

TOWNSHIP OF DERRY
ZONING HEARING BOARD MEETING MINUTES
June 17, 2020

CALL TO ORDER

The Wednesday, June 17, 2020 Derry Township Zoning Hearing Board meeting, which was conducted via video conference (Zoom Webinar) due to COVID-19, was called to order at 6:00 p.m. by Vice Chairwoman Sandy Ballard.

ROLL CALL

Board members in attendance (*via video conference*): Vice Chairwoman Sandy Ballard; Secretary Dean Morgan; Member Steve Seidl; Member Lindsay Drew; Member Michael Angello

Board members absent: None

Also present (*via video conference*): Megan Huff, Solicitor to the Board; Chuck Emerick, Director of Community Development; David Habig, Assistant Director of Community Development; Maria O'Donnell, Court Reporter; Tracy Telesha, Stenographer

Public attendance (*via video conference*): Karen Pearson, 938 Hillside Ave., Elizabethtown; Brian Link, 230 West Areba Ave., Hershey; Sandy Long, 1807 Lehman St., Hershey; Melissa Mattison, 236 West Areba Ave., Hershey

APPROVAL OF MINUTES

On a motion by Member Drew, seconded by Member Seidl, and a majority vote, the May 20, 2020 minutes were approved as written. Member Angello abstained from voting because he was not present at the May meeting.

OLD BUSINESS

A. Adoption of Decision in the Case of Cacao Way, LLC (2020-05)
Property location: 50 Northeast Drive, Hershey

David Habig read the terms of the decision into the record as follows:

“AND NOW, this 17th day of June, 2020:

- 1. The applicant's request for a variance from §225-1007.9.C. is GRANTED in part and DENIED in part. The relief granted by the Board on June 19, 2019, shall remain viable for one additional year, that is, until June 19, 2021.*
- 2. All other terms, conditions, and limitations set forth in the decision of June 19, 2019, shall remain in full force and effect and are incorporated herein by reference.*

TOWNSHIP OF DERRY
ZONING HEARING BOARD MEETING MINUTES
June 17, 2020

Adopted by 4 – 0 vote as indicated by the Vice Chairwoman’s signature as authorized by the Zoning Hearing Board.”

On a motion by Member Seidl, seconded by Secretary Morgan, and a majority vote, the decision was adopted as written. Member Angello abstained from voting because he was not present for the hearing in this matter.

NEW BUSINESS

A. Hearing in the Case of Karen Pearson (2020-04)
Property location: 113 North Lingle Avenue, Hershey

This property, located in the Palmdale Mixed Use zoning district, is improved with a single-family detached dwelling. The applicant was granted a special exception by the Zoning Hearing Board on June 19, 2019 to operate a Bed & Breakfast Home on the property. The applicant now desires to change the terms of operation of the Bed & Breakfast Home.

Karen Pearson and Chuck Emerick, Director of Community Development, were sworn in and gave testimony.

Ms. Pearson stated that she received a violation letter dated February 18, 2020 due to a change in management on her property. Ms. Pearson stated that due to the increased caretaking needs of her parents and the increase of size of her family, she can no longer be a live-in manager on the property. Ms. Pearson has moved back to her primary residence and has contracted with her mother-in-law to serve as the new live-in manager of the Bed & Breakfast Home known as Semi Suite Life.

Mr. Emerick stated that according to listings on vacation home rental websites, the listing reads more like a short-term rental due to access to the cooking facilities by the guests. When the plan was originally presented to the Zoning Hearing Board, it was as a Bed & Breakfast Home and not a short-term rental, which is not permitted in the Palmdale Mixed Use zoning district.

Ms. Pearson stated that her understanding of the Zoning Ordinance was that the rooms should not each have a cooking facility contained in them. She noted that other Bed & Breakfast Homes in the area rent the bedrooms and permit access to the rest of the home. After speaking with the managers of the other properties, she learned that they permit access to the kitchen area, with the exception of the stove/oven, unless previous arrangements have been made. She further clarified that the website that she primarily uses, AirBNB, only allows for three options, those being (1) Full house, (2) Single Room, or (3) Shared Room.

