

YORK TOWNSHIP

190 Oak Road, Dallastown, Pennsylvania 17313

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The April meeting of the York Township Zoning Hearing Board was called to order by James Barnes, Chair.

Those in attendance were:

James Barnes, Chair
John Myers, Vice Chair
William Descar, Secretary
Anthony Pantano, Asst. Secretary
Timothy Salvatore, Member
Albert Granholm, Alternate
Jeffrey Rehmeier, Esquire, Solicitor
Lisa Frye, Zoning Officer

ELECTION OF OFFICERS

A motion was made to nominate and elect James Barnes for the position of Chair.

MOTION MADE BY: John Myers
SECONDED BY: Timothy Salvatore
MOTION PASSED UNANIMOUSLY

A motion was made to nominate and elect John Myers for the position of Vice Chair.

MOTION MADE BY: James Barnes
MOTION PASSED UNANIMOUSLY

A motion was made to nominate and elect William Descar for the position of Secretary.

MOTION MADE BY: John Myers
MOTION PASSED UNANIMOUSLY

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

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A motion was made to nominate and elect Anthony Pantano for the position of Assistant Secretary.

MOTION MADE BY: John Myers
 MOTION PASSED UNANIMOUSLY

ANNUAL REPORT FOR 2022

The annual report for 2022 was accepted as presented.

MINUTES OF DECEMBER 27, 2022

The Zoning Hearing Board minutes of the December 27, 2022, meeting were approved.

DECISIONS OF December 27, 2022

The Zoning Hearing Board decisions of the December 27, 2022, meeting were approved.

SPECIAL EXCEPTIONS/VARIANCES/APPEALS

Application 2023-01: 70 S Franklin Owner LLC requests a Special Exception to established a Planned Community - multiple family semi-detached dwellings on a single lot on property located at 70 South Franklin Street, Dallastown, PA in a Residential Medium Density (RM) District.

Present: Chris Naylor
 Sam Saxton

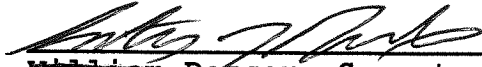
MOTION. On Application 2023-01, 70 S. Franklin Owner LLC requests a Special Exception to established a Planned Community - multiple family semi-detached dwellings on a single lot on property located at 70 South Franklin Street, Dallastown, PA in a Residential Medium Density (RM) District, that the application be denied.

MOTION MADE BY: Timothy Salvatore
 SECONDED BY: William Descar
 MOTION PASSED UNANIMOUSLY

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ATTEST:



William Desear, Secretary
Asst

DECISION OF THE YORK TOWNSHIP ZONING HEARING BOARD

Application Number: 2023-01
Hearing Date: April 25, 2023
Applicant: 70 South Franklin Owner, LLC
Property Owners: Robert D. and Martha J. Zeigler
Property: 70 South Franklin Street
UPI: #54-000-GJ-0135-00-00000
Existing Zoning District: Residential Medium Density (RM) District

Relief Requested- Special Exception under the York Township Zoning Ordinance of 2012 (the "Ordinance") and pursuant to Section 265-304 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. Anthony Pantano announced that he owns a parcel of land adjacent to the Property but believed that he could sit for the hearing and render a decision. There was no objection following Mr. Pantano's disclosure so he remained with the Board.
3. Christopher Naylor of Barley Snyder represented the Applicant as counsel. Additionally, Sam Saxton, Development Coordinator for Inch and Co., was present on behalf of the Applicant.
4. Attorney Naylor explained that the Applicant is seeking to build 53 single-family semi-detached dwellings (each a "Dwelling" or collectively the "Dwellings") on the Property (with the Dwellings as proposed on the Property being the "Use"). He noted that Section 265-402.B.(2) allows for only single-family semi-detached Dwellings to be erected with "each Dwelling on individual lot". Accordingly, Attorney Naylor asserted that the desire to build 53 single-family semi-detached Dwellings on the Property, but not on individual lots, is therefore a use not provided for in the Ordinance. Thus, Attorney Naylor indicated that the Applicant is seeking a Special Exception under Section 265-304 of the Ordinance, which indicates that "Any use not specifically allowed elsewhere in this Ordinance shall be allowed by special exception only in the district or districts where and to the extent that similar uses are permitted or allowed by special exception, provided that said use meets the requirements for a special exception and does not constitute a public or private nuisance."
5. Attorney Naylor provided 4 Exhibits to the Board, which included the following:
 - a. Exhibit A – Aerial view photograph with a tax map overlay.
 - b. Exhibit B – Plan to Accompany Special Exception Dallastown Duplex.

