

**TOWN OF INDIAN HEAD
BOARD OF ZONING APPEALS
Village Green Pavilion
PUBLIC HEARING #BZA03-01-24
March 12, 2024**

Chairman Pellegrino called Public Hearing #BZA03-01-24 to order at 6:00 p.m. Applicants Amal and Saber Helal were present to request a special exception for an Airbnb to be located at 66 Poplar Lane. Norman Andrews was present on behalf of the applicants.

Those in attendance were:

Chairman Michael Pellegrino
Thomas Blake
Fred Sussman, Town Attorney
Nate Merkel, Zoning Administrator
Andrea Brady, Town Clerk

The application was received on November 13, 2023, the applicants did have to address comments from ARRO and resubmit portions of the application prior to the hearing. Notice for the Public Hearing was published in the Southern Maryland News on March 1, 2024. Certified letters were sent to adjoining property owners on February 26, 2024. The applicants were notified of the date, time, and place of hearing by certified letter on February 26, 2024. The sign for the public hearing was posted in front of the property at 66 Poplar Lane on March 1, 2024, and had remained in place until the date of the hearing, on March 12, 2024.

Town Clerk Brady submitted the affidavit and the application as part of the record.

Chairman Pellegrino administered the Oath to Mr. Andrews who will be speaking on behalf of the applicants.

Mr. Andrews was given the opportunity to present the applicants' case. The application was put in for short term rental use of the property. The property has been vacant for a couple of years now, and the owners would like to utilize the property more. When they are not staying in the residence, they would like to have it available for short-term rentals through Airbnb. They feel this will improve the upkeep of the property. Due to the applicants' primary residence being in Bowie, they are not able to check in on the property often. Mr. Andrews is a family friend, and he handles the renovation of their properties.

Mr. Sussman asked how many bedrooms are in the home. Mr. Andrews stated there are 3 bedrooms and 2 bathrooms. Mr. Merkel asked for the square footage of the home. Mr. Andrews was not sure about the exact square footage.

Mr. Merkel asked when using the term short term rental, is that the term Mr. Andrews is using to indicate an Airbnb. Mr. Andrews confirmed that short term rental is the term used when referring to an Airbnb.

Mr. Blake asked for clarification on how the rooms will be handled inside the home. Mr. Andrews stated it would be rented as one unit. He explained that when Airbnb does a rental it is rented to one group, which may consist of one or more families that are traveling together.

Mr. Blake expressed concern that under the term Airbnb it could become essentially a mini motel. Mr. Andrews explained that the maximum capacity would be 6 people per rental period, and it would be rented through Airbnb.

Mr. Blake expressed concern over possible safety issues and feels there needs to be management of the property to prevent it from becoming a problem area. He wants to make sure that the quietness and tranquility of the community on Poplar Lane is preserved. Mr. Blake asked about a structured business plan outlining the management of the property, and how safety will be addressed. He asked if there will be someone local to manage the property and maintain it. Mr. Blake stated his overall concern is security. Mr. Andrews explained the rental process through Airbnb. The property owner is able to review who is coming in and out of their home before approving the rental. With Airbnb you are able to read reviews of the renter before approving a rental. Mr. Andrews feels this process allows more control than what occurs at a motel, and he agreed with the need for security, and feels they will be able to vet the potential renters through the Airbnb service before approving any use of the home.

Mr. Andrews explained that the property will be managed by the family. A cleaning and maintenance service will be utilized to maintain the property and the renters will be reviewed through the Airbnb site.

Mr. Merkel asked for clarification that the maintenance and cleaning contracts will be handled locally. Mr. Andrews confirmed that they will.

Chairman Pellegrino discussed the table of uses which does not specify Airbnb as a permitted use. When looking at the specific requirements for a bed and breakfast, it states the establishment will be located on a state-maintained road, which he does not believe this property is. Off-street parking spaces should be provided for each guestroom, and from what he has heard only 3 will be required. It states in the ordinance that the off-street parking spaces should be located at the rear of the site. Mr. Andrews explained there is a parking garage on the property.

Chairman Pellegrino explained that when the house has been vacant for some time and becomes reinhabited it is subject to the building code. Mr. Pellegrino also discussed the need to obtain an operating license from the Town of Indian head, and compliance requirements of the Health Department, Fire Marshal's Office and the Annotated Code of Maryland, and asked if that had been addressed. Mr. Merkel explained that if the use is approved then those requirements would need to be met at that time.

Chairman Pellegrino also discussed the Bed and Breakfast requirement to have on site management, and while this is not a bed and breakfast, that should be addressed. Mr. Andrews stated he had discussions on this prior to the hearing. Mr. Merkel explained that while the Zoning Ordinance does not call out an Airbnb, the closest related activity that could be sited is a Bed and Breakfast and the staff report will help address Chairman Pellegrino's questions.

Chairman Pellegrino suggested a text amendment to the Zoning Ordinance changing the state-maintained road requirement, to a town-maintained road as well as a text amendment addressing the owner/manager occupied and managed requirement.

Zoning Administrator, Nate Merkel, presented the Findings of Fact.

The proposed special exception request is for the use of a single family detached home to be used as an Airbnb during the time the owners are not there. The request is being made by the homeowners, Saber and Amal Helal of 66 Poplar Lane. It is noted that the max occupancy allowed and requested is 6 guests and a max duration of 7 days per stay.

Mr. Merkel went through the general special exception standards as stated below:

Public Health/Safety – The proposed special exception request will not be detrimental to or endanger the public health, safety, convenience, morals, order, or general welfare of the community.

