

WARWICK TOWNSHIP ZONING HEARING BOARD MINUTES

August 10, 2022

6:30 p.m.

Chairman Tom Matteson convened the August 10, 2022 meeting of the Warwick Township Zoning Hearing Board to order at 6:30 p.m. In attendance were Board Members Tom Matteson, Mark Will, Dana Clark, Dane St. Clair and Brett Nolt. Also in attendance was Tom Zorbaugh, Zoning Officer; Neil Albert, Zoning Hearing Board Solicitor; Diana Netherton, Court Reporter; William Aurand, 906 Perry Road, Lititz; Shirley Aurand, 906 Perry Road, Lititz; David Cochran, 911 Perry Road, Lititz; Mel & Karen Harnly, 6 Farm Lane, Lititz; Brian Grimsey, 902 Perry Road, Lititz; Wayne & Deborah Geltz, 1 Farm Lane, Lititz; William Dietrich, 5 Farm Lane, Lititz; Irene & Joe Mekolichick, 910 Perry Road, Lititz; Cheryl Sheely, 678 Sue Drive, Lititz; Betty Michael, 8 Farm Lane, Lititz; Darren Martin, 903 Perry Road, Lititz; Jake Deery, 11 Farm Lane, Lititz; Peter & Peggy Caputo, 10-b Farm Lane, Lititz; Melissa Reinhart, 19 Farm Lane, Lititz; Renee Christiansen, 907 May Road, Lititz; Bill Eichelberger, 16 Farm Lane, Lititz; Lou Bowser, 914 Perry Road, Lititz; and Mary Marone, 16 Farm Lane, Lititz.

POSTINGS, PROOFS OF PULICATIONS AND NOTICES: T. Zorbaugh confirmed that the agenda was posted at the Township Office and on the Township website.

MEETING PROCEDURE: For the benefit of those present, the Solicitor explained the procedure to be followed for this evening's hearing.

CASE #924 – JOAN CHOO – VARIANCE: An application has been received from Joan Choo, 7 Farm Lane, Lititz, PA, located within the R1 Zoning District. The applicant is seeking relief from the Warwick Township Zoning Ordinance for a Variance of Section 340-14.B, to allow an Airbnb or B&B as a permitted use. The application has been assigned Case #924 and is scheduled for a public hearing tonight.

The following requested and were granted Party Status:

1. David Cochran 911 Perry Road, Lititz, PA 17543
2. Darren Martin 903 Perry Road, Lititz, PA 17543
3. Brian Grimsey 902 Perry Road, Lititz, PA 17543
4. William Dietrich 5 Farm Lane, Lititz, PA 17543
5. Karen Harnly 6 Farm Lane, Lititz, PA 17543
6. Bill Aurand 906 Perry Road, Lititz, PA 17543
7. Jake Deery 11 Farm Lane, Lititz, PA 17543
8. Peter Caputo 10-B Farm Lane, Lititz, Pa 17543
9. Renee Christiansen 907 May Road, Lititz, PA 17543
10. Betty Michael 8 Farm Lane, Lititz, PA 17543

Ms. Choo was sworn in by the court reported. Ms. Choo thanked the Board for the opportunity to meet with them. Ms. Choo stated she did not bring an attorney because she believes this issue should be discussed as a community. She is a single mom with one son, Perry. Last summer we planned a vacation trip to Lititz. She mentioned that it was very hard to find a good place to stay and they ended up staying 35 minutes from town. She still loved the town and trip. Last fall she decided to relocate to be closer to her son who was finishing his degree at Annapolis. Ms. Choo is from New York which is 4 ½ hours away from Annapolis. She was very fortunate to find a beautiful farm house on the corner