Secretary Morgan questioned what steps are taken to prohibit use of the stove/oven by guests. Ms. Pearson explained that she has since removed the use of the stove/oven from the AirBNB ad and the restrictions on use are outlined in the house rules agreement. The stove/oven

TOWNSHIP OF DERRY
ZONING HEARING BOARD MEETING MINUTES
June 17, 2020

cannot be removed due to the live-in manager needing access to it for personal cooking and breakfast preparation.

Member Drew questioned whether it was a requirement for the owner to notify the Township in the event of a change from owner-occupied to live-in manager. Member Drew further stated that she had heard the original case and understood the approval to cover either owner-occupied or a live-in manager.

Secretary Morgan questioned if Township staff would have sent a violation letter if they had known the property had a live-in manager. Mr. Emerick stated he believed the spirit of the relief granted in the original hearing was to allow an owner-occupied Bed & Breakfast Home.

Member Seidl asked if Ms. Pearson rents out single rooms to unrelated parties. Ms. Pearson stated that the entire house is only rented to one party due to shared bathrooms. Her intention is to rent to family groups on vacation.

Ms. Pearson added that the original order stated that the property would be marketed to families as a whole property as opposed to individual rooms. Ms. Pearson stated that in her research, three out of five Bed & Breakfast Homes in the area are owner-occupied.

PUBLIC COMMENT

Brian Link, 230 West Areba Avenue, questioned the nature of the violation.

Mr. Emerick replied the violation was for operating a Short-Term Rental rather than the approved Bed & Breakfast Home.

Sandy Long, 1807 Lehman Street, stated that she has had to ask guests on the property to turn down the volume of music at night. Ms. Long also doubts that there is a live-in manager.

Ms. Pearson stated that she was aware of the noise issue that occurred prior to 10:00 p.m. and she spoke with her guests and rectified the situation. Ms. Pearson added that she has security cameras installed throughout the property that can be monitored at any time.

Member Seidl questioned when the property was first advertised as being available for rent and when the first guests stayed at the property.

Ms. Pearson answered that she advertised on AirBNB on June 6, 2019 and the first guest stayed at the end of June 2019.

Member Seidl asked whether Ms. Pearson lived on the premises at that time. Ms. Pearson stated that she lived there and has always either been at the property herself or had a live-in manager on premise any time the house was rented.

No other person offered testimony.

TOWNSHIP OF DERRY
ZONING HEARING BOARD MEETING MINUTES
June 17, 2020

Vice Chairwoman Ballard 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 Melissa Mattison (2020-06)
Property location: 236 West Areba 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 construct a detached garage. Relief is sought from the minimum front yard setback requirements for an accessory structure.

Melissa Mattison and Brian Link, 230 West Areba Avenue, were sworn in and gave testimony.

Megan Huff, Solicitor for the Zoning Hearing Board, stated that her firm had previous business interaction involving real estate transactions at the bank Ms. Mattison is employed by. Ms. Huff stated that she sees no conflict of interest in this case.

On a motion by Secretary Morgan, seconded by Member Drew, and a unanimous vote, the Zoning Hearing Board agreed to allow Megan Huff to perform her duties related to this case.

Ms. Mattison stated that she would like to construct a 24-foot by 24-foot garage. Due to her property being a corner lot, the setbacks are larger than typical side yards. Ms. Mattison's proposed garage will encroach into the setback by four feet.

Mr. Link added that Ms. Mattison's property is already narrow and with the corner lot classifying as a dual front yard, the building envelope would only allow a 20-foot garage, which is not standard and not easily useable.

Secretary Morgan questioned if Mr. Link is a neighbor and if the proposed structure would be in keeping with the rest of the neighborhood. Mr. Link stated that he is the adjacent neighbor and there are other similar garages located in similar positions and it is common in the neighborhood.

No other person offered testimony.

Vice Chairwoman Ballard 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 7:45 p.m.

TOWNSHIP OF DERRY
ZONING HEARING BOARD MEETING MINUTES
June 17, 2020

DELIBERATIONS

The Board met to deliberate in the cases of Karen Pearson (2020-04) and Melissa Mattison (2020-06) and directed the Solicitor to prepare the draft decisions on each case for formal action at the July 2020 meeting.

Submitted by:

Dean Morgan, Secretary