



Gettysburg
HISTORIC CROSSROADS

Gettysburg Zoning Hearing Board

59 East High Street
Gettysburg, PA 17325
www.gettysburgpa.gov

ZONING HEARING BOARD MEETING AGENDA

Wednesday, October 26 at 7:00pm | Borough Council Chambers

I. Convene Meeting

II. Review and Approve Agenda

III. Review and Approve September 28, 2022 Minutes

IV. Case # ZHB-220003

Applicant DASH Pennsylvania Properties LLC

Property Affected 9 & 11 Buford Avenue

Applicant's Request The applicant seeks a Variance from Section 27-502 of the Gettysburg Borough Zoning Ordinances to permit the properties to be used as Vacation Rentals.

V. Additional Business

VI. Adjourn

Property Address: 9-11 Buford Ave

Application to Gettysburg Borough Zoning Hearing Board

1. Type of Matter

A - Special Exception per Ordinance Section (s): _____

B – Variance from Section(s): Part 5 - R2 Zoning

C – Change or expansion of nonconforming use, Section(s): _____

2. **Applicant Name(s):** DASH Pennsylvania Properties

Mailing Address: 2702 Dunmoore Dr, Snellville, GA 30078

Phone: 404-451-8053 Fax: _____

3. **Property Owner(s):** DASH Pennsylvania Properties

Mailing Address: 2702 Dunmoore Dr, Snellville, GA 30078

Phone: 404-451-8053 Fax: _____

4. Applicant's Agent or Representative, if any:

Name Jennifer Jenkins

Mailing Address: _____

Phone: 717-357-5089 Fax: _____

5. Applicant's Legal Counsel, if any:

Name: _____

Mailing Address: _____

Phone: _____ Fax: _____

6. Property Covered By Application

Address or location of Property: 9-11 Buford Ave

Tax Map and Parcel # 11 (16007-0171D--000) 9 (16007-0171---000)
(Attach copy of Tax Map)

Current Zoning District: R2

Applicable Zoning Overlays, if any: _____

Property Address: 9-11 Buford Ave

7. Property Characteristics

Describe the present use of the property:

Property has been used as a long term rental property in the past.

8. Describe the existing structures on property, if any:

The two properties are separate townhome units with a common wall - duplex.

9. Applicant's Interest In The Property

Own Property Date title acquired: 9/15/2022 and 7/16/2022

Lease Property Term of Lease: _____

To Purchase Date contract: _____

Other Explain: _____

9. Applicant's Verification

I verify that the statements made in the foregoing application are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S.A. §4904, relating to unsworn falsification to authorities.

Signature Shari Niemann Digitally signed by Shari Niemann
Date: 2022.09.19 19:20:08 -04'00' Title _____

For Office Use Only (do not write in this box)

Date Accepted and Filed _____ Filing Fee \$ _____

Scheduled Dates: Planning Commission: _____

 Zoning Hearing Board: _____

Date Received: _____ Zoning Officer Signature: _____

B. Variance

Purpose and Applicability: A variance is relief from a specific provision of the Zoning Ordinance. Zoning Ordinance requirements apply across an entire district. Because each individual property is unique, it is possible that a specific Zoning Ordinance requirement could impact a property in an unequal, unfair or arbitrary manner, i.e. in a way different from other properties in the district. If the Zoning Ordinance imposes an "unnecessary hardship" on the property, as determined by the following five specific criteria, the Zoning Board is permitted to grant a variance.

Please answer the following questions regarding the property:

1. Yes No There are unique or peculiar physical circumstances or conditions including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property, and the unnecessary hardship is due to such conditions, and not the circumstances or conditions generally created by the provisions of the Ordinance in question that are not shared by other properties in the vicinity.

Describe why the property is different from the other properties in the district:

The location of the property is adjacent to general commercial properties, including a bed and breakfast, and is located on a street which has many commercial businesses.

