

TOWNSHIP OF DERRY
ZONING HEARING BOARD MEETING MINUTES
August 21, 2019

CALL TO ORDER

The August 21, 2019 meeting of the Township of Derry Zoning Hearing Board was called to order at 6:00 p.m. by Chairman Steve Moniak in the Meeting Room of the Derry Township Municipal Complex – Administration Building, 600 Clearwater Road, Hershey, PA 17033.

ROLL CALL

Board members in attendance: Chairman Steve Moniak; Vice Chairman Matthew Luttrell; Member Dean Morgan, Member Lindsay Drew

Board member absent: Secretary Sandra Ballard

Also Present: Megan Huff, Solicitor to the Board; Chuck Emerick, Director of Community Development; Diane Foltz, Court Reporter; Tracy Telesha, Stenographer

Public Registering Attendance: Brian Peda, 998 Greenlea Road, Hershey; Kim Szekeres, 512 Maple Avenue, Hershey; Cecil McQuain, 308 Laurel Drive, Hershey

APPROVAL OF MINUTES

On a motion by Vice Chairman Luttrell, seconded by Chairman Moniak, and a majority vote, the July 17, 2019 minutes were approved as written. Member Drew abstained from voting due to absence.

OLD BUSINESS

A. Adoption of Decision in the Case of Brian Peda (2019-10)
Property location: 998 Greenlea Road, Hershey

On a motion made by Vice Chairman Luttrell, seconded by Chairman Moniak, and a majority vote, the decision was adopted as written. Member Drew abstained from voting due to absence.

NEW BUSINESS

A. Hearing in the Case of Cecil McQuain (2019-11)
Property location: 1419 Shopes Church Road, Hummelstown

This property, located in the Conservation zoning district, is improved with a single-family detached dwelling. The applicant is appealing the Zoning Officer's determination regarding the use of the dwelling as a Bed and Breakfast Home versus a Specialty Home.

Cecil McQuain was sworn in and gave testimony. Mr. McQuain has used this property as personal office space in the lower level and rented the main level through Airbnb.com since

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July 2018. Mr. McQuain stated that his understanding of the Zoning Ordinance language is that the property must be owner-occupied, which he believes to mean that his occupation of the office space satisfies that requirement. Mr. McQuain did confirm that he does not reside on the property.

Chairman Moniak questioned why the action to appeal the Zoning Officer's determination was not taken during the 30-day appeal period. Mr. McQuain replied that he was confused about when that appeal period began.

Chuck Emerick clarified that in the Conservation zoning district, a Bed and Breakfast Home is a permitted use; however, the owner or manager must reside on the property. Mr. Emerick added that the advertisement listing for the property describes the property as having three bedrooms, a fully equipped kitchen, and can accommodate up to ten guests. Mr. Emerick stated that the property features a well and septic system designed for a 2-3 bedroom house containing 6 people. Mr. Emerick explained that the current use of the property is considered a Specialty Home, which is classified as a short-term rental of less than 30 days.

Mr. McQuain stated that he pays for all utilities and uses the dwelling as a satellite office space for personal use to conduct business while working for his employer.

Vice Chairman Luttrell asked whether breakfast is served to Mr. McQuain's guests or if the guests have use of the kitchen to prepare their own meals. Mr. McQuain confirmed that no meals are prepared; however, guests are free to use the kitchen to cook.

Member Morgan questioned whether any areas of the dwelling are excluded from guest use. Mr. McQuain replied that the basement, which is his personal office space, is not accessible to the guests.

Member Drew asked what estimated percentage of utility use is his. Mr. McQuain stated that about 80% of the utilities are for his personal use of the dwelling/office space.

Chairman Moniak inquired whether Mr. McQuain has used any other online service to rent the dwelling. Mr. McQuain stated that he has used Airbnb.com exclusively and will continue to do so.

Member Drew questioned whether Mr. McQuain was still accepting reservations. Mr. McQuain replied that although the listing is still "live", the feature to book new reservations is disabled.

Member Morgan asked how many guests have stayed at the property since Mr. McQuain received the Zoning Officer's determination letter. Mr. McQuain stated that he had 10 guests who had already booked the property prior to receipt of the letter.

No other person offered testimony.

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Chairman Moniak 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.

B. Hearing in the Case of Kelly L. Kovach (2019-12)
Property location: 504 Maple Avenue, Hershey

This property, located in the Hershey Mixed Use zoning district, is improved with a single-family detached dwelling. The applicant is proposing to expand an existing patio. Relief is sought from side yard setback requirements.

Kelly Kovach was sworn in and gave testimony. Ms. Kovach stated that she would like to extend an existing small patio using paving blocks. The existing patio is 3 feet, 3 inches by 35 feet. Ms. Kovach is proposing to increase it to 6 feet by 35 feet. Increasing the patio would allow her to create a small seating area to better enjoy her home.

Ms. Kovach stated that her property is narrow and there is an existing fence that is 1.5 feet from the property line.

Vice Chairman Luttrell asked whether any structure would be built on this patio. Ms. Kovach replied that there will be no structure and the patio will be built at grade.

Chairman Moniak questioned whether the neighbors had been informed about the proposed plan. Ms. Kovach replied that she did speak with the adjoining neighbor and she is supportive of the plan.

PUBLIC COMMENT

Kim Szekeres, 512 Maple Avenue, stated that she does not feel expansion of the patio will impede her enjoyment of her property.

No other person offered testimony.

Chairman Moniak 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.

Hearings closed at 7:10 p.m.

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DELIBERATIONS

The Board met to deliberate in the cases of Cecil McQuain (2019-11) and Kelly L. Kovach (2019-12) and directed the Solicitor to prepare the draft decisions on each case for formal action at the September 2019 meeting.

Submitted by:

Sandra Ballard, Secretary