

IN THE MATTER OF : BEFORE THE LOWER ALLEN TOWNSHIP
THE APPLICATION OF : ZONING HEARING BOARD
LISA BURKE : CUMBERLAND COUNTY, PENNSYLVANIA
:
: DOCKET NO. 2021-07

DECISION DENYING SPECIAL EXCEPTION

The Applicant seeks a special exception to rent a portion of her dwelling as a home occupation. A hearing was held before the Board on October 14, 2021.

FINDINGS OF FACT

1. Notice of the hearing was properly advertised, the subject property was posted, and all property owners required to be notified of the hearing were notified in accordance with the Codified Ordinances.

2. The Applicant is Lisa Burke, 317 Belaire Drive, Shiremanstown, PA 17011.

3. The subject property is a lot with dwelling in an established residential development in an R-1 zoning district, known as 317 Belaire Drive.

4. The Applicant is the owner of the subject property.

5. The Applicant proposes to provide lodging for an undisclosed fee in her dwelling to travelling nurses for terms of one to four months.

6. At most, two additional people would occupy the dwelling with Applicant.

7. The Applicant will advertise on-line on an AirB&B or similar website.

8. The Applicant will not provide any meals.

9. The tenants will have the right to use the kitchen, a powder room, a full bathroom and other areas of the dwelling, in common with the Applicant.

10. The Applicant has two off-street parking spaces, one in the garage, and one in the driveway. Applicant believes two spaces will be adequate.

11. There was both support and opposition to the application from the public.

CONCLUSIONS OF LAW

1. The Board's jurisdictional authority to decide a request for a special exception is provided in Sections 220-269(B)(6) and (D) of the Codified Ordinances.

2. The proposed use is not a "no-impact home-based business" permitted by right under section 220-165(A) because there will be additional traffic to and from the premises.

3. Under Section 220-165(B), the Board may authorize, by special exception, an "impact" home occupation in an R-1 district.

4. To establish entitlement to a special exception, the Applicant must satisfy the requirements of section 220-165 and demonstrate compliance with all applicable provisions of section 220-269(D) of the Codified Ordinances.

5. Section 220-239(A) of the Codified Ordinances requires a combined total of three off-street parking spaces for the combined uses.

6. The proposed use is not a bed-and-breakfast establishment under section 220-165(B)(6) because the length of stay of a guest exceeds 15 days, and because no meals are provided.

7. The Applicant presented insufficient information to establish that not more than 25% of the gross floor area of the dwelling would be used in the home occupation, as required under section 220-165(A)(7), and therefore did not satisfy all of the standards and criteria for a special exception.

8. As many as two persons in addition to the Applicant will be involved at any one time, which is inconsistent with section 220-165(B)(1).

9. Under the circumstances, granting a special exception would be detrimental to the public health, safety or welfare.

DISCUSSION

While not essential to its decision, the Board feels it appropriate to add that it has reservations about determining that Applicant's proposed use constitutes a home occupation. Home occupations are business activities conducted by a permanent resident, such as a physician or barber. Here, the Applicant is not really conducting an activity. Rather, there is an additional residential use in the form of a second housekeeping unit. The impact of this use on the community is not anything the Applicant is doing in the residence. It solely involves the existence of the additional housekeeping unit.

The primary permitted use in an R-1 district is single family detached dwelling, which is a building used by one family. See section 220-6, definitions of "dwelling, single-family detached"

and "family." To allow the proposed use as a home occupation appears to be inconsistent with the intent of the R-1 district.

DECISION

Based upon the foregoing findings and conclusions, and in consideration of the testimony and evidence presented to the Board, it is the decision of the Board that the Applicant's request for a special exception be and is hereby denied. If Applicant has started operating, she should stop immediately.

LOWER ALLEN TOWNSHIP ZONING
HEARING BOARD

Date: _____

11.3.2021

Ann Moran

L. Quinn

Solicitor