

**BEFORE THE  
ZONING HEARING BOARD OF  
FAIRVIEW TOWNSHIP, ERIE COUNTY, PENNSYLVANIA**

IN THE MATTER OF	:	
	:	Premises at 3707 Guilford Drive
Property owner:	:	Erie, PA 16506
Beth A. Bodner	:	
518 Cooney Hollow Road	:	Index No. (21) 59-83-36
Sewickley, PA 15143	:	

**FINDINGS OF FACT**

1. Applicant is Beth A. Bodner, owner of the Subject Property located at 3707 Guilford Drive, Erie, PA 16506.
2. The Subject Property is located in Fairview Township, Pennsylvania, and is identified by Erie County Index No. (21) 59-83-36. The parcel is currently zoned R-2 and is less than 1 acre in total area.
3. Applicant seeks permission to operate a bed and breakfast/short term rental on the Subject Property.
4. Fairview Township's Zoning Ordinance, Section 701B.8. permits a Bed and Breakfast Inn as an accessory use in an R-2 Suburban District by special exception.
5. The requirements for a special exception as set forth in Section 701B.8 are:
  - a. The minimum lot size shall be (2) two acres.
  - b. The principle structure must maintain a minimum of one hundred (100) foot setback to the nearest parcel boundary.
  - c. Must meet the definition of the term [Bed and Breakfast] set forth in Section 401, Article 4.
  - d. Must meet all the requirements of the Pennsylvania Construction Code.
  - e. Minimum one parking space per guest room, plus two spaces for the single family dwelling and one space for each employee.
  - f. Permanent signs shall not be permitted.
  - g. The parcel must have a safe and adequate vehicular entrance and exit.
  - h. Must obtain an annual occupancy permit.
  - i. A breakfast meal shall only be provided to Inn guests and residents.
6. Applicant, represented by Attorney John Knox, testified in support of her request to operate a bed and breakfast/short term rental on the Subject Property. She described the condition of the property at the time of her purchase in September of 2020 and the extensive renovations that she has made to improve the property. Applicant testified that she occupies the Subject Property part time, but considers it her home. Applicant has hired a management company (Evolve) to market the Subject Property for short term rental on various online

platforms. To date, she has rented the property on two occasions in November (8 to 10 persons) and December (10 persons) of 2023. She currently has additional bookings reserved. Applicant offered into evidence a packet outlining the rules she imposes on those persons renting the Subject Property. She does not have any signs on or about the Subject Property and indicated that there is adequate parking for guests. Applicant acknowledges that the Subject Property does not contain 2 acres of land area and does not meet the 100 foot set back requirement of Section 701.B.8.

7. Under cross examination from Fairview Township Solicitor, Andrew Schmidt, Applicant acknowledged that she has not occupied the Subject Property at the time of prior rentals, and does not meet all requirements (area and setback) of the Township's Zoning Ordinance.

8. James Cardman, former Township Zoning Officer, testified that the Subject Property does not have an occupancy permit as required by Section 701.B.8, nor has it been inspected for compliance with the PA Construction Code as required.

9. A number of neighboring property owners offered testimony in opposition to Applicant's request. The indicated concerns regarding safety, the number of renters/occupants, parking, proximity to neighboring parcels and the detrimental effect of operating this type of business in their residential neighborhood.

### **CONCLUSION OF LAW**

Applicant has failed to meet the requirements for a special exception to operate a Bed and Breakfast or short term rental on the Subject Property. Specifically, the Subject Property is less than 2 acres, fails to maintain a minimum 100 foot setback from neighboring parcel boundaries, does not maintain an occupancy permit and fails to meet the definition of a Bed and Breakfast as outlined in the Township's Zoning Ordinance (not owner occupied).

**DECISION**

AND NOW, this \_\_\_\_\_ day of January, 2024, it is ordered that Applicant's request for a special exception is DENIED.

These Findings of Fact, Conclusions of Law, and Decision are signed this \_\_\_\_\_ day of \_\_\_\_\_, 2024.

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Judy Miller, Chairperson

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Justin Havern

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Barbara Partchey

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Dan Stroup

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George Wilkosz