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**BEFORE THE ZONING HEARING BOARD OF CARROLL TOWNSHIP  
YORK COUNTY, PENNSYLVANIA**

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**IN RE:** :  
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**ANGELIQUE PORAGRATTI** : **Docket No.: 2024-005**  
*Applicant.* : **Hearing Date: May 28, 2024**  
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**FINAL DECISION**

**AND NOW**, this 28<sup>th</sup> day of May, 2024, after consideration and a hearing upon the application filed by Angelique Poragratti, pursuant to § 450-605.B, of the Zoning Officer's determination set forth in the April 1, 2024 enforcement notice, the Zoning Hearing Board of Carroll Township hereby affirms the determination of the Township Zoning Officer and denies this appeal, as set forth more fully herein:

**FINDINGS OF FACT**

1. Angelique Poragratti ("Applicant") and Ian Deane own and control the real property situate at 94 Logan Road, Dillsburg, PA 17019 (UPI #: 20-000-OC-0150.H0-00000) ("Property" or "94 Logan Road").
2. The Property is adjoined on its west side by 92 Logan Road, Dillsburg, PA 17019 (UPI #: 20-000-OC-0150.H0-00000) ("92 Logan Road"), which is currently owned by David and Amy Weaver (together, the "Neighbor").
3. There is a U-shaped driveway (with two access points off of Logan Road) that is currently located on both 92 and 94 Logan Road ("Driveway").
4. While the majority of the Driveway is situated on 92 Logan Road, a portion of the Driveway is located on the northwest portion of 94 Logan Road.
5. On or about November 13, 2023, Neighbor sold 94 Logan Road to the Applicant.
6. Prior to this sale of 94 Logan Road to the Applicant, both 92 and 94 Logan Road were under Neighbor's common ownership.

7. On April 1, 2024, the Zoning Officer of Carroll Township (“Zoning Officer Slatt”) issued an enforcement notice (“April 1<sup>st</sup> Enforcement Notice”) to Applicant because the Property was in violation of § 450-407.J of the Zoning Ordinance of Carroll Township (“Ordinance”).

8. Specifically, the April 1<sup>st</sup> Enforcement Notice communicated that driveways must be a minimum of three feet from a property line and that the Driveway was in violation of the Ordinance.

9. By application dated April 22 2024, Applicant submitted an application to the Zoning Hearing Board of Carroll Township (“Board”) appealing the Zoning Officer’s determination set forth in the April 1<sup>st</sup> Enforcement Notice (“Application”).

10. On May 28, 2024, the Board conducted a hearing on this Application (“Hearing”) at the Carroll Township Municipal Building located at 555 Chestnut Grove Road, Dillsburg, PA 17019.

11. Present at the hearing was Chairman Gary Reihart, Board Member Frank Setlak, and Alternate Board Member Linda Fiscus, together constituting a quorum of members that were able to attend the Hearing, participate in the proceeding, and vote on the Application.

12. At the beginning of the Hearing, Chairman Reihart appointed Alternate Member Fiscus to serve as a voting member for purposes of this Application.

13. The Applicant was represented at the Hearing in a legal capacity by Attorney Ronald L. Finck of the law firm Mette, Evans and Woodside.

14. The following individuals expressed the intention to become a party to this Hearing and/or were sworn in for the purpose of providing testimony:

- (a) Brandon Slatt (Zoning Officer), 555 Chestnut Grove Road, Dillsburg, PA 17019;
- (b) Angelique Poragratti, 2108 Cedar Run Drive, Camp Hill, PA 17011;
- (c) Ian Deane, 2 Cavan Crossing, Enola, PA 17025;
- (d) Amy Weaver, 92 Logan Road, Dillsburg, PA 17019; and
- (e) David Weaver, 92 Logan Road, Dillsburg, PA 17019.

15. The Neighbor was represented at the Hearing in a legal capacity by Attorney David R. Galloway, Esq. of Walters & Galloway, PLLC, who was permitted to cross-examine witnesses and present legal argument to the Board.

16. Once the above-referenced individuals were sworn in, Zoning Officer Slatt provided the following general testimony regarding the Application:

- (a) the Property was posted and notice was provided to the appropriate parties in accordance with the law;
- (b) the Hearing was advertised in accordance with the Ordinance; and
- (c) the application fee was paid by the Applicant.

17. Following this general testimony, Zoning Officer Slatt proceeded to provide the following testimony in relation to the April 1<sup>st</sup> Enforcement Notice:

- (a) Issuance of the April 1<sup>st</sup> Enforcement Notice occurred following a complaint that was filed by the Applicant regarding the Driveway;
- (b) Prior to the sale of 94 Logan Road, both 92 and 94 Logan Road were under common ownership;
- (c) Zoning Officer Slatt was not aware of this violation because this violation was not apparent: (i) the Ordinance does not prohibit more than one driveway being located on a property; and (ii) the property line separating 92 and 94 Logan Road was not discernable without having a survey conducted;
- (d) On January 11, 2024, there was a site meeting on the Property involving the Applicant, Mr. Deane, Applicant's professionals (*e.g.*, builder, engineer, and realtor), the Neighbor, and the Zoning Officer discussing the Driveway;
- (e) At this site meeting, the parties discussed the feasibility of reconfiguring the Driveway to include a turnaround;
- (f) While not required by the Ordinance, Neighbor would be permitted to construct a turnaround so long as this turnaround did not violate the three foot setback;
- (g) Zoning Officer Slatt sent enforcement notices to the property owners of both 92 and 94 Logan Road regarding the Driveway, since the Driveway is situated on both properties;
- (h) Zoning Officer Slatt was not aware of the easement agreement pertaining to the Driveway prior to the sale of 94 Logan Road;
- (i) To legally install a U-shaped driveway, such as the Driveway, a property owner would have needed to obtain a zoning permit, an additional driveway permit, and a stormwater permit;
- (j) The Township has not issued any of the above-referenced permits for a Driveway on 94 Logan Road; and
- (k) The three foot setback requirement imposed by the Ordinance has been in existence and pre-dates the Driveway.