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of Farm Lane and Perry Road, but the house was out of her budget. She realized she could supplement her income with short-term rentals through Airbnb while living in the house with the size and space. It has everything an Airbnb needs. She has five parking spaces and does not allow guests to park on the street. There is a separate entrance and separate stairways to the upstairs. She states this is a large corner house and she can keep some distance between herself and the neighbors. She is always home when there are guests there. Guests are not allowed to cook or smoke. She does not allow any children under 2 years old. There are no parties or adult activities permitted and no noise for the neighbors to hear. She also asks the guests not to sit on the front porch. She stated that her real estate agent knew she was seeking to use the property for an Airbnb but still she hired a local attorney named Douglas Lally to make sure she could run an Airbnb. She would only need a title company for the purchase, however she paid an extra \$500.00 to hire Mr. Lally who advised her she could do short-term rentals while living in the house as the home owner. Mr. Lally was scheduled to attend the closing to make sure everything went smoothly but suddenly passed away before her closing date from a heart attack. With Mr. Lally's agreement, Ms. Choo went ahead and purchased the home and moved in October 27, 2021. Ms. Choo stated that it is an old house and required a lot of work to maintain, but is a beautiful and historic farm house. She tried her best to keep the original appearance and show off the historic nature of the house when her guests come. Ms. Choo stated she is not trying to get rich with this Airbnb and she only accepts the highest of quality guests who have other good reviews from hosts. She does not accept guests until she checks into their past stay reviews. She only operates the Airbnb seasonally, during the busy times of the year, mostly weekends and 2-3 night stays. She did have one guest who booked a stay and requested a 6 night stay because they were relocating to Lititz. She had to cancel that persons stay because she did not want to bother the neighbors. This is Ms. Choo's only income now since the pandemic which she uses to pay her loans and property tax. She has worked very hard and tried her best to make sure each of her guests enjoy their stay and she achieved her goal of becoming a Superhost in just 2 months which is very hard to do. Many of her guests come to Lititz to visit family and friends. She views her property as not just an Airbnb but a place that can bring happiness to people and show the world our beautiful town. With her income she is happy to pay taxes and support the community. Choo stated that if she had known that she was not allowed to do an Airbnb, she probably would not have purchased the home. She also accepts responsibility for not doing the research she should have done before the purchase. She realizes she is asking for an exception for the current use. She also knows that many communities are working to find a compromise between residents seeking to offer an Airbnb and the concerns of the community. State College, Pennsylvania recently enacted a short term rental license requirement and restrictions to maintain the quality of the community. Choo believes that some restrictions allowing qualified home owners to have short term rentals would help bring more travelers to our town and would help the homeowners rebuild their income in the wake of Covid 19. Ms. Choo shared some of the reviews her guests submitted and letters sent from guests. Choo stated that she always reviews her house rules and check-in details with her guests. She stated she specifies check-in and check-out times so that she has time to disinfect between the guests. She requests guests pull the whole way into the driveway and not to park along the street, to keep luggage off the hardwood floors, to take off their shoes and to put slippers on when entering the house. The guests are not allowed to sit outside the front doors, no cooking, no smoking, and they are to be very quiet as to not disturb the neighbors.

It was asked if the property has public water service. The home has well water and public sewer. Ms. Choo stated that she has added a new water softener and UV system to protect her water quality.

Everyone who intends to speak before the board were sworn in. N. Albert stated that it may be that everyone who wishes to speak has a unique point of view that is completely different from everybody else. In his experience, there are 3-4 issues that get developed and once the Board has heard about those 3-4 issues at that point it becomes repetitive so if you choose to exercise your 1st Amendment right to speak tonight, please think about whether somebody else has already said the same thing.

David Cochran stated it is nothing against Ms. Choo personally, it is the concept and rule of law. Mr. Cochran has lived at Perry Road for 36 years. In his 3rd year there, 1989, a couple moved in and wanted to open a bed and breakfast. He attending a zoning hearing at that time. He encouraged to Board to read that ruling. Where Ms. Choo's property

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is located in part 1 of Kreider May's development which were mostly ranchers with a couple split levels at the end. The only 2 story building in that development is Ms. Choo's farmhouse. Some of the concerns Mr. Cochran has is are if Ms. Choo is permitted to put a bed and breakfast in, what keeps him from when he goes to Florida for 2 month to rent his house out to a stranger. In 1989 there were only 4-5 above ground and below ground pools in the area and now there are 8-9. When the variances and ordinance changes what is to keep somebody from renting their pool out for parties. Anything they come up with could possibly be justified. This is a quiet neighborhood and the police very seldom get called up there. The residents can usually tell when a strange car goes through the neighborhood. It is a nice place to raise a family. His main concern is if you change the zoning ordinance it opens up a can of worms for what comes next.

