
 - b. He graduated from Virginia Tech University with both a Bachelor's and a Master's degree in Civil Engineering.
 - c. He has over 25 years of experience in York.
 - d. His firm is serving as the land use planner, surveyor and engineer for the project.

6. In response from further questioning from Attorney Minnich, Mr. George provided information as follows:
 - a. The dwellings on the 2 parcels would be subdivided from them, leaving about 18.5 acres to be developed for the Proposed Use.
 - b. The Proposed Use would consist of 162 townhouse-style dwellings.
 - c. Each townhouse dwelling would have 3 bedrooms.
 - d. The townhouses will be attached and grouped in buildings, with each building containing from 4 to 7 townhouse units in each.
 - e. There will be a total of 29 buildings comprising 162 units in total.
 - f. He indicated that there will be approximately 30% of the Property will be open space, there will be an outside play area, there will be a recreational building (club house) and adjacent swimming pool.
7. With regard to the specific criteria for a Special Exception for Multi-Family Dwelling in Section 265-649, Mr. George offered the following:
 - a. The minimum lot area required (2,500 square feet per 3 bedroom unit) is greatly exceeded by the net lot area of the Property, which is 18.212 acres.
 - b. All buildings shall be setback a minimum of 50 feet from the Property lines or street rights-of-ways. Additionally, a buffer planting strip consistent with Type C of Section 610 of the York Township Subdivision and Land Development Ordinance shall be planted within the said Fifty (50) feet.
 - c. The lot exceeds 200 feet minimum in width.
 - d. The Proposed Use will have 2 points of access, from Yoe Drive. Within the Proposed Use, there shall be private streets that provide access to the townhouse dwellings.
 - e. Minimum landscaped and equipped play areas and open space shall be provided, in the amount of 3.68 acres, which exceeds the required 3.65 acres as calculated per the Ordinance.
 - f. The building heights shall not exceed the maximum per the Ordinance.
8. In response to the General Standards for a Special Exception in Section 265-1009, the following was provided:
 - a. The intended purpose of the proposed Use is consistent with the Township's development objectives as established in the Comprehensive Plan.
 - b. The proposed Use is in the best interest of properties in the general area, as well as the community at large, when viewing the proposed Use in relationship to and its potential effects upon surrounding land uses and existing environmental conditions regarding the pollution of air, land and water, noise, potential of hazards and congestion, illumination and glare, restrictions to natural light and circulation.
 - c. The proposed Use is suitable for the Property in question and is designed, constructed and will be operated and maintained suitably for the anticipated activity and population served, numbers of participating population, frequency of use, adequacy of space and generation of traffic.
 - d. There are adequate and available utility services and facilities, such as sanitary and storm sewers, water, fire, police and other public facilities and the ability of the Township to supply such services.
 - e. The proposed Use has adequate ingress, egress, interior circulation of pedestrians and vehicles, off-street parking and accessibility to the existing Township street system.
 - f. The Use shall be in conformance with all applicable requirements of the Ordinance and, where applicable, in accordance with the Township's Subdivision and Land Development Ordinance.

9. Mr. George also answered the following when questioned by Attorney Minnich:
 - a. The Proposed Use will be consistent with Hudson Ridge, which is the development that is being constructed across Yoe Drive from the Property.
 - b. He believes that the Proposed Use meets the specific and general criteria for a Special Exception for a Multi-Family Dwelling.
10. In response to further questions, Mr. George indicated the following:
 - a. All of the dwellings will be rentals.
 - b. A traffic study will be done.
 - c. The road frontage on Yoe Drive is approximately 290 feet.
 - d. Yoe Drive will be improved, by widening approximately 700 feet along the frontage of the Property.
 - e. Yoe Drive can not be widened near the lower portion close to Chapel Church Drive, because there is a pinch point because of a culvert.
 - f. Yoe Drive's alignment with Chapel Church Road will be improved.
11. In response to questions with regard to accessibility and points of access, Mr. George offered the following:
 - a. While proposed Drive D is a very long cul-de-sac, there would be parking areas and sidewalks to increase connectivity.
 - b. The cul-de-sac at the end of Drive D allows for the potential connection with future roads coming from adjacent properties.
 - c. There has been no discussion with the fire department regarding emergency access, particularly along the deeper portions of Drive D.
 - d. An emergency access from Springwood Road or another location would be challenging because of the topography.
12. Attorney Minnich called Mickey Thompson who testified as follows:
 - a. He is the Land Development Manager and In-house counsel for the Applicant.
 - b. He has been an attorney since 1999.
 - c. He served 14 years as a solicitor in the Bethlehem area.
 - d. He joined the Applicant in January of this year.
 - e. With regard to the Applicant itself, Attorney Thompson indicated that the Company has been in existence since 1989.
 - f. The Applicant is in its second generation of ownership.
 - g. The Applicant is pursuing construction and rental of dwelling units.
 - h. The Applicant does have its own professional management resources.
 - i. The Applicant is responsive to questions and concerns.
 - j. The Applicant would not allow any bad elements to be present in the Proposed Use.
 - k. The Leases utilized by the Applicant are developed to tamp down on exuberant tenants and include parking restrictions and inspection requirements.
 - l. The units being proposed are two-story units, entitled Beechwood.
 - m. The owners of the Proposed Use are different than those being constructed on Hudson Ridge.
 - n. The Applicant has approximately 400 to 500 units under management and that number is expected to double in the near future.
 - o. Accessibility to the Proposed Use is important to the Applicant.
 - p. He believes that the Applicant has met the criteria for a Special Exception for Multi-Family Dwellings.
13. Mr. Don Snyder was present and offered testimony in opposition to the Proposed Use as follows:
 - a. Another development like this Proposed Use could create adverse impacts to the surrounding community and Township.