Enjoyment/Property Values – The proposed special exception request should not substantially diminish or impact property values within the neighborhood. As long as noise levels are kept to a minimum, it should not be injurious to the use and enjoyment of the surrounding properties.

Architectural – The proposed special exception request does not propose any changes to the structure's architecture.

Availability of Public Utilities – The proposed special exception request does not include a land development submission so the anticipated impact on public utilities that may result from the special exception request cannot be determined at this time. It should be noted that there would be an anticipated increase to the public utilities due to consistent occupancy of the residence, but no significant impact is likely.

Present and Future Transportation Patterns – The proposed special exception request does not include a land development submission so the anticipated impact to present and future transportation patterns that may result from the special exception request cannot be determined; however, it is anticipated that typical residential traffic patterns would be present during the time the property is used for an Airbnb. There is adequate off-street parking present on the property so that no street parking shall be needed.

Relationship to the Town's Comprehensive Plan – The proposed special exception request is consistent with the Town's 2021 Comprehensive Plan. Policy LU.10: Encourage the development of tourism-related facilities like bed and breakfast accommodations.

Suitability of the Property for the Intended Use – The existing parcel is currently utilized for residential purposes and will continue to be utilized for residential purposes if the special exception request is approved.

Changes in the Character of the Neighborhood or Mistake in the Original Zoning – The proposed special exception request does not include a land development submission; however, Airbnb would not change the innate characteristics of the parcel.

Mr. Merkel moved into discussing the zoning. The property is zoned Single Family Residential, Medium Density. An Airbnb is defined under Section 1008 as the permissible use of '1.510 Bed and Breakfast, Tourist Homes, and other Temporary Residences Rented by the Day or Week' which is subject to a special exception in a Single Family Residential, Medium Density, district. Permissible use 1.510 Contains supplementary use regulations which are defined in Section 1107.

Supplementary Use Regulation: Section 1107. Boardinghouses, Bed & Breakfast, Country Inns (Use Group 1.510, 1.530) – The proposed special exception request provided exhibits to demonstrate the adequate off-street parking is provided on the property and the existing residential structure has extended setbacks allowing for the property to not constitute as a nuisance for noise to neighboring properties.

Chesapeake Bay Critical Area – The existing parcel lays within the Chesapeake Bay Critical Area – Limited Development Area. Bed and Breakfast facilities are permitted within the Limited Development Area. The special exception request does not propose any changes to the property.

Mr. Merkel said the staff recommends approval of the requested special exception of the Airbnb for the stated reasons. The homeowner shall apply and obtain an Operating License from the Town of Indian Head (Chapter 105 of Town of Indian Head Code). The homeowner shall also comply with any applicable requirements of the Health Department, Fire Marshal's Office, and the Annotated Code of Maryland.

Chairman Pellegrino did not feel that the questions he had were addressed by the staff report. His suggestion would be that depending on the result of the hearing, a text amendment to the Zoning Ordinance be done to include Airbnb language to prevent facing this issue again in the future.

Mr. Sussman explained that the proposed use of the property for short-term rentals is authorized in the table of uses in the same section as boarding houses and other similar uses such as Bed and Breakfasts and tourist homes. Certain special condition requirements do not pertain the temporary rental use. Mr. Sussman stated it would be assessed per the general special exception requirements. The other interpretation would be that a short-term rental would be subject to the specific requirements applicable to the

requirements of a Bed and Breakfast, boarding house, or tourist home, and if it does not meet those requirements, it would not be approved. All of the requirements may not be applicable under this type of rental, but it is up to the interpretation of the Board.

Mr. Sussman stated that it is clear the Zoning Administrator reviewed this property as a short-term rental property. It is clear that temporary rentals rented by the day or week are a special exception. Mr. Sussman and the Board discussed the differences between short-term rentals and the other uses listed in the table.

Chairman Pellegrino requested for those present supporting the applicant's position to approach the podium and state their name and address for the record. With no one present, and no comments received prior to this evening's hearing, Chairman Pellegrino moved onto presentations opposing the applicants' position.

There being no one present in opposition of the special exception; Chairman Pellegrino closed the hearing at 6:33pm and opened the Board of Zoning Appeals meeting to move into disposition of the case.

Mr. Blake stated that he still has outstanding concerns about the suitability of the proposed Airbnb. He feels that the Board should have the ability to see a business plan. He expressed his concerns about the location of the property, and the fact that the property has been vacant for some time. From a suitability standpoint, he is not inclined to grant the exception.

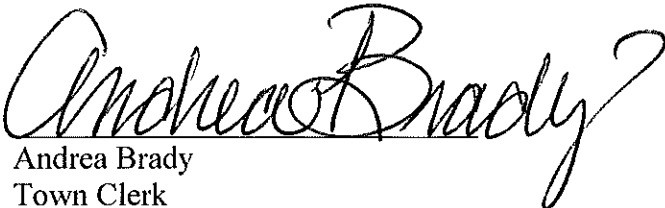
Mr. Blake made a motion to deny the applicants' special exception request.

Chairman Pellegrino suggested conditions be considered. Lacking any concrete regulations in the ordinance, and Airbnbs becoming viable within many communities. He suggests that staff amend the zoning ordinance to address these concerns. The Board discussed denial of the special exception and a suggestion to Council to create regulations to address the use in the zoning ordinance.

Chairman Pellegrino seconds the motion to deny the request. The motion passed by voice vote, 2-Ayes, 0-Nays.

Mr. Sussman will prepare a resolution for the results of this evening's meeting for the review by the Board, that they will reconvene and review the resolution at a later meeting. The resolution will address the reasons the application was denied.

The meeting adjourned at 6:41pm.


Andrea Brady
Town Clerk