

**IN THE MATTER OF:**

**APPLICANTS DAVID AND DEANA  
BADDORF**

**APPLICATION FOR CONDITIONAL USE  
RELIEF**

**BOARD OF SUPERVISORS**

**MONROE TOWNSHIP**

**CUMBERLAND COUNTY,  
PENNSYLVANIA**

**REISSUED WRITTEN DECISION**

**EXHIBITS**

- B-1 Application for Conditional Use filed by David and Deana Baddorf
- B-2 Conditional Use Narrative and Supporting Documents/Photographs
- B-3 Certificate of Service of Written Notice and Public Notice
- T-1 Letter from Township Engineer dated December 6, 2023

**FINDINGS OF FACT**

1. David Baddorf and Deana Baddorf (collectively “Applicants”) own property located at 314 Stumpstown Road, Mechanicsburg, Monroe Township, Cumberland County, Pennsylvania, identified as Tax Parcel No: 22-11-0278-057 (hereinafter the “property”).
2. Applicants request relief in the form of Conditional Use approval pursuant to Sections 202.4 and 421 of the Monroe Township Zoning Ordinance of September 17, 1998, last amended, May 14, 2015 (hereinafter “zoning ordinance”).
3. Applicants are proposing to construct a detached garage with an ECHO housing unit located in the upper portion of the garage.
4. The property is located in the R-1 Suburban Residential zoning district of Monroe Township, Cumberland County, Pennsylvania.
5. Public Notice of the hearing in this matter was published in the Carlisle Sentinel, a newspaper of general circulation in Monroe Township on November 21, 2023 and November 28, 2023.
6. The Conditional Use Application was forwarded to the Monroe Township Planning Commission and the Cumberland County Director of Planning on October 31, 2023.

7. The Written Notice of the hearing was forwarded to the following individuals and entities on November 15, 2023: Applicants, David and Deana Baddorf, as well as adjoining property owners.

8. The Municipal Building and the Township's website were posted with the Notice of Hearing on November 16, 2023. The property was posted on November 16, 2023.

9. No objections as to the method and timing of Notice and advertising were raised.

10. The Monroe Township Board of Supervisors conducted a public hearing on the application on Thursday, December 14, 2023 at 6:30 P.M.

11. Applicants have standing to apply for conditional use relief under the Monroe Township Zoning Ordinance and the Municipalities Planning Code.

12. Testimony pertaining to the proposal for an ECHO housing unit was presented by the Applicants.

13. The Applicants have properly met their burden in establishing its right to conditional use relief.

14. By a vote of 3-0, the Board of Supervisors of Monroe Township voted to grant Applicants' request for conditional use approval.

### **CONCLUSIONS OF LAW**

1. The Monroe Township Board of Supervisors has jurisdiction to hear the above-captioned application pursuant to Article 7 Section 704.1 of the Monroe Township Zoning Ordinance and Section 603(c)(2) of the Municipalities Planning Code.

2. Proper Notice of the hearing was given to the public and to all interested parties.

3. All exhibits were properly admitted into evidence.

4. Applicants have met their burden in establishing the requirements for an approval of Conditional Use in accordance with the conditions as set forth in the attached decision and order.

### **LEGAL STANDARD**

David and Deana Baddorf (hereinafter "Applicants") submitted an application for Conditional Use relief on October 31, 2023. The subject of the application is property located at 314 Stumpstown Road, Mechanicsburg, PA 17055 within the Township's R-1 Suburban Residential Zoning District.

A zoning ordinance classifies uses in a given zoning district as "permitted uses as of right" or "prohibited uses." At its discretion, the municipality may classify certain uses as

permitted by special exception, or as conditional uses. 53 P.S. §10603(c)(1) [pertaining to special exception] and 53 P.S. §10603(c)(2) [pertaining to conditional use].

In classifying a use as a special exception or conditional use, the municipal governing board makes a legislative decision that the use is permissible and legitimate use of property within a given zoning district and not adverse to the public interest per se. *Bailey v. Upper Southampton Twp.*, 690 A.2d 1324 (Pa. Cmwlth. 1997); *Perkasie v. Moulton Builders, Inc.*, 850 A.2d 778 (Pa. Cmwlth. 2004).

