
BEFORE THE WHITPAIN TOWNSHIP BOARD OF SUPERVISORS

Applicant:
Franklin Village Partners, LLC

Property:
1448, 1462, 1486 Skippack Pike
Blue Bell, PA 19422

Parcel Nos.:
66-00-06334-00-8
66-00-06337-00-5
66-00-06340-00-2

Application No.:
CU48-23

CONDITIONAL USE DECISION

FINDINGS OF FACT

1. On or about April 1, 2024, Franklin Village Partners, LLC (“Applicant”) submitted to the Whitpain Township Board of Supervisors (“Board”) an application for conditional use approval (“Application”) under the Whitpain Township Zoning Ordinance of 1950, as amended (“Ordinance”).
2. Specifically, the Application sought conditional use approval pursuant to Section 160-269.B of the Ordinance related to the properties located at 1448, 1462 and 1486 Skippack Pike, Blue Bell, PA 19422 (collectively,

the “Subject Property”) to permit an active adult housing development (“Project”).

3. On May 7, 2024, a hearing on the Application was held at a publicly-noticed meeting before the Board.
4. The Subject Property is within the R-1 – Residential District, the R-2 – Residential District and the ARD – Age Restricted Development Overlay District of Whitpain Township (“Township”).
5. Applicant is the equitable owner of the Subject Property, as it has entered an agreement of sale with the current owner.
6. The Ordinance permits active adult housing developments within the Age Restricted Development Overlay District by conditional use only.
7. The Board met all of the requirements of the Ordinance and the Pennsylvania Municipalities Planning Code as to the requisite notice.
8. Applicant was represented by Marc B. Kaplin, Esquire.
9. Kathleen DiClementi, 1115 Fairview Avenue, was granted party status.
10. The following documents were offered by the Applicant and the Township, marked as indicated, and received into evidence:

T-1:	Application Packet
T-2:	Proof of Mailing
T-3:	Affidavit of Posting with Attachments
T-4:	Proof of Publication
T-5:	Township Planning Commission Memorandum
A-1:	Applicant’s Slideshow

11. Roger Willcox, Project Director for the Applicant, offered the following testimony at the hearing:

- a. The Subject Property is comprised of several lots, which are collectively approximately 21.5 acres in total area.
- b. The Subject Property is currently home to Reed's Tavern and associated parking area.
- c. The Project, as submitted by Applicant, proposed to develop an age-restricted, 90-unit condominium complex.
- d. Project would include pickleball courts, bocce courts, tennis courts, a dog run and a gazebo for use by its residents.
- e. Applicant intends to provide underground parking on the Subject Property to meet the demands of the Project.
- f. Applicant proposes to deed restrict 13.227 acres of the Subject Property as permanent open space, which is greater than 60% of the total developable area.
- g. The deed-restricted open space will include the portion of the Subject Property that abuts the properties along Carriage Lane and Clover Court.
- h. The lot width of the Subject Property is 650 feet at the building line.
- i. The proposed building height will not exceed 49 feet.

- j. The Project complies with the formula provided within the Ordinance for maximum number of permitted bedrooms.
- k. Specifically, the Project proposes 57 two-bedroom apartment units and 33 one-bedroom apartment units.
- l. The Project complies with all setback requirements set forth in the Ordinance.
- m. The Project contains 160 total parking spaces, 103 of which are in garages, 45 of which are surface spaces and 12 of which are in a covered carport.

12. Peter Gebert offered the following testimony at the hearing in support of the Application:

- a. The Applicant has frequent contact with representatives from PennDOT and is familiar with existing traffic concerns along Skippack Pike in relation to improvement projects thereon.
- b. The Project would not interfere with PennDOT's work along Skippack Pike.

13. Ms. DiClementi offered the following testimony at the hearing:

- a. Ms. DiClementi grew up in a house that abuts the Subject Property, and has seen prior proposals related to the use of the Subject Property.

- b. Ms. DiClementi does not want to see the nature of her neighborhood change as it relates to open spaces and wooded areas.
- c. Based upon the Applicant's presentation at the Hearing, as well as Applicant's promise to preserve large portions of the Subject Property in deed-restricted open space, Ms. DeClementi is satisfied and comfortable with the Project.