Deborah Geltz who lives at 1 Farm Lane shared their support of Joan and her request to host an Airbnb. She stated that Joan introduced herself to them and provided them with an outline of her reasons for moving to the Lititz area and the strict regulations that she follows for guests that would be staying at her home. Mrs. Getz and her husband have rented Airbnb homes for vacations along with family and stated it is a wonderful way to spend quality time with family while vacationing. These homes are always in local neighborhoods and in most cases they have the entire house to themselves. In some cases, as it would be with Joan, the owner is only using part of their home as an Airbnb and remains in the home during the rental period. This should ease the minds of anyone who would worry about rude or disruptive behavior of any Airbnb guest. Airbnb has strict regulations for both the host and the guest. This helps the host choose only the perspective guests that have gotten good ratings from the host and also allows perspective guests to see that the host provides a safe, clean, and quality stay. This is a great alternative to hotel rentals where you do not have a screening process for guests. It is a much more personal experience and one Mrs. Geltz feels would appeal to the type of visitors that come to Lititz for the vibrant but small town atmosphere. Staying in a historic farmhouse that represents the very core of our small town would only add to the visitor's experience. What a compliment to our neighborhood that Joan felt such warm and welcoming feelings about this area that she not only decided to make Lititz her home, but also wants to share that experience with the guests in her home.

Wayne Geltz wanted clarification that this is not changing the ordinance, rather just a variance to the ordinance. T. Matteson did confirm that it would be a variance that Ms. Choo needs.

Peggy Caputo stated that in her feeling if you are going to buy a home with the idea of doing such a thing as opening a bed and breakfast, you do your research first. You don't buy it and then try to go in from the back door. She feels that Joan has not been forthcoming with the neighbors and she hasn't really gained the trust of the neighbors. She never did tell the previous owner that she was going to open up a bed and breakfast and the previous owner did ask her that questions many times. Ms. Choo has claimed that she is home when the guests are there and Mrs. Caputo stated that they do not see her car when there are other cars there. Ms. Choo also stated that there are no outside activities but if you read through the guests comments you will see that one of the guests said that they wished they could have used the outside fire pit but it was raining. The use of the fire is concerning to Mrs. Caputo along with the strangers in the neighborhood. She stated that Lititz is a lovely town and that is why they have all moved here to be in this lovely town, not to have a lot of strangers walking through the neighborhood and being fearful for their children and everyone else in the neighborhood.

Lou Bowser who lives at 914 Perry Road stated that he has been at his residence for 45 years. His question is if Ms. Choo had called the Township prior to buying her property and said she had plans to open an Airbnb to sublet her income, what would the Township's response have been? T. Zorbaugh stated that if Ms. Choo had called prior to the purchase of the property she would have been told that Airbnb's were not permitted in the Township.

Renee Christiansen who lives at 907 May Road stated that her and her husband moved into the neighborhood in 1996. They chose that neighborhood because of the good vibe and it being family friendly. She can tell you where the seniors live, where the friendly dogs are, who has kids and their names, and they notice strange cars in the area. On one occasion they saw a strange car parked on Douglas Drive who turned out to be an undercover cop. It is unnerving to

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Mrs. Christiansen to think that there are strangers that are staying overnight in a facility that has no stake in the neighborhood whatsoever. She also stated that they are operating on a well system for water and that she is very conscious of that well water, who knows if the guests are taking multiple showers and running down the water table. She also stated that the neighborhood is R1 zoned so to put in something that is far removed from being a residence that homeowners live in goes against the grain of what the neighborhood is all about. She suggested the Board ask themselves how they would feel if you were to have an Airbnb or bed and breakfast set up in your neighborhood. She also questioned the impact on surrounding home values with an Airbnb in the neighborhood. She respectfully asked the members of the Zoning Board to deny Ms. Choo's request.

