

Planning & Zoning Commission

March 21, 2019

The regularly scheduled meeting of the Planning & Zoning Commission was held at Town Hall on March 21, 2019. In attendance were Chairman Boyan, Commissioner Scholl, Commission Members Catellier, Wilson and Outten, Code Enforcement Officer Peek, Community Development Coordinator Hardin and Clerk of Council Fisher.

Guests: Chris Brown, Kyle Hughes, Doug Marshall and Lisa Baide.

Call to Order

Chairman Boyan called the meeting to order. The Commission performed the Pledge of Allegiance. He asked anyone who would be addressing the Commission to sign in at the podium and that anyone with a cell phone to either turn it off or put it in silent mode.

Approval of Minutes

Commission Member Wilson made a motion to approve the February, 2019 minutes as circulated. Commissioner Scholl seconded the motion which passed with 5 ayes and 0 absent.

New Business

Kyle Hughes- Heron Ponds Development, Use of 30626 Purple Finch Ct., as an Airbnb rental property, Delmar, MD

Commissioner Scholl informed everyone that he would be abstaining from discussion and voting on this agenda item since he not only lives in Heron Ponds but is also on the board of the Homeowners Association for Heron Ponds.

Mr. Hughes informed everyone that the address in question, 30626 Purple Finch Ct. is not part of the Homeowners Association in Heron Ponds. The property is located back by the pump station. Commissioner Scholl decided to abstain anyway.

Mr. Hughes said that they would like to use the Airbnb service for the Kylan rental property. It will be short term leases with lease agreements. He said that there are a lot of people who come to use Kylan Barn but don't really want to stay in a hotel. They would like for the families to stay together. It would be an ideal situation for the families to rent so they can all stay together.

Chairman Boyan said that there is nothing in our regulations specifically about short term rentals. Airbnb rentals are not usually for the month. Commission Member Wilson said that she thought 6 months to one year would be the typical rental stay. Mr. Hughes said that they would typically use Airbnb for weddings with the rental being for about a week and the Town's regulations say nothing about it. That is why he is here this evening.

Chairman Boyan said that there are a lot of Airbnb's out there. That there is even another one in Wood Creek. Community Development Coordinator Hardin informed the Commission that the Wood Creek rental is illegal since they have not applied for or

received a rental license. Chairman Boyan said that he has spoken with both Mayors and they are willing to listen to the agenda item. Airbnb does do their own background checks for both the renter and the property owner. He did have an issue with the possible noise coming from so many people at one location.

Mr. Hughes said that there is a lease agreement that speaks to noise levels. He said that he will not jeopardize his core business. Each party will have a lease and be responsible for a security deposit and there will be rules and regulations. There are not a lot of neighbors by this property.

CDC Hardin said that the house is situated in a cul-de-sac and is separate from the rest of the community. The property would have to be annually inspected as a rental and be in the books as such. Mr. Hughes suggested possibly the Town could place a room tax on the rental.

Chairman Boyan said that Airbnb and those type services is something that the Planning and Zoning Commission has planned on discussing in their workshops.

Property owner Doug Marshall asked what the difference is between a trailer park where the land is rented on a month to month basis and this. CDC Hardin stated that the trailer park is zoned correctly for what it is doing.

CDC Hardin said that while rentals are not specifically spelled out in the regulations it has been past practice that a rental is for a single family and is traditionally for long term rentals. The Administration is concerned with how it will affect the rest of the Community. He suggested to Mr. Hughes to contact and speak with some of the area residents and see how they feel about it. CDC Hardin stated that he is aware that a contract would be in place but the concern will be in the enforcement of the contract.

When asked about the rental application process, CDC Hardin said it has in the past been the practice for a rental license application to be filled out and then an inspection is conducted of the rental unit. The term "rental" is open for interpretation. With the precedent as it is, rentals have been for 6 months or longer. Commission Member Catellier stated that he thinks it is unfair to restrict the length of a rental agreement when those terms are not specifically restricted by Town ordinance, only by interpretation and precedent, as long as there is a proper rental agreement application on file with the Town.