- b. He does not think it is consistent with the Comprehensive Plan.
 - c. He believes that the Proposed Use should not be implemented because it would not preserve open space.
 - d. He has concerns about its impact related to nearby developments to include the Paddock and Hudson Ridge.
 - e. He has concerns with regard to school system, which could increase the class size.
 - f. He believes there could be negative impacts for public safety, including fire and police.
14. When asked about matters from the Township perspective, the Zoning Officer indicated there were concerns with regard to the capability of Yoe Drive to handle more traffic, even with the improvements, particularly when considering the fact that Yoe Drive exits the Township into Yoe Borough at a tricky intersection and that Drive D is hard to classify and might have issues with regard to emergency access to all dwelling units therein.
15. In response to the discussion, the Applicant indicated that it would be agreeable to the following Conditions:
- a. The creation of an emergency access area running behind the dwellings along the Northeastern edge/side of Drive D, to create a second point of access in addition to Drive D for the units along Drive D, provided that the buffering planting strip required pursuant to Section 265-649(B) could be adjusted in a manner satisfactory to the Township.
 - b. All dwelling units would be sprinklered, and subject to an annual inspection for carbon monoxide and the reports thereof would be provided to the Township.
 - c. There would be dedicated management of the Proposed Use, to include somebody on-site (either on the Property or the adjacent property, Hudson Ridge) from the Applicant. Or, if the Applicant is unable or if a third party should at some point in the future own the Property, such services be provided by a qualified company.
(Collectively the "Conditions").

CONCLUSIONS OF LAW

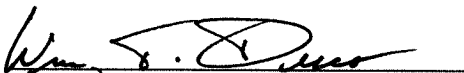
Based upon the Findings of Fact, and pursuant to applicable law, the Board concludes as follows:

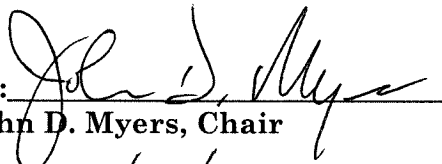
1. The Applicant has met the specific requirements for a Special Exception in Section 265-649.
2. The first Condition with regard to an emergency access is essential to the Conclusion of Law above, as it creates 2 points of access from public streets to the dwellings on Drive D. In prior Decisions by this Board when granting approval for a Multi-Family Dwelling, the Board required that each points of access from the public street resulted in 2 means of ingress and egress to each and every dwelling in a Multi-Family Dwelling project.
3. The Applicant has met the general criteria for a Special Exception .

Accordingly, Jim Barnes moved, and William Descar seconded, to grant the Special Exception to establish a Multi-Family Dwelling Use, subject to the Conditions, on the Property located at 50 Yoe Drive and 70 Yoe Drive in a Residential High Density (RH) District. The motion passed with a vote of 3 to 2, with John Myers, Jim Barnes and William Descar voting in favor of the motion and Glenn Myers and Tim Salvatore voting against the motion.

WITNESS/ATTEST

YORK TOWNSHIP
ZONING HEARING BOARD


William Descar, Secretary

By: 
John D. Myers, Chair
09/22/2020
Date

The Special Exception granted herein shall expire if the Applicant fails to, where required to do so, obtain a Permit, submit a Land Development Plan or commence work within six (6) months of the date of the authorization of the Special Exception, pursuant to Section 265-1009. E. of the Ordinance.