14. David Doll, Township resident, offered public comment to question the decision to develop age-restricted housing.

DISCUSSION

1. Pursuant to § 160-269.B of the Ordinance, “[a]ctive adult housing development, when authorized by conditional use received from the Board of Supervisors” is a permitted use in the ARD Overlay District.
2. The numerous development regulations for such a use, which include area, width, lot coverage, building height, density, yard requirements, parking, buffering of parking and building standards, are found with Section 160-270 of the Ordinance.
4. “A [conditional use] is not an exception to the zoning ordinance, but rather a use to which the applicant is entitled provided the specific standards enumerated in the ordinance for the [conditional use] are met by the applicant.” In re AMA/Am. Mktg. Ass'n, Inc., 142 A.3d 923, 934 (Pa. Commw. Ct. 2016).¹
5. An applicant is entitled to a conditional use as a matter of right, unless it is determined “that the use does not satisfy the specific, objective criteria in the zoning ordinance for that conditional use.” In re Drumore Crossings, L.P., 984 A.2d 589, 595 (Pa. Cmwlth. 2009).
6. An Applicant for conditional use has the burden to demonstrate compliance with the specific criteria of the ordinance. In re Thompson, 896 A.2d 659 (Pa. Commw. Ct. 2005).

¹ “Because the law regarding conditional uses and special exceptions is virtually identical, the burden of proof standards are the same for both.” In re Thompson, 896 A.2d at 670.

7. Where an Applicant proves that the proposed use complies with all the specific standards required for granting a conditional use, it enjoys a presumption that such use is not adverse to the public health, safety and welfare. Mehring v. Zoning Hearing Bd. of Manchester Twp., 762 A.2d 1137, 1141 (Pa. Commw. Ct. 2000).
8. In such instances, a conditional use may not be denied unless the opponents have demonstrated that a grant of the conditional use would have a detrimental impact on the public health, safety or welfare. Mann v. Lower Makefield Twp., 634 A.2d 768, 771 (Pa. Commw. Ct. 1993)
9. Where there is opposition to an application, “the objectors must establish a high degree of probability that the proposed use will adversely impact on the public interests.” Mehring, 762 A.2d at 1141.
10. However, there were no objectors to the Application; consequently, there is no evidence in the record to rebut the presumption.

CONCLUSIONS OF LAW

1. Applicant sustained its burden of proof that its Application met the specific criteria of the Whitpain Township Zoning Ordinance.
2. All use and development allowed by any granted application shall conform to the exhibits and testimony presented at the hearing unless inconsistent with these conditions in which case these conditions take precedence.
3. Approval of the Application is subject to the Applicant's compliance with any requirements from any agency having jurisdiction over the matter in addition to all applicable codes and ordinances, including but not limited to the Whitpain Township Zoning Ordinance, the Whitpain Township Subdivision and Land Development Ordinance, and the Whitpain Township Building Code.
4. Approval of the Application is subject to Applicant agreeing to reimburse the Township for all fees and costs associated with the review of this plan account, including engineering and attorney fees, and to become current with all financial obligations to the Township.

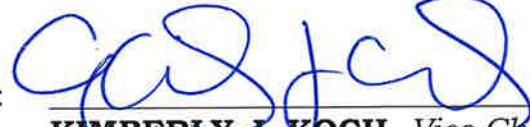
ORDER

AND NOW, this 4th day of June, 2024, the Application, seeking conditional use approval for an active adult housing development pursuant to Section 160-269.B of the Whitpain Township Zoning Ordinance of 1950, as amended, based on the testimony and documentary evidence presented, is **GRANTED**, subject to the **CONDITIONS** set forth in the above conclusions of law.

**WHITPAIN TOWNSHIP
BOARD OF SUPERVISORS**

By: 

SCOTT M. BADAMI, Chair

By: 

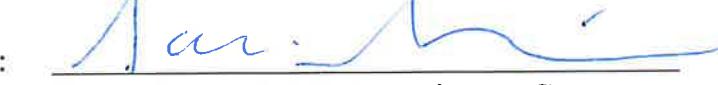
KIMBERLY J. KOCH, Vice-Chair

By: 

JEFFREY CAMPOLONGO, Secretary

By: 

JOYCE M. KELLER, Treasurer

By: 

SARA SELVERIAN, Assistant Secretary

A copy of this Decision and Order
was sent via E-mail or U.S. Mail
to all Parties on:

JUNE 4, 2024

THIS DECISION AND ORDER OF THE WHITPAIN TOWNSHIP BOARD OF SUPERVISORS IS FINAL, AND ANY APPEAL OF IT MUST BE FILED WITH THE COURT OF COMMON PLEAS OF MONTGOMERY COUNTY WITHIN THIRTY (30) DAYS FOLLOWING THE ABOVE-STATEMENT MAILING DATE.