

**TOWNSHIP OF DERRY
ZONING HEARING BOARD MEETING MINUTES
November 14, 2018**

CALL TO ORDER

The November 14, 2018 meeting of the Township of Derry Zoning Hearing Board was called to order at 6:00 p.m. by Chairman Michael Kushner in the Meeting Room of the Derry Township Municipal Complex, 600 Clearwater Road, Hershey, PA 17033.

ROLL CALL

Board members in attendance: Chairman Michael Kushner; Vice Chairman Steve Moniak; Member Sandra Ballard; Member Philip Wood

Board members absent: Secretary Matthew Luttrell

Also Present: Megan Huff, Solicitor to the Board; Brandon Williams, Assistant Director of Community Development; Diane Smith, Court Reporter; Tracy Telesha, Stenographer

Public Registering Attendance: Kathy and Steve Seidl, 450 W. Granada Ave.; Rachelle O'Brien, 142 W. Caracas Ave.; David and Jan Sassaman, 146 W. Caracas Ave.; Shala Palgur, 138 W. Caracas Ave.; Abe Brandt, Jr., 139 W. Caracas Ave.; Angelia Chen; 126 W. Caracas Ave.

APPROVAL OF MINUTES

On a motion by Member Wood, seconded by Vice Chairman Moniak, and a unanimous vote, the October 17, 2018 minutes were approved as written.

OLD BUSINESS

None.

NEW BUSINESS

**A. Hearing in the Case of Rachelle and Kevin O'Brien (2018-14)
Property location: 142 West Caracas Avenue, Hershey**

This property, located in the Hershey Mixed Use and Downtown Core Overlay zoning districts, is improved with a single-family dwelling. The applicants are proposing to establish a short-term rental (specialty) home. Relief is sought from setback requirements for a specialty home.

Rachelle O'Brien was sworn in and gave testimony.

Mrs. O'Brien stated that due to the narrowness of the lot (40 feet wide), maintaining a 25-foot setback distance from adjacent buildings is impossible. The home as it is situated is 16 feet, 8 inches from the property line on the east side and 16 feet, 10 inches from the property line on

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the west side. Mrs. O'Brien added that if an owner were to follow the Township's requirements for Specialty Homes, less than 1% of the properties would be able to comply.

Mrs. O'Brien stated that she and her husband bought the property in July 2018 with the intention of using it as an income-generating property. Until recently, she had the property listed on Airbnb.com as a short-term rental, targeting tourists. The only issue was one noisy renter. The rental policy had been amended after that incident to include a quiet time after 10:00 p.m.

Vice Chairman Moniak questioned whether the applicant intended to use any other vacation rental websites. Mrs. O'Brien stated that she intended to use only Airbnb.com, as she prefers the vetting process for the renter as well as the community of those who support the site. The users of the site are predominantly families on vacation.

Vice Chairman Moniak also questioned how noise issues will be handled in the future. Mrs. O'Brien replied that the Airbnb contract will outline the house rules, including a quiet time after 10:00 p.m. Failure to comply will result in termination of the rental contract and a poor mark for the renter on Airbnb.com, which will make it difficult for the renter to reserve vacation properties in the future. Mrs. O'Brien added that all adjacent neighbors have her phone number and she encourages them to call if there are any issues. Permission was also given to contact the police if need be.

Member Ballard asked if the O'Briens had spoken with the Township about the possibility of using the property as a short-term rental. Mrs. O'Brien replied that she did talk to Brandon Williams and was told that the Zoning Ordinance would permit Specialty Homes as a conditional use on this property, and that part of the requirements of the conditional use required the 25-foot setback from adjoining properties and separate parking facilities for the use. Mrs. O'Brien indicated that Mr. Williams also mentioned the Township was in process of considering an Ordinance amendment and that there was a possibility that the 25-foot setback requirement could change, as well as other requirements for the use. Ms. O'Brien acknowledged her understanding that the changes to the Ordinance were not certain and that they decided to begin using the property as a specialty home prior to the Township finalizing any possible ordinance change. Upon receiving notice from the Township, Mrs. O'Brien indicated that application was filed to begin the approval process to make the specialty home use lawful under the current Zoning Ordinance requirements.

PUBLIC COMMENT

Jan Sassaman, adjacent neighbor, voiced her concerns that the transient nature of the proposed use will detract from the community neighborhood feel. She also had concerns about parking and possible noise.

David Sassaman, adjacent neighbor, added that the deck on the property comes within a foot or two of the property line. He is concerned about noise and privacy when the renters would be using the deck/patio area.

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Kathy Seidl is concerned about the increasing commercial infringement on residential areas.

Abram Brandt is concerned about the illegal use of the property by a non-resident. He does not want the 25-foot minimum setback to be changed.

Shala Pulgar stated that her mother, who lives adjacent to the subject property, has used the Airbnb service for rooms in her home in the past. Ms. Pulgar stated that she would prefer the option of a short-term noisy renter rather than a longer term traditional tenant who could also be loud or disruptive. Ms. Pulgar shared that her experience with Airbnb has been positive, adding that the service offers recourse against renters who do not follow the house rules. Also, owners of short-term rentals tend to be more responsive in making safety and aesthetic upgrades to the properties due to the feedback/word of mouth nature of Airbnb.

Steve Seidl believes structures such as patios and decks should be taken into consideration for short-term rental use requirements due to noise and privacy issues. He is concerned about the precedent that could be made if the requested relief is granted, as it could allow more commercial properties in residential areas.

Angelia Chen supports the new commercial developments in the area and is accustomed to living amongst commercial businesses. She sees the proposed use as a positive along with the changes that are making the community more walkable with the new nearby restaurants and services.

Mrs. O'Brien thanked everyone for their comments and stated that it is her desire to create an authentic experience for out-of-town visitors.

Chairman Kushner informed the applicant that the Board has 45 days to render a decision and if the applicant is aggrieved in any way, they have 30 days to appeal the decision.

The hearing closed at 7:30 p.m.

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DELIBERATION

The Board met to deliberate in the case of Rachelle and Kevin O'Brien (2018-14) and directed the Solicitor to prepare the draft decision for formal action at the December 2018 meeting.

Submitted by:

Matthew Luttrell, Secretary