18. Following Zoning Officer Slatt's testimony, the Applicant called Angelique Poragratti as a witness, who provided the following relevant testimony:

- (a) Applicant purchased 94 Logan Road from the Neighbor in November of 2023;

- (b) At the time of the sale, Applicant was aware of the Driveway (and the shared driveway situation), but Applicant was not aware that the Driveway violated the Ordinance;
- (c) Applicant was provided with a copy of Appellant's Exhibit B prior to closing, but Applicant was not aware of any recorded easement agreement regarding the Driveway;
- (d) Applicant did not receive a copy of the easement agreement until January of 2024;
- (e) Once Applicant became aware that the Driveway violated the Ordinance, Applicant proposed an alternate arrangement where the Neighbor would retain certain easement access rights to 94 Logan Road but the shared Driveway would be separated;
- (f) Neighbor refused this proposal;
- (g) Applicant intended to start construction as soon as possible after closing on 94 Logan Road;
- (h) This issue with the Driveway has prevented Applicant from being able to go forward with construction of a new home on 94 Logan Road;
- (i) Applicant's builder is willing to remove the relevant portions of the Driveway, and Applicant is willing to pay for the removal of the Driveway located on 94 Logan Road;
- (j) The Neighbor has communicated the intent to sue the Applicant if the Applicant removes any portion of the Driveway;
- (k) and
- (l) The Neighbor has offered to buy back 94 Logan Road from the Applicant, which was rejected by Applicant.

19. After Ms. Poragratti's testimony, the Board concluded the testimony in this Hearing and provided an opportunity for Applicant and Neighbor's counsel to present legal arguments.

20. After legal arguments, a motion was made and seconded to recess the Hearing to hold an executive session for the purpose of quasi-judicial deliberations.

21. The Board accepted the following exhibits into the record:
- (a) Appellant Exhibit 1 – Drawing of proposed shared driveway (prior to sale of 94 Logan Road);
  - (b) Appellant Exhibit 2 – “Plan of Easement” prepared by Todd Lyons of Lexis Group;
  - (c) Appellant Exhibit 3 – Access Easement and Maintenance Agreement;
  - (d) Appellant Exhibit 4 – Drawing of revised proposal (post-sale of 94 Logan Road); and

- (e) Appellant Exhibit 5 – April 4, 202[4] correspondence from Attorney Galloway.

### CONCLUSIONS OF LAW

22. Pursuant to § 450-407.J of the Ordinance, a driveway may not be located within three feet of a property line.

23. The Zoning Officer's testimony was sufficient to establish the existence of a violation of § 450-407.J on the Property.

24. There is an existing driveway on the Property that is within three feet of a property boundary line, and as such, violates the Ordinance.

25. Applicant acknowledges the existence of a driveway on the Property, but argues that the Driveway does not belong to the Applicant.

26. Correspondingly, Applicant argues that because the Driveway does not belong to the Applicant, neither does the violation.

27. For purposes of this appeal, it is inapposite that Applicant did not install the Driveway, does not control the Driveway, does not want the Driveway, or wishes to have the Driveway removed.

28. Rather, what is salient is the existence of a driveway that is located on the Property (owned by the Applicant) which is within three feet of the property boundary line.

29. For these reasons, Applicant's request for a variance from § 450-407.J of the Ordinance is denied.

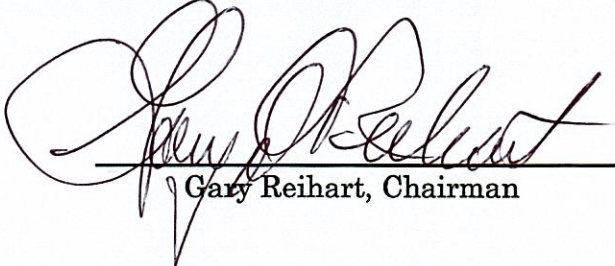
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A motion was made by Frank Setlak, and seconded by Linda Fiscus, to deny the Applicant's appeal from the April 1, 2024 enforcement notice of the Township's Zoning Officer issued upon the property owners of 94 Logan Road, Dillsburg, PA 17019 for violating § 450-407 of the Carroll Township Zoning Ordinance by installing a driveway without the necessary permits and within the applicable setback.

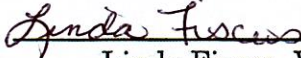
A roll call vote was called. Frank Setlak and Linda Fiscus voted in favor of the motion, while Gary Reihart voted against the motion.

Accordingly, the motion to deny the appeal passed with a 2-1 vote.

**BOARD SIGNATURES:**

  
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Gary Reihart, Chairman

  
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Frank Setlak, Secretary

  
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Linda Fiscus, Voting Member

Dated: May 28, 2024

Date of Mailing: 7-8-24

**Note:** Any party aggrieved by this decision may appeal to the Court of Common Pleas of York County within thirty (30) days of the date of this written decision.