Jake Deery who resides at 11 Farm Lane stated that he has lived at this address for 21 years and he never would have bought his house if he knew that there would be an Airbnb. He also stated that after Ms. Choo bought the house there were contractors there for weeks. He wanted to know if permits were pulled for all the work that was done. T. Zorbaugh stated that any repair/maintenance does not require permits such as painting and water softeners. Mr. Deery stated that there was sheet rock being installed. T. Matteson stated that at this point they do not have access to those records so they cannot answer that question at this time. Mr. Deery also asked for clarification in regards to the separate entrance that Ms. Choo referred to. Ms. Choo stated that from the front porch there is a second entrance. Mr. Deery stated his concern in regards to the permits because if she is taking steps to do stuff like this is she doing it the right way. Is she putting anyone in danger? He was under the impression that with Airbnb's the host would not be there and with a bed and breakfast it is different. He stated that if Ms. Choo is not going to be there 100% of the time, he is concerned who will be there and what they will do. Mr. Deery is against Ms. Choo's request. Deborah Geltz stated that she was at Joan's house recently and she showed her that there is an entrance on each end of the front porch which when you walk in you can go into the kitchen from a door or you can go into another room from a door and she has certain doors that are private which she blocks off when she has guests. What Mrs. Geltz saw in the home did not appear to be changed or modernized. She did not see anything that would have been from new construction where she would have changed the interior of the home at all.

Bill Aurand who lives at 906 Perry Road stated that he doesn't know Joan. He does pass her home frequently. His concern is that they are in a neighborhood and neighbors know each other but he does not know her guests. Every time he sees a stranger he worries why they are there, what is their intent, are they registered sex offender, or are they legitimate. He is also concerned because over the summer months they are away frequently and there is no one at his home many weekends. He feels the less people that they have coming into the neighborhood, the easier he sleeps at night. He doesn't need to worry about who is breaking into his house. It becomes a security issue for him. He asked who watches out for that operation if she were to be approved. How does Ms. Choo prove what she is doing? The fact that she has within a year and a half purchased the place with the intent of running an Airbnb without proper dialogue with the authorities is concerning. She is almost to the point of running a full-fledged business in the community but it is not designed or intended for that purpose. Mr. Aurand is opposed to the request.

Karen Harnly who lives at 6 Farm Lane stated that she grew up in Lititz so she is very familiar with the people who have come to town and love Lititz. She also states that it should be taken into account that Lititz has Tait Towers, Clair Global, and Rock Lititz and they are starting to draw a different people to Lititz. She stated that if the variance is changed, she is not sure what is going to happen to the small quaint town and the small development they have. She would hate to see that environment changed.

Mary Marone of 16 Farm Lane asked what the difference is between an Airbnb and a regular bed and breakfast. T. Zorbaugh stated that in the Township a bed and breakfast is an owner occupied facility, so as an owner they are there and when clients come they are still there. Most of the Airbnb's the owner rents the house but they are not there. There are Airbnb's that are owner occupied also. Zorbaugh stated that neither one are permitted in the R1 zone. By right in the Township, the definition is short-term rental. The Township has to list bed and breakfast because there are certain areas where they can go.

