

**BEFORE THE DERRY TOWNSHIP ZONING HEARING BOARD**

IN THE MATTER OF: : NO. 2024 - 21  
:  
Wendy R. Wulffleff :  
:  
: PREMISES LOCATION:  
: 810 Fishburn Road  
: Hershey, Derry Township, PA

## MEMORANDUM, FINDINGS, OPINION AND ORDER

This is the application of Wendy R. Wulffleff with regard to her property, located at 810 Fishburn Road, Hershey, Derry Township, Pennsylvania. A hearing on this matter was held on October 15, 2024, after proper advertising. At that time, the applicant appeared, was sworn, and testified during the hearing.

The application indicates that the subject property is located in the Hershey Mixed Use zoning district. The property has been used as a single-family, detached dwelling, and the applicant seeks a special exception to operate a bed and breakfast at the property. According to the application, the property is less than one acre and does not have an on-lot septic system.

According to the applicant, the property is located in a neighborhood with residential and commercial uses. She is not planning any structural changes to the residence. She plans to rent to families. She agreed that no guests would stay at the property more than 14 consecutive nights in a 30 day period. The residence has five bedrooms, and the applicant would make four of the bedrooms available for use by guests. The guests could use the main floor bedroom that has bathroom with a walk-in shower or the three bedrooms on the second floor, which share a full bathroom. The property also has a living room, dining room, and kitchen, but the applicant is agreeable to restricting the guests' access to the kitchen. She plans to offer a continental breakfast

to guests only. She plans to do as little cooking as possible. While guests are staying at the property, the applicant will stay in the full, finished basement, which also has a full bathroom. In addition, the basement has a second exit in the case of an emergency.

The applicant testified that there is sufficient parking for the guests. The property currently has a two car garage. The applicant explained that there are two spaces available in front of the garage and parking along the driveway, which is to the right of the residence. She argued that the vehicles will be able to enter onto Fishburn Road in a front position by using the turn area off the driveway. She explained that her now grown family had five vehicles that were parked at the property when the children were living at home. Any ground sign she would install would be in compliance with the Zoning Ordinance.

Susan Elizabeth Epler, who owns 818 Fishburn Road, testified at the hearing of this matter. She was concerned about parking because the applicant has crossed her property to leave the applicant's property. In addition, she was concerned about the guests bringing animals because the applicant's dog defecates in her yard.

The applicant testified that the previous owner of Ms. Epler's property allowed the applicant's guests to park on adjacent property for social events after church. Once the applicant learned that the adjacent property had been sold to Ms. Epler, the applicants' guests stopped parking on her property. She testified that the issue with the dog was resolved, and she is agreeable to precluding guests from bringing their pets to the property.

The Ordinance permits the Zoning Hearing Board to issue a special exception to permit a bed and breakfast home in the Hershey Mixed Use zoning district when the applicant can

demonstrate compliance with all applicable criteria. In this case, the record reveals that the applicant has demonstrated compliance with the criteria set forth in §225-502.1, addressed below:

- A. All lots to contain a Bed and Breakfast Home shall be compliant with all applicable lot criteria of the Zoning District. The applicant's lot is in compliance.
- B. To maintain consistency between established and proposed development, parking on the lot shall not be located between the front facade and front lot line when use of an alley for parking is available. The parking area shall retain a residential appearance. The applicant has sufficient parking to support a bed and breakfast.
- C. No more than ten bedrooms may be available or used for such use in any building. The applicant will have up to four bedrooms available to rent.
- D. Not more than one ground sign shall be permitted on the lot and shall meet the dimensional requirements of this Chapter. The applicant will install a compliant sign.
- E. Meal service shall be limited to breakfast only to overnight guests of the facility. The applicant intends to limit meal service to breakfast and will not serve meals to the general public.
- F. All off-street parking spaces shall be provided on the lot. The number of off-street parking and loading spaces shall be provided as defined by this Chapter. All parking spaces and driveways shall be surfaced with bituminous, brick, concrete or stone block paving material. Six parking spaces are required, and there are seven spaces available. As such, there is adequate parking.