- c. Exhibit C – Proposed New Duplex drawing showing the front, rear and side views of the Dwellings to be constructed on the Property.
 - d. Exhibit D – Photographic image of the Proposed Duplex Dwellings.
6. Attorney Naylor called Sam Saxton who testified as follows:
- a. Inch and Co. is the underlying owner of the Applicant, 70 South Franklin Owner, LLC.
 - b. The Applicant is a contract purchaser of the Property.
 - c. Exhibit A shows the entirety of the Property at issue.
 - d. Exhibit B shows the 53 single-family semi-detached Dwellings that the Applicant desires to construct on the Property, without subdividing the Property. This Exhibit also notes the size of the Property at 16.3 acres.
 - e. Exhibit C contains drawings of the proposed single-family semi-detached Dwellings.
 - f. Exhibit D is a photograph of a sample of two single-family semi-detached Dwellings.
 - g. Mr. Saxton explained that the Applicant desires to construct all of these single-family semi-detached Dwellings on the Property so they can be under common ownership and maintenance, which he asserted would present all of the Dwellings better and allow for more efficient management thereof, for the benefit of the occupants, who would be tenants.
7. In response to the General Standards for a Special Exception in Section 265-1009.C., the following was presented by Applicant:
- 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.
8. In response to questions from the Board, the Applicant answered as follows:
- a. The Applicant is uncertain if the density of the Use as proposed would meet the density permitted if the single-family Dwellings were constructed on individual lots, as permitted by Section 265-402.B.(2).
 - b. The Applicant is unaware of the specific width of each building, but estimated 62 feet.
9. In response to questions from the audience, the Applicant answered as follows:

- a. The buildings on the rear of the development would be 45 feet from the Property line.
 - b. The Applicant is unaware if any of the Property would be in flood plain.
 - c. The Applicant is unaware of what would be done with regard to any deer that might be on the Property.
 - d. The Dwellings would be utilized as rental units.
 - e. The rent would be at market rate.
 - f. The Dwellings would be 2-stories with a garage.
 - g. If the Special Exception were approved, only single-family semi-detached Dwellings would be constructed on the Property.
 - h. The Applicant is unaware of any specific buffer that would be installed.
 - i. The Applicant has no plans to open an adjacent, paper alley (shown on prior plans and/or public records), that is actually not in place or open, which was supposed to have been located to the North of the Property.
10. Angela Hawkin offered testimony in opposition to the Special Exception, citing concerns with regard to traffic and property values.
 11. Ann McClaire also voiced opposition to the Special Exception, referencing concerns with regard to traffic.
 12. On behalf of the Township, the Zoning Officer indicated that the Use would simply be permitted as single-family semi-detached Dwellings, per Section 265-402.B.(2) if the Property were appropriately subdivided. Further, if the project proceeded, it would be required to meet the provisions of Section 265-660, Residential Conservation Development, as well as all applicable subdivision and land development ordinance provisions.
 13. In summary, Attorney Naylor argued the following:
 - a. The Use desired by the Applicant, namely single-family semi-detached Dwellings, on a single lot, is not permitted anywhere else in the Ordinance, and accordingly, should be accommodated pursuant to Section 265-304, entitled All Other Uses.
 - b. The Application itself is unique.
 - c. The Applicant would continue to comply with the Zoning Ordinance.

CONCLUSIONS OF LAW


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

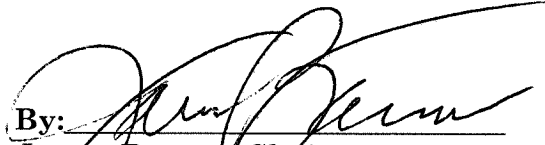
1. The construction of multiple single-family semi-detached Dwellings on Property is a Use that is provided for in the Zoning Ordinance, specifically in Section 265-402.B.(2).
2. The requirement that single-family semi-detached Dwellings have each Dwelling on an individual lot does not transform them from a permitted use to a use not provided for by the Ordinance.
3. Accordingly, Section 265-304, All Other Uses, is inapplicable to this Application.
4. The Property itself is not unique nor is the proposed Use.
5. The Zoning Ordinance clearly allows a path for the Applicant to proceed as it desires, with the creation of multiple single-family semi-detached Dwellings, which Dwellings can be under common ownership and management.
6. The Special Exception criteria have not been met.

Accordingly, Tim Salvatore moved, and William Descar seconded, to deny the Special Exception to establish a Planned Community multiple single-family semi-detached Dwellings on a single lot, on the Property located at 70 South Franklin Street, in a Residential Medium Density (RM) Zone. The motion passed unanimously with James Barnes, John D. Myers, William Descar, Timothy Salvatore and Anthony Pantano voting in favor of the motion.

WITNESS/ATTEST

YORK TOWNSHIP
ZONING HEARING BOARD


William Descar, Secretary
AssL

By: 
James Barnes, Chair
5/23/23
Date