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Peter Caputo of 10-B Farm Lane asked if Ms. Choo's request is granted if there were times when she wasn't there would she be breaking the rules. In the future if she has tenants there and she is not there then it doesn't really matter. T. Zorbaugh stated that it all depends if the Board decides to grant the request, how they attach conditions. If the Board approves the request, they can make a condition that she must be there and if she is not the neighbors will know that and can report it to the Township. Lou Bowser asked if Ms. Choo is under any penalty for operating the Airbnb. T. Zorbaugh stated that because she has filed for a hearing, her operation is on hold at this point and it is up to the Board. Zorbaugh explained that a complaint was filed and a letter was submitted to Ms. Choo. Ms. Choo responded to that letter and filed her zoning request, so at this point there has not been a violation notice sent because she is following the procedures. Dave Cochran asked T. Zorbaugh if he sees a violation while driving around would he stop and speak to the people. Zorbaugh stated that depending on the violation he would stop and speak to the resident. Melissa Reinhart who resides at 19 Farm Lane stated she has owned her home for 11 years. She stated that she made the home purchase with the intent of living in a residential neighborhood which was very important to them. At the time of their purchase they were young and struggled to purchase the home and they did not have a warm welcoming experience in the neighborhood so she is glad Joan did have a good experience. She stated she worked with the intent of paying that mortgage knowing that she couldn't make changes in the zoning or without a variance to zoning. Joan indicated that there was nowhere to stay in Lititz and she feels there are plenty of hotels available. She also noted that there was a bed and breakfast on Newport Road that is no longer operating because it could not maintain the business. She also mentioned that this is not about the integrity of Ms. Choo's home, but it is about the integrity of the neighborhood. She stated that Joan shared a contract that had a lot of clauses that were going to be very appealing to neighbors that is between her and the tenant through Airbnb, it has nothing to do with the Township ordinances, therefore that contract can be changed on Airbnb at any time without notice to the neighbors. Mrs. Reinhart questioned if Ms. Choo were granted a variance will she be considered a commercial location, would her tax base change, is she now required to provide a ground water run-off plan? She asked T. Zorbaugh if there are other requirements besides the zoning change that will alter the expectations of that property. Zorbaugh clarified that this would not be a zoning change. He mentioned there are other businesses within the neighborhood, home occupations that have people who come and go. There is no law that states that people cannot park on your road, but in a home occupation business criteria they must provide off street parking and that is a condition that the Board could require. As far as taxing goes, the Township follows the county regulations. The county says that anything that is short-term rental it is taxed as a hotel/motel, long term rental is not taxed. Short term rentals are 30 days or less are not permitted but 30 days or more is permitted so someone who is gone for 3 months a year could rent their property out for that 3 month period and it would be permitted. There is a short term rental lodging definition within the ordinance and that is 30 days or less. Bed and breakfasts and Airbnb's can go in certain zoning districts, R1 is not one of them. Renee Christiansen asked if it was 30 days within a calendar year of operating business. T. Zorbaugh stated that the couple that have been doing a rental, rent as a 30 day but they might only have people there 2 weeks, but they cannot rent for less than 30 days, so the other 2 weeks may be someone else which can be 12 months out of the year, but the ordinance only addresses short term rentals which is less than 30 days. There was a discussion and clarification of short term and long term rentals. Ms. Choo stated she did not want long term move in tenants, rather she wanted temporary rentals with herself 100% home. Bill Dietrich of 5 Farm Lane stated that he has had a chance to get to know Ms. Choo very well. He also knew the previous owners of the property and confirmed that those owners wanted to have a bed and breakfast which was denied. Bill grew up in this neighborhood. Mr. Dietrich is a contractor, more so remodeling and he stated that the first time he saw inside Ms. Choo's home it was one of the most dynamic homes he had ever seen for what she wants to do. As a matter of fact, when he heard that the Township did not allow a bed and breakfast on the property, he was very confused and aggravated. He asked when zoning come into being that you had to go through this process to have a bed and breakfast. He stated that bed and breakfasts are not a hazard to a neighborhood. Renee Christiansen asked how many bed and breakfasts or Airbnb's operate in other rated zones in Warwick Township and for folks who want to create those could we possibly keep those in the areas where acreage in our neighborhood is at 1/2 or 1/3 acre. If bed and breakfasts and Airbnb's are regulated to the rural, more open areas within Warwick Township so be it, but within a residential area that has been R1 for many years, let us keep in that way.

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D. Clark asked how many complaints the Township has gotten from the neighborhood about Ms. Choo's property. T. Zorbaugh stated that he received a formal complaint on two Airbnb's in the neighborhood, one that shut down and Ms. Choo's. Jake Deery asked if the Board would get a show of hands from those in attendance so they have a very clear indication of who is against and who is for this variance. T. Matteson and N. Albert stated that there would not be a show of hands.

The Board went in to executive session at 7:50 p.m. to discuss the matter with N. Albert, Township Solicitor.

The Board returned from executive session at 8:10 p.m. T. Matteson made a motion to deny Case #924 as presented. It was seconded by D. St. Clair. In a 4-1 vote, the Board denied Case #924.

T. Matteson stated that the Board needs to preserve the integrity of the zoning ordinance and if they are going to deviate from the zoning ordinance in terms of allowing a use that is not permitted it needs to be justified by a sufficient hardship that the property cannot be used in compliance in the ordinance and the Board did not find that to be the case in this instance. T. Zorbaugh stated that Ms. Choo will receive a letter from him stating that the case had been denied and then within 30 days you will receive a written decision. Once she receives that written decision, she will need to decide if she wants to appeal the decision with the court or she is going to abide by the decision and shut down. Ms. Choo can continue to operate till the letter is sent and it goes to court and then it is in the court's hands. In this case the Township has a clear basis of a denial and Ms. Choo has the right to appeal or she will shut it down. If she keeps operating after that time frame then she would get a violation notice and then it goes from there to the court.

ADJOURNMENT: Meeting was adjourned at 8:36 pm.

Respectfully submitted,

Tom Zorbaugh
Zoning Officer