G. The owner and/or manager of the facility shall reside therein. The applicant intends to reside at the property.

H. An overnight guest shall not occupy the facility for more than 14 consecutive nights in a 30-day period. The applicant will not permit guests to exceed 14 consecutive nights.

In addition, the applicant must also demonstrate compliance with criteria set forth in §225-

502.B, Specific Criteria For Special Exception Uses:

1. The Township Zoning Hearing Board shall find that the use will not adversely affect the health or safety of residents in the neighborhood or district in which the use is located.
2. The Township Zoning Hearing Board shall find that the use will not overburden existing public services, including water, sanitary sewer, public roads, storm drainage or other public improvements.
3. The Township Zoning Hearing Board shall find that the use will not be detrimental to the use or development of, or change the essential character of, the neighborhood or district in which the use is proposed. The Township Board of Supervisors shall consider, at a minimum, the impact of noise, dust, light, odor and adequacy of parking.
4. The use shall meet all other requirements of this Chapter that may apply.
5. The minimum lot area shall be one acre when the use relies on an on-lot septic system.

The Board finds that the applicant is entitled to the requested relief with respect to the use of the subject property. As this Board has often repeated, a special exception is neither special nor an exception. Instead, it is a permitted use provided the applicant can demonstrate compliance

with the applicable criteria. In this case, the applicant satisfies all of the requirements set forth in §225-502.1.

Moreover, the Board finds that the relief sought will not adversely affect the health, safety, or welfare of residents of the area or be detrimental to or change the essential character of the neighborhood. Moreover, the Board finds that the bed and breakfast will not overburden the public services. More importantly, the Board finds that the requested relief will not cause any parking problems because the property has sufficient parking for the guests. In addition, by living at the property, the applicant will be able to limit any noise. Therefore, the Board specifically authorizes the operation of a bed and breakfast at the property.

In granting any relief, the Zoning Hearing Board may attach such reasonable conditions and safeguards as it deems necessary to implement the purposes of the Pennsylvania Municipalities Planning Code, and the Ordinance. *See* Ordinance, §§225-1007.9.B and 1007.10.A. Based on the Board's findings and conclusions, the Board adopts the following:

### **ORDER**

AND NOW, this 20<sup>th</sup> day of November, 2024:

1. The applicant's request for a special exception from §225-502.1, regarding the operation of a bed and breakfast is GRANTED. The applicant may establish a bed and breakfast at the subject property as represented during the hearing of this matter.

2. The relief granted herein shall be strictly contingent upon:

A. The applicant shall update the records at the Dauphin County Office of Tax Assessment to reflect that property has five bedrooms and three full bathrooms.

B. The bed and breakfast shall be limited to four bedrooms.

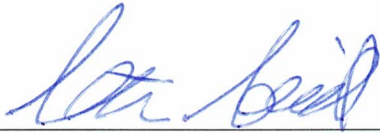
C. Parking shall be reviewed and approved by Township staff so guests are not required to back out on Fishburn Road.

D. There shall be no cooking area in any room rented to the guests. Further, the guests shall not be able to use any cooking area on the property, including the kitchen.

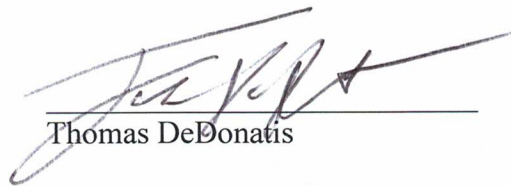
E. Guests shall not be permitted to bring their pets to the property.

F. Any change in use shall require a permit from the Township.

3. Any violation of any condition imposed herein shall be a violation of the Township Zoning Ordinance and shall be enforced as provided in the Ordinance.



Steven Seidl



Thomas DeDonatis



Michael Angello



William Tafuto

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Joseph Nocera