2. Yes No That because of such unique or peculiar physical conditions, there is no possibility that the involved property can be developed in strict conformity with the provisions of this ordinance, and that the authorization of a variance is necessary to enable reasonable use of the property:

Describe why the property cannot be used in conformity with the Ordinance:

Because the property is on a busy road, it is less attractive to owner residents. Also, because of the great walkability and proximity to tourist attractions, restaurants, and commercial properties, its ideal for use as a vacation rental.

3. Yes No That such unnecessary hardship has not been created by the applicant:

Describe how the hardship was created:

The property has been in use as a non-owner occupied property. The applicant would like to expand that use to vacation rentals.

4. Yes No That the variance requested, if granted, will not alter the essential character of the neighborhood or district in which the property is located, nor substantially or permanently impair the appropriate use or development of adjacent property, nor be detrimental for public welfare.

Describe how the variance will impact the neighborhood:

- 1) It is located across from an existing Bed and Breakfast and tourist attraction.
- 2) It is adjacent to GC zoned properties.
- 3) It sits very close to Buford Ave, making it unattractive for a owner/resident to purchase.
- 4) It supports the tourist industry in Gettysburg by providing additional vacation units.
- 5) The property will not be modified in any way that would change the character of the unit.
- 6) The property will be better maintained than it was by tenants, making it more visually appealing.

5. Yes No That the variance requested represents the minimum variance that will afford relief and will represent the least modification possible of the Ordinance:

Describe why this is the least possible modification to the Ordinance:

We are requesting a variance to use as vacation rental because we want to comply with Gettysburg ordinances.

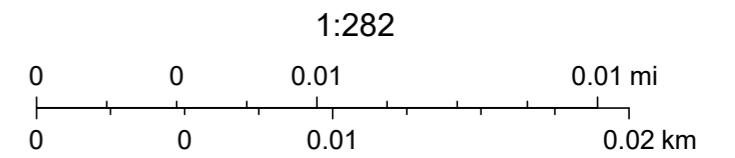
Unless the answer is "Yes" to ALL of the above, and evidence in the form of testimony or documentation is provided, the Zoning Board cannot grant a variance.

Adams County Tax Parcel Viewer Map



9/19/2022, 5:44:53 PM

- Address Points
- ▭ Parcel Boundary
- Road Centerline
- ▭ Municipal Boundary



Esri, HERE, Garmin, (c) OpenStreetMap contributors, and the GIS user community



Gettysburg

HISTORIC CROSSROADS

Gettysburg Planning Department
59 East High Street
Gettysburg, PA 17325
www.gettysburgpa.gov

To: Gettysburg Borough Zoning Hearing Board

From: Carly Marshall, Borough Planning Director
Zoning Officer

CC: Shari Niemann, DASH Pennsylvania Properties
Matt Teeter, Zoning Hearing Board Solicitor

Date: October 19, 2022

RE: ZHB-22003, 9 and 11 Buford Ave.
Variance Application
Vacation Rental in the R-2 Zoning District

The following memorandum provides background information regarding a request for a variance from the owner of the above-referenced property.

A. PROJECT INFORMATION

1. **Name of Project:** 9 and 11 Buford Ave., DASH Pennsylvania Properties
2. **Type of Project:** Variance
3. **Project Address:** 9 and 11 Buford Ave
4. **Tax Parcel Number:** 16007-0171D--000
16007-0171C--000
5. **Case Number:** ZHB-220003
6. **Zoning:** (R-2) Moderate Density Residential
(H) Historic District
(SEO) Streetscape Enhancement Overlay
(F) Floodplain
7. **Property Owner:** DASH Pennsylvania Properties LLC
2702 Dunmoore Dr.
Snellville, GA 30078
8. **Applicant:** DASH Pennsylvania Properties LLC
2702 Dunmoore Dr.
Snellville, GA 30078
9. **Submission Date:** A complete application was submitted to the Zoning Officer on October 11, 2022.
10. **MPC Timeline:**
 - The applicant was notified of the October 26 hearing date via phone conversation with the Zoning Officer on October 11, 2022 and via letter from the Zoning Hearing Board Solicitor dated October 11, 2022 and sent First Class Mail to the property owner's address of record.
 - The meeting was advertised in the Gettysburg Times on October 12 and October 19, 2022.