Mr. Hughes said that he and his family will be living in the house most of the year. The rental of the home would more than likely just be a seasonal rental.

Mr. Hughes informed the Commission that he has been contacted by TLC and they are looking into a new show concept and is looking for a place where the production staff will stay. He stated that it was the recommendation from CDC Hardin to appear before the Planning and Zoning Commission.

Chairman Boyan said if the current rental application does not specify how long the rental is for then what prevents Mr. Hughes from just filling out an application and renting the house as Airbnb. CDC Hardin said that it is the interpretation being made through past precedent that currently only allows for “long term rentals”, such as six month, one year, two year rental agreements.

CDC Hardin said that the Planning and Zoning’s current Regulations do address a Bed and Breakfast which can exist in a Community Business District. It was stated that a B& B is basically a house operating as a hotel that rents out rooms, where this is a rental renting out the whole house.

Commission Members Wilson and Outten brought up and questioned the definition of family and residence. Commission Member Wilson stated that she would like the Commission to contact the Town Attorney to fast track revising the issue of zoning for this agenda item. CDC Hardin said that there is a process that must happen to change zoning and nothing about the process is fast. The zoning for each district defines what land uses can take place. Commission Member Outten said that this could be regulated by the current code. There is nothing in the regulations that is specific in reference to short term rentals.

Commission Member Catellier stated that he lives in Wood Creek where there are houses that rent from 6 months to a year. He said that it is very hard to get those people out. He believes it would be better, if there were problematic renters, to have renters for only a few days to a week.

Chairman Boyan stated that he does not believe that there is a cause for a variance for this agenda item. He agreed with Mr. Hughes that a room tax would be an incentive for the Town.

Motion for favorable recommendation to the Delmar Mayor and Commissioners to allow the property at 30626 Purple Finch Court, Heron Ponds, Delmar, MD to be utilized as an Airbnb property, noting that the intent of the term “Airbnb” is used to describe a short term rental property. The motion, with a notation of the fact that the rental application and the enforcement of single family rental properties in Delmar, MD does not specify the longevity terms of rental agreements, was made by Commission Member Catellier. The motion was seconded by Commission Member Outten and passed with 4 ayes and Commissioner Scholl abstaining from the vote.

Kyle Hughes- Variance or Special Exception Request for the use of vintage props for Kylan Barn in Heron Ponds, Delmar, MD

Mr. Hughes informed the Commission that there is an old tractor and a 1956 Chevy truck on the property which they use as props for photo opportunities. Neither vehicle is tagged because they are only used for props. He also said that Kylan Barn is zoned Highway Business. CDC Hardin informed the Commission that if these vehicles are not given a variance or special exception, they would fall under the abandoned vehicle regulations and would be susceptible to being fined and towed.

CDC Hardin said that a Variance would be heard by the Maryland Board of Zoning Appeals and is a quasi-legal Board of which the Town Attorney serves on.

Commission Member Catellier made a motion for favorable recommendation to the Mayor and Commissioners for a Variance request from Kylan Barns located at 30603 Dusty Lane in Heron Ponds, Delmar, MD for the approval of the vintage tractor and 1956 Chevy truck to be used as props for photo opportunities. Commissioner Scholl seconded the motion which passed with 5 ayes and 0 absent.

Lisa and Mauricio Baide- 11496 Buckingham Drive- Yorkshire Estates- Placement of a garden shed in the right side yard, Delmar, DE

Commission Member Wilson asked if Mrs. Baide had a letter of approval from the HOA for this shed. Mrs. Baide said that she did not.

CDC Hardin said that this shed is allowable in the rear yard but the concerns of the Administration is that the Baides' want the shed in the right side yard. Mrs. Baide said that she already has 2 other accessory structures in the rear yard; a paver patio and a fire pit.

Commission Member Catellier informed Mrs. Baide that the patio, which includes a hot tub, is technically an unauthorized accessory since it did not come before the Town for a permit and has not received any approval from the Town. There is also a small stone-ringed fire pit in the back yard that was not authorized.

