

Dover Township  
Zoning Hearing Board  
November 17, 2021

Chairman Jane Ginter called the meeting to order at 7 p.m. Members present: Steve Barkdoll, Phillip Brown, Robert Wright, and Richard Pope. Also present: Zoning Officer John McLucas, Solicitor Mike Craley, Stenographer Sherry Reitano, Recording Secretary, and literally a roomful and a hallwayful of citizens.

**I. Minutes**

**Motion** by Wright, second by Pope, to approve the minutes of the meetings of September 15 and October 20, 2021. All members voted aye; motion carried.

**II. Zoning Cases**

A. ZHB 21-2 -- Lloyd and Josie Kroft, property at 3601 Admire Road; appeal from decision of Zoning Officer OR request for Special exception for a “use not provided.”

Attorney John Elliott was present on behalf of the applicants. He and the applicants were sworn in, along with the Zoning Officer. No one in the audience was sworn in for purposes of offering testimony.

The applicants would like to offer this property as a short-term vacation rental. They are appealing the Zoning Officer’s determination that this is not a permitted use. Attorney Elliott states that where the ordinance doesn’t specifically prohibit this use, and as the home is being used as a single-family dwelling, this is a permitted use. Alternatively, the applicants are requesting a Special Exception for a use not provided.

Mr. Kroft, 3611 Admire Road, answered questions from Attorney Elliott. The Krofts purchased the 3601 Admire Road property in June of 2020. The applicants would like to use the property as a single family residential rental property. They would like to target the wedding venue nearby to provide quarters for guests to rent for a weekend. Currently, the property is vacant, but their son uses the residence when he comes home from the Marines. The applicants would like to offer the property for rental when their son is not at home. Who would rent? Families, couples, etc. The wedding venue has provided a letter in support of the applicants’ proposal. The letter was marked as Applicants’ Exhibit 1. Length of rentals? A few days to a week. Mr. Kroft noted that this property is located right in front of their residence; their driveway goes right beside the property in question, so they would be quite aware of any tenants and activities. The applicants intend to place stipulations: maximum of six people, no large gatherings, no parties, etc. Will there be any signs? No. Maximum length of any stay? Two weeks?

Attorney Elliott discussed two Commonwealth Court cases, in which the court ruled that renting a home for short-term vacation rentals needs no special approvals from the Township or the Zoning Hearing Board. It’s just like a regular, normal single-family home. Attorney Craley asserted that these two cases have been overruled by the Supreme Court.

How will the Krofts manage the scheduling of any rentals with the appearance of their son? They know in advance when he is to be home, so they would not book any rentals during that time.

They would like to offer the property for rent for executives and travelling medical staff; those rentals might extend to a month. There are three bedrooms; six people maximum. There would be one group at a time; no overlap of renters. The applicants will have contracts for each group/rental. It was noted that there is no inspection of rentals of this nature.

How do the neighbors feel about this idea? Very supportive thus far.

Driveway will hold six cars. There will be no on-street parking, nor will any renters' vehicles interfere with the neighbors.

From the audience, Gina Myers asked about signs. No signs.

Mr. McLucas spoke, outlining the nature of this appeal. Short-term rentals/stays have been problematic in other areas of the Township. The appeal was originally if it's a no-impact home-based business. He found that it is not that type of business. The original application was amended to a "use not specifically provided." The intent behind this application is transitory occupancy. He disagrees that this is the same as any other single-family home.

Attorney Elliott feels that because this application doesn't fit into any specific ordinance provision, there could be no enforcement of any violation. There was a discussion of the case law that might apply to this application.

It would be a single family home when the son is there, yet it will change to a transitory use when he's not there. Mr. McLucas feels that they would just keep changing the use depending on who's living or staying there.

Why not just ask for a Special Exception for a bed and breakfast? No meals are offered, and it's not owner-occupied, so they don't meet the requirements for that special exception use.

It was noted that the son's mailing address is still the parents' home at 3611 Admire Road. Does the son assist in operating the property as an air bnb? Yes. He mows the grass, etc., when he is home.

Not a no-impact home-based business. Rooming house not permitted in this district. Not a bed and breakfast. However, if the son is assisting with the maintenance of the use, Mr. McLucas could accept that... under the "use not provided" section. But the son does not own the house. The parents are not intending to live in the house at the same time as a rental party. Nor will the son.

On the Special Exception, how is it a "use not provided for" in the ordinance? The Board of Supervisors is considering adopting an ordinance relative to this use. No use in the ordinance applies to this case. From Attorney Craley, how is this use, as transitory, not provided for, when a person could stay in a bed and breakfast or rooming house or hotel?

From Mr. Barkdoll, it's nice to stay in a house, especially for a week, with a kitchen, which is what the Krofts are offering.

Mr. Brown feels that where the ordinance doesn't forbid the use, but it doesn't say that it *can* be done, there's a kind of limbo. He also thought it was telling that no neighbors showed up to speak against the proposal tonight. Attorney Craley noted that when convenience stores first developed, there was nothing in the ordinance to govern or classify that use. There are always early cases under which the Zoning Hearing Board must try to fit in ... or not.

Mr. McLucas understands that this is a new use, which is why the Township is developing a planning document to govern it.

It was noted that the Krofts have never lived in this particular property.

The Planning Commission unanimously recommended approval of the Special Exception, under the provision that it's a "use not provided for" under Section 27-304 in this district but the use is similar to the bed and breakfast, which is permitted in this district.

Hearing closed.

**Ruling: Motion** by Brown, second by Pope, to *overturn* the decision of the Zoning Officer and permit this use by Lloyd and Josie Kroft in a single-family dwelling in this zone at 3601 Admire Road. All members voted aye; motion carried.

Attorney Elliott agreed that there is no need to proceed with the Special Exception.

B. ZHB 21-3 – Enel/Dover Solar I, LLC; Request for Special Exception for Principal Solar Energy System on various parcels in the Ag, Industrial, and R1 Zoning Districts; parcels include lands of D&D Bismark Partnership, Lamparter, Fissel, and Glen-Gery Corporation.

Attorney Craley reported that this case will be continued tonight due to the incredible number of people in attendance. The meeting will be held on December 15 at a larger venue/building; notices will be sent to inform the public of the new location. This will assure all in attendance the opportunity to see/hear/speak. Attorney David Jones concurred with the decision to continue.

Attorney Jones presented Exhibit C and Schedule to Exhibit C that was amended; also a table of included properties was amended and entered into the record.

### **III. Other Business**

Motion by Wright, second by Pope, to adjourn. All members voted aye; motion carried. The meeting adjourned at 8:17 p.m.

Respectfully submitted,

Julie B. Maher,  
Recording Secretary