- The 4 adjacent property owners were notified via letter mailed first class on October 19, 2022.
 - The property was clearly posted with signs on October 19, 2022.
11. **Planning Commission Review:** The Gettysburg Planning Commission reviewed the application at their meeting on October 17, 2022 and provided their recommendation to the Zoning Hearing Board in a letter dated October 19, 2022.

B. BACKGROUND INFORMATION

1. Proposed Action.

The applicant requests the grant of a Variance from Section 27-502 of the Gettysburg Borough Zoning Ordinances. The property is located in the R-2 Moderate Density, SEO Streetscape Enhancement Overlay, H Historic, and F Floodplain Districts.

2. Site History.

The subject properties were subdivided in 2009, which separated the two halves of the duplex for 9 and 11 Buford Ave., created an access easement for both 9 and 11 Buford Ave through the 7 Buford Ave lot, and created a parking easement for 5, 7, and 9 Buford Ave in the rear of 11 Buford Ave.

Gettysburg Borough records indicate that the most recent uses of both properties were residential, which has definitively been the case since 2003 based on regulated rental records. The Borough has no record of prior commercial use at either address.

The properties were purchased by the current owner on July 13, 2022 and September 20, 2022, respectively.

3. Relevant Zoning Sections.

a) DEFINITIONS

VACATION RENTAL *A dwelling unit that is available for use or is used for short-term lodging, and where such lodging is provided for compensation, and where the dwelling unit is not concurrently occupied by the operator of the use.*
[Added by Ord. No. 1481-21, 10/12/2021]

SHORT-TERM LODGING *Any dwelling unit or portion thereof that is available for use or is used for transient lodging, and where such lodging is provided for compensation. Includes homestay and vacation rental uses as defined herein.*
[Added by Ord. No. 1481-21, 10/12/2021]

DWELLING UNIT (DU) *One or more rooms, with separate cooking and bath facilities, used or designed for use by one or more persons maintaining a common household, with access directly from outdoors or through a common entrance.*
[Amended by Ord. No. 1481-21, 10/12/2021]

b) PART 5 MODERATE DENSITY RESIDENTIAL DISTRICT (R2)

§ 27-501 Purpose.

The purpose of this Part is to provide for the development of certain areas of the Borough into residential neighborhoods permitting a variety of housing types.

27-502, 503 Uses Permitted.

Vacation Rental is not a use permitted by-right or by Special Exception in the Moderate Density Residential District.

c) PART 15 GENERAL AND SUPPLEMENTAL REGULATIONS

§ 27-1524 Additional Requirements for Certain Specific Principal Uses.

UU. Vacation Rental Use.

[Added by Ord. No. 1481-21, 10/12/2021]

- (1) The operator of a vacation rental use shall, at all times while the property is being used as a vacation rental, maintain a contact person/entity on record with the Borough within a fifteen-minute drive of the property. The contact person or entity must be available via telephone 24 hours per day, seven days per week, to respond to complaints regarding the vacation rental use.*
- (2) A written notice shall be conspicuously posted inside each vacation rental unit setting forth the name, address and telephone number of the contact person required herein. The notice shall also set forth the address of the vacation rental use, the maximum number of vehicles permitted to park on-site, and the day(s) established for garbage collection.*
- (3) Only one rental booking shall occur per dwelling unit per night. Multiple separate overnight accommodations in a single dwelling shall be prohibited.*
- (4) Food, drink, or meals shall not be provided for compensation.*
- (5) On-site advertising of a vacation rental use shall be limited to one sign with a maximum size of four square feet, and shall be prohibited outside the TC, GC, OT, HC and RO Districts.*
- (6) Any required exterior improvements to the building, such as those required to meet applicable fire safety requirements, shall be located to the rear of the building and shall not detract from the residential character of the building.*
- (7) The operator of a vacation rental use must demonstrate registration with the Adams County Treasurer's Office in compliance with County Ordinance No. 2 of 2018, as may be amended, for the payment of hotel room rental tax.*
- (8) [Revised September 12, 2022] A vacation rental use shall be limited to only one such use per each property, parcel or lot.*

d) ORDINANCE NO. 1481-21

An ordinance of the Borough Council of the Borough of Gettysburg, Adams County, Pennsylvania, amending the text of the Gettysburg Borough Zoning Ordinance, Chapter 27 of the Code of Ordinances of the Borough of Gettysburg, relative to the regulation of short-term lodging and updating regulations for lodging uses for the purpose of protecting the residential housing stock in the Borough of Gettysburg.