There was some confusion on the size of shed the Baides' are asking approval for. Originally it was for a 14' by 14' shed which would have been too big for the yard. Tonight, their paperwork and building permit application indicates that they are asking approval for a 12' by 14' shed in the right side yard of their property. The accessory structures in the rear yard cannot take up more than 59% of the rear property. The shed along with the patio, fire pit and hot tub does take up room but the site plan provided by Mrs. Baide does not indicate the existing patio, hot tub, or the fire pit.

CDC Hardin said, typically, a shed is placed in the rear yard as opposed to the side yard. An accessory structure in the rear yard would have to be at least 5 ft. from the rear setbacks and 3 ft. from the side setbacks and not occupy more than 59% of the rear yard.

When asked why Mrs. Biade wanted the garden shed to be on the side of the house instead of the rear yard, she said that she did not want to block her view of the pond.

When asked why she had not requested approval from the Town for the patio, she said that when her contractor built the patio she assumed that he got whatever permits were needed. CDC Hardin stated that it is the homeowner's responsibility, not the contractor's, to make sure all approvals and permits are obtained.

Commission Member Catellier stated that the patio, hot tub and fire pit are not shown on the plans provided. He wants to be able to do a retroactive approval for the patio but needs a revised site plan that shows everything in the rear yard along with the proposed shed. The Commission stated that Mrs. Baide will also need a letter from the HOA stating that they are aware of and approve them placing the shed in the right side yard. Mrs. Biade will need to come back to the next Planning and Zoning Commission meeting with the revised site plan showing the proposed shed and all accessory structures in the rear yard along with the approval letter from the HOA. Mrs. Biade withdrew her application for this evening and will come back in April with all the required documents.

Chris Brown- Yorkshire Estates- New home build style #1918- 2 story, elevation A on Lot 17 located at 13402 Grace Lane, Delmar DE

Upon reviewing the documentation provided and hearing no questions, Commissioner Scholl made a motion to the Mayor and Council for the favorable recommendation for a new home build- home style # 1918- 2 story, elevation A on Lot 17 located at 13402 Grace Lane, Delmar, DE, per the attached drawings. Commission Member Outten seconded the motion which passed with 5 ayes and 0 absent.

Chris Brown- Yorkshire Estates- New home build style #2203- 2 story, elevation A on Lot 134 located at 11667 Buckingham Drive, Delmar DE

Upon reviewing the documentation provided and hearing no questions, Commissioner Scholl made a motion to the Mayor and Council for the favorable recommendation for a new home build- home style # 2203- 2 story, elevation A on Lot 134 located at 11667 Buckingham Drive, Delmar, DE, per the attached drawings. Commission Member Outten seconded the motion which passed with 5 ayes and 0 absent.

Chris Brown- Yorkshire Estates- New home build style #2203- 2 story, elevation A on Lot 138 located at 11685 Buckingham Drive, Delmar DE

Upon reviewing the documentation provided and hearing no questions, Commissioner Scholl made a motion to the Mayor and Council for the favorable recommendation for a new home build- home style # 2203- 2 story, elevation A on Lot 138 located at 11685 Buckingham Drive, Delmar, DE, per the attached drawings. Commission Member Wilson seconded the motion which passed with 5 ayes and 0 absent.

Chris Brown- Yorkshire Estates- New home build style #1440- 2 story, elevation A on Lot 155 located at 11737 Buckingham Drive, Delmar DE

Upon reviewing the documentation provided and hearing no questions, Commissioner Scholl made a motion to the Mayor and Council for the favorable recommendation for a new home build- home style # 1440- 2 story, elevation A on Lot 155 located at 11737 Buckingham Drive, Delmar, DE, per the attached drawings. Commission Member Catellier seconded the motion which passed with 5 ayes and 0 absent.