A zoning ordinance classifying uses as conditional uses properly must set forth in the zoning ordinance the standards for such cases. These standards may be objective or subjective in character. An applicant for conditional use approval is required to demonstrate compliance with the objective criteria of the zoning ordinance. *Bray v. Zoning Bd. Of Adjustment*, 410 A.2d 909 (Pa. Cmwlth. 1980). Objective criteria include the following: (1) the kind of use (i.e. the threshold definition of what is authorized as a conditional use); (2) specific requirements or standards applicable to a particular conditional use (e.g., special setbacks); and (3) specific requirements generally applicable to such a use (e.g., parking requirements). *Bray*, 410 A.2d at 911.

Article 7 Section 704.1 of the Monroe Township Zoning Ordinance requires that a conditional use application must show the following:

1. Ground floor plans and elevations of proposed structures. This requirement shall not apply for proposed single family dwellings.
2. Names and addresses of adjoining property owners including properties directly across a public right-of-way.
3. A scaled drawing (site plan) of the site with sufficient detail and accuracy to demonstrate compliance with all applicable provisions of this Ordinance.
4. A written description of the proposed use in sufficient detail to demonstrate compliance with all applicable provisions of this Ordinance.

Additionally, Article 7 Section 704.2 of the Monroe Township Zoning Ordinance sets forth the General Criteria that each Applicant for a Conditional Use Relief must demonstrate compliance:

1. The proposed use shall be consistent with the purpose and intent of the Zoning Ordinance;
2. The proposed use shall be detracted from the use and enjoyment of adjoining or nearby properties;
3. The proposed use will not affect a change in the character of the subject property's neighborhood;

4. Adequate public facilities are available to serve the proposed use (e.g. schools, fire, police and ambulance protection, sewer, water, and other utilities, vehicular access, etc.);
5. The proposed use complies with the Monroe Township Floodplain Ordinance;
6. The proposed use shall comply with those criteria specifically listed in Article 4 of this Ordinance. In addition, the proposed use must comply with all other applicable regulations of this Ordinance; and,
7. The proposed use will not substantially impair the integrity of the Township's Comprehensive Plan.

Once the applicant has provided such information, and the information demonstrates compliance with the objective requirements of the zoning ordinance, the applicant is entitled to approval because the use is presumed to be consistent with the public health, safety, and welfare. *Perkasie v. Moulton Builders, Inc.*, 850 A.2d 778 (Pa. Cmwlth. 2004); *Bailey v. Upper Southampton Twp.*, 690 A.2d 1324 (Pa. Cmwlth. 1997).

Specifically, Applicant requests Conditional Use relief pursuant to Section 202 of the Township Zoning Ordinance. Section 202 establishes that an ECHO housing unit is permitted within the R-1 Suburban Residential Zoning District with Conditional Use approval. Section 421.1 and Section 421.2 of the Township Zoning Ordinance additionally establish the following specific criteria pertaining to ECHO housing units:

421.1. Within the (C), (A) and (R-1) Zones, ECHO housing integral to the dwelling unit on lots less than one half (1/2) acre in size, and/or located within in a detached structure separate from the principal residence (subject to minimum lot size requirements) is permitted by conditional uses, subject to the following criteria:

1. The ECHO Housing may not exceed nine hundred (900) square feet of floor area;
2. The total building coverage for the principal dwelling, any existing accessory structures and the ECHO Housing together shall not exceed the maximum requirement for the zone in which the elder cottage is located;
3. The ECHO Housing shall be occupied by either an elderly, handicapped or disabled person related to the occupants of the principal dwelling by blood, marriage or adoption;
4. The ECHO Housing shall be occupied by a maximum of two (2) people;
5. Utilities:
  - A. For all public utility connections, ECHO housing utilities shall be physically connected to those systems serving the principal dwelling. No separate utility

systems or connections shall be constructed or used. All connections shall meet the applicable utility company standards. For public sewer connections, the applicant shall obtain approval of the Municipal Authority having jurisdiction for the connection, including payment for an additional EDU if determined to be applicable by the Municipal Authority; and

B. If on-site sewer or water systems are to be used, the applicant shall submit evidence to the Zoning Hearing Board showing that the total number of occupants in both the principal dwelling and the ECHO Housing will not exceed the maximum capacities for which the one-unit systems were designed, unless those systems are to be expanded, in which case the expansion approvals are to be submitted. Any connection to or addition to an existing on-site sewer system shall comply with the Township On-Lot Management Ordinance.