Adopted October 12, 2021

The relevant text related to vacation rental uses from this ordinance is included in the text language in parts a and c above. Ordinance No. 1481-21 was posted to the Borough's ECODE zoning website and linked on the Borough's online interactive zoning map.

e) ORDINANCE NO. 1484.22

An ordinance of the Borough Council of the Borough of Gettysburg, Adams County, Pennsylvania, amending the text of the Gettysburg Borough Zoning Ordinance, Chapter 27 of the Code of Ordinances of the Borough of Gettysburg, in order to revise and clarify certain definitions and to modify certain use regulations and requirements related to short-term lodging uses conducted within the Borough of Gettysburg.

Adopted September 12, 2022

The relevant text related to vacation rental uses from this ordinance is included in the text language in part c above. Ordinance No. 1484-22 has been posted to the Borough's ECODE zoning website.

f) PART 17 ZONING HEARING BOARD

§ 27-1704 Standards for Zoning Hearing Board Action.

In any instance where the Zoning Hearing Board is required to consider a special exception or variance in accordance with the provisions of this Part, the applicant shall provide evidence to allow the Board to, among other things, consider the following standards. The Board shall hear requests for variances where it is alleged that the provisions of this chapter inflict unnecessary hardship upon the applicant. The Board may, by rule, prescribe the form of application and may require preliminary application to the Zoning Officer. The Board may grant a variance, provided that all of the following findings are made where relevant in a given case:

A. For Variances:

- (1) That there are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property and that the unnecessary hardship is due to such conditions and not the circumstances or conditions generally created by the provisions of this chapter in the neighborhood or district in which the property is located.*
- (2) That, because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of this chapter and that the authorization of a variance is therefore necessary to enable the reasonable use of the property.*
- (3) That such unnecessary hardship has not been created by the appellant.*
- (4) That the variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, nor substantially or permanently impair the appropriate use or development of adjacent property, nor be detrimental to the public welfare.*
- (5) That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least modification possible of the regulation in issue.*
- (6) In granting any variance, the Board may attach such reasonable conditions and safeguards as it may deem necessary to implement the purposes of the Pennsylvania Municipalities Planning Code and this chapter.*



Gettysburg
HISTORIC CROSSROADS

Gettysburg Planning Department
59 East High Street
Gettysburg, PA 17325
www.gettysburgpa.gov

MEMO

To: Borough of Gettysburg Zoning Hearing Board
From: Carly Marshall, Director of Planning, Zoning and Code Enforcement
Date: October 19, 2022
Re: **Planning Commission Review**
ZHB-220003 DASH Pennsylvania Properties
9 & 11 Buford Ave.
Application for Variance from Section 27-502 to allow Vacation Rental uses at both properties at 9 and 11 Buford Ave.

At its meeting on Monday October 17, 2022 the Borough of Gettysburg Planning Commission reviewed the above-mentioned application to make recommendations, as required Per Section 27-1703 of the Borough Code of Ordinances which states, "All requests for variances and special exceptions will first be sent by the Board to the Gettysburg Planning Commission for review and recommendation."

The Planning Commission voted unanimously to recommend the denial of the request for a Variance pursuant to Section 27-502 in consideration the following:

1. The preservation of the housing stock in Gettysburg Borough.
2. The Borough recently reviewed lodging standards and made revisions that included further restricting vacation rentals to further reduce the loss of housing units to vacation rentals.
3. Vacation renters may not be aware of the risks of the location of the property in the Floodplain.
4. It is not clear from the application why long-term rentals are no longer viable in these properties.

Respectfully Submitted,

Carly Marshall, Zoning Officer