Chris Brown- Yorkshire Estates- New home build style #2203- 2 story, elevation A on Lot 156 located at 11741 Buckingham Drive, Delmar DE

Upon reviewing the documentation provided and hearing no questions, Commissioner Scholl made a motion to the Mayor and Council for the favorable recommendation for a new home build- home style # 2203- 2 story, elevation A on Lot 156 located at 11741 Buckingham Drive, Delmar, DE, per the attached drawings. Commission Member Outten seconded the motion which passed with 5 ayes and 0 absent.

Chris Brown- Yorkshire Estates- New home build style #1918- 2 story, elevation B on Lot 172 located at 11618 Buckingham Drive, Delmar DE

Upon reviewing the documentation provided and hearing no questions, Commissioner Scholl made a motion to the Mayor and Council for the favorable recommendation for a new home build- home style # 1918- 2 story, elevation B on Lot 172 located at 11618 Buckingham Drive, Delmar, DE, per the attached drawings. Commission Member Wilson seconded the motion which passed with 5 ayes and 0 absent.

Chris Brown- Yorkshire Estates- New home build style #1918- 2 story, elevation A on Lot 178 located at 11654 Buckingham Drive, Delmar DE

Ms. Brown informed the Commission that she has amended drawings for them because the buyers wanted a front covered stoop. She passed out the paperwork to the Commission Members.

Upon reviewing the documentation provided and hearing no questions, Commissioner Scholl made a motion to the Mayor and Council for the favorable recommendation for a new home build- home style # 1918- 2 story, elevation A on Lot 178 located at 11654 Buckingham Drive, Delmar, DE, per the attached drawings. Commission Member Catellier seconded the motion which passed with 5 ayes and 0 absent.

Chris Brown- New Home Style for Heron Ponds; "Roanoke"

Upon reviewing the documentation provided and hearing no questions, Commission Member Wilson made a motion to the Mayor and Commissioners for the favorable recommendation for a new home style "Roanoke" for Heron Ponds, Delmar, MD, per the attached drawings. Commissioners Scholl seconded the motion which passed with 5 ayes and 0 absent.

Chris Brown- Heron Ponds, new home build, style "Sienna", 2 story, elevation A on Lot 127 located at 30738 Hawks Way, Delmar, MD

Upon reviewing the documentation provided and hearing no questions, Commission Member Catellier made a motion to the Mayor and Commissioners for the favorable recommendation for a new home build, style "Sienna" 2 story, elevation A on Lot 127, located at 30738 Hawks Way, Heron Ponds, Delmar, MD, per the attached drawings. Commissioner Scholl seconded the motion which passed with 5 ayes and 0 absent.

Chris Brown- Heron Ponds, new home build, style "Ballenger", 2 story, elevation A on Lot 140 located at 30695 Spoonbill Court, Delmar, MD

Upon reviewing the documentation provided and hearing no questions, Commission Member Catellier made a motion to the Mayor and Commissioners for the favorable recommendation for a new home build, style "Ballenger" 2 story, elevation A on Lot 140,

located at 30695 Spoonbill Court, Heron Ponds, Delmar, MD, per the attached drawings. Commission Member Wilson seconded the motion which passed with 5 ayes and 0 absent.

Chris Brown- Heron Ponds, new home build, style “Roanoke”, 2 story, elevation L on Lot 165 located at TBD Bobwhite Drive, Delmar, MD

While the elevation “L” was shown in the construction document package presented this evening, it was noted that elevation “L” was not included in the color renderings presented for the “Roanoke” model. The Commission requested that Mrs. Brown bring all of the rendered elevations drawings with her to present to the Mayor and Commissioners.

Upon reviewing the documentation provided and hearing no questions, Commission Member Wilson made a motion to the Mayor and Commissioners for the favorable recommendation for a new home build, style “Roanoke” 2 story, elevation L on Lot 165, located at TBD Bobwhite Drive, Heron Ponds, Delmar, MD, per the attached drawings. Commission Member Catellier seconded the motion which passed with 5 ayes and 0 absent.

Adjournment

After hearing no Public Comments, a motion for adjournment was made by Commissioner Scholl and was seconded by Commission Member Catellier. The motion passed with 5 ayes and 0 absent.

Respectfully submitted,

Cindy Fisher

Clerk of Council