

Town of Milton
115 Federal St
Milton, DE 19968



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Memorandum

June 29, 2015

TO: Mayor and Town Council

FROM: John R. Collier, Project Coordinator

RE: Conditional Use – Bed and Breakfast – 305 Federal St. Tax Parcel ID # 235-20.07-103.00

The Planning and Zoning Commission convened on June 16, 2015. A duly advertised and noticed Public Hearing was held regarding the matter of a conditional use application from Ms. Ellen A. Passman, 305 Federal Street, Tax Parcel ID # 235-20.07-103.00.

Ms. Passman appeared on behalf of her application and satisfactorily met all of the requirements as stated in Chapter 76, Bed and Breakfast and Chapter 220 Zoning § 220-89 Procedures for Conditional Uses of the Milton Town Code.

There were one written comment and one spoken comment from those notified as required by Code. Both comments were in support of Ms. Passman's application. There