

BEFORE THE MILLERSVILLE BOROUGH ZONING HEARING BOARD OF
LANCASTER COUNTY, PENNSYLVANIA

IN RE: :
APPLICATION OF : CASE # 17-02
DON HEANY AND :
KEELY HEANY :

DECISION OF THE ZONING HEARING BOARD

A. FINDINGS OF FACT

1. Applicants are Don Heany and Keely Heany, 417 Manor Avenue, Millersville, Pennsylvania 17551.
2. The property which is the subject of this Application is located at 417 Manor Avenue in the Borough of Millersville, Lancaster County, Pennsylvania.
3. Applicants are the record owners of the property.
4. On June 20, 2017, Applicants filed a request for a special exception to operate a bed and breakfast on the property.
5. The Application was advertised, the property was posted, and the adjoining property owners were notified.
6. A hearing was held July 27, 2017, at which time Mr. and Mrs. Heany attended.
7. The hearing was stenographically recorded.
8. In addition to Mr. Heany, a number of citizens appeared and testified in support of the application. None of the participants requested party status.
9. The regular Board members were present except for Karen Eckert. Dave Fisher, the alternate, served in her place.

10. At the start of the hearing, the Solicitor announced that the Board had conducted an executive session prior to the start of the public session, and announced that the Board would receive into evidence as a Board Exhibit #1, a letter from Henry W. Fischer and Donna M. Fischer of 428 Manor Avenue dated July 19, 2017, addressed to Borough Council expressing their support for the Application.

11. The property in question is 2 acres in size on a lot of 300 x 300. The property is improved with a house and a barn. On one side of the property, it is adjoined by the Millersville Mennonite Church and on the other side it is adjoined by a private residence. To the rear is a cemetery.

12. The area is residential in character.

13. The Solicitor reviewed the specific performance criteria for bed and breakfast uses with Ms. Heany. She agreed that no more than 5 rental units would be provided and that no more than 3 adults would be allowed to occupy one rental unit. She indicated that 5 off-street parking spaces could be provided and that there was room for 2 or 3 additional spaces for residential use.

14. The off-street parking spaces would be located on the side of the dwelling, on the side facing the Millersville Mennonite Church parking lot. Ms. Heany introduced Applicants' Exhibit #1, being a sketch plan of the property, showing that the parking area is partly screened in the front and side by trees and from the west by the house, and in the rear by trees and by the barn.

15. Ms. Heany stated that she was not requesting a sign any larger than would be allowed under the Ordinance. It was explained that she was allowed a double-faced

sign of no more than 6 square feet, placed at a height of not more than 8 feet. It was noted that the sign could only be illuminated externally rather than internally.

16. Ms. Heany testified that the house would retain its residential appearance and character after the conversion.

17. Ms. Heany stated that she and her husband would continue to reside on the property and would manage the bed and breakfast.

18. It was explained to Ms. Heany that separate cooking facilities were not allowed in any guest room and that the presence of a microwave constituted a cooking facility.

19. Mr. and Mrs. Heany agreed that no guests would be allowed to stay more than 14 days in any month.

20. The Heanys testified that the property was built in approximately 1885.

21. Ms. Heany introduced Applicants' Exhibit #2, an explanation of her intentions to hold certain outdoor events on the property in the future. It was explained that outdoor recreational uses are allowed by right and that holding such uses involved obtaining an outdoor activity permit from the Code Enforcement Officer. The use of the property for outdoor recreational activities was not a zoning matter unless the use became so intensive that it would be considered a business.

22. The hearing also included some discussion regarding animals. The Chairman answered several questions regarding what sorts of animals were allowed under the Ordinance, but no request for relief regarding animal restrictions in the Zoning Ordinance was before the Zoning Hearing Board.

23. Following the conclusion of testimony, the record was closed and the Board voted unanimously to grant the special exception for the bed and breakfast, with a condition that on occasions when the bed and breakfast is operating, temporary designation of parking spaces for guests must be provided.

B. CONCLUSIONS OF LAW

1. The property is located in the R-1 Residential District.
2. Bed and breakfasts are allowed in the Residential District as a special exception.

C. DISCUSSION

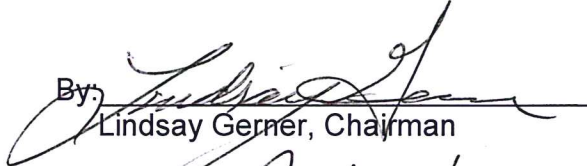
This is an application for a special exception. When a municipality allows a use by special exception, the municipality is allowing the use by right, provided that the applicant meets the specific and general performance criteria for the use. Bed and breakfasts are allowed by special exception in the R-1 Residential District, subject to 8 specific criteria. Ms. Heany testified that the Applicant met the 8 criteria. At that point, the burden shifted to anyone opposed to the use to show that, even though the Applicant had qualified for a special exception, the application should not be granted because the use would cause significantly more harm to the community health, safety, and welfare than such uses generally cause. There was no evidence to that effect. Indeed, every person who testified at the hearing expressed their support for the project. Therefore, the special exception must be granted under Pennsylvania law.

D. DECISION

And now this 27th day of July, 2017, Applicants' request for a special exception to operate a bed and breakfast is granted, subject to the condition that Applicants operate the bed and breakfast in conformity with their testimony and further that the Applicants provide temporary lining of parking spaces for guests during times when the bed and breakfast is operating.

This Decision shall be binding upon the Applicants and their successors.

THE MILLERSVILLE BOROUGH
ZONING HEARING BOARD

By: 
Lindsay Gerner, Chairman

By: 
James R. Sanchez, Vice-Chairman

By: 
James A. Kirk, Jr., Member

By: 
Vickie Usciak, Member

By: 
David Fisher, Alternate

Karen Eckert, Member, was not present and took no part in this Decision.