6. A minimum of one (1) off-street parking space, with unrestricted ingress and egress to the street, shall be provided for the ECHO Housing, in addition to that required for the principal dwelling;

7. The ECHO Housing shall be installed and located only in the side or rear yards, and shall adhere to all side and rear yard setback requirements for principal uses; and,

8. The ECHO Housing shall be removed from that property within ninety (90) days after it is no longer occupied by a person who qualifies for the use.

421.2. Upon the proper installation of the ECHO Housing, the Zoning Officer shall issue a temporary use and occupancy permit. Such permit shall be reviewed every twelve (12) months until such time as the ECHO Housing is required to be removed. A fee, in the amount to be set by the Board of Supervisors, shall be paid by the landowner upon each renewal of the temporary use and occupancy permit. Such fee shall be based upon the cost of the annual review of the permit.

## **DISCUSSION**

Applicants have indicated both in their testimony during the public hearing and in the narrative identified as Exhibit B-2 that they have owned the property since 1992. The subject property is located within the Monroe Meadows subdivision. Applicants desire to construct a detached garage with an ECHO housing unit in the upper portion of the structure. Within the ECHO unit, there will be a living area consisting of one bedroom and one bathroom. The proposed unit will be approximately 889 square feet, in compliance with the requirement that the unit be no larger than 900 square feet. Applicants have also indicated that the ECHO unit will have two occupants, and both occupants are related by blood/marriage to the occupants of the principal dwelling. One of the occupants of the ECHO unit related by blood to the Applicant meets the requirements as outlined in the Americans with Disabilities Act.

The property has a private sewer system which was designed and constructed to accommodate a three-bedroom home. Applicants have indicated that they intend on connecting

the ECHO unit to the existing on-lot sewer system, in accordance with the requirements of the Township's ordinance. Since no more than three bedrooms shall be occupied at one time between the primary residence and the ECHO housing apartment, this will not exceed the maximum capabilities for the system. Additionally, Applicants have indicated that they will comply with the requirement of Section 421.1.8 and shall remove the dwelling unit from the property within 90 days after it is no longer occupied by an individual who qualifies for the use. Additionally, Applicants' proposal demonstrates compliance with all height and setback requirements as outlined within the Zoning Ordinance.

The Board of Supervisors has determined that the Applicants have established compliance with all of the aforementioned requirements as outlined in the Zoning Ordinance. Applicants intend on constructing this detached garage with an ECHO housing unit in a manner so as not to detract from the use and enjoyment of adjoining properties. The Board of Supervisors determines that the proposed use is consistent with the purpose and intent of the zoning ordinance and will not cause a change in the character of the subject property's neighborhood.

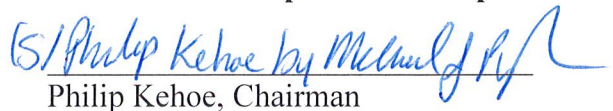
For the foregoing reasons, we issue the following decision granting the Applicants' request for conditional use approval, in accordance with the condition as outlined below.

**DECISION:**

AND NOW, this 7<sup>th</sup> day of February, 2024, in consideration of Applicant's Conditional Use Application dated October 31, 2023, the request for Conditional Use Approval submitted by David and Deana Baddorf for an ECHO Housing Unit located at 314 Stumpstown Road, Mechanicsburg, PA is GRANTED by a vote of 3-0 of the Monroe Township Board of Supervisors consistent with this decision and in accordance with the following condition:

1. Applicants shall enter into an agreement that no more than three bedrooms be occupied at any one time between the primary residence and the ECHO housing apartment, unless a modification to the existing on-lot sewage permit is obtained.
2. Applicant must abide by all local, state and federal laws and regulations including, but not limited to, obtaining all required permits for the ECHO housing unit.

**Monroe Township Board of Supervisors**

  
Philip Kehoe, Chairman

(Written Decision of Findings issued this 7<sup>th</sup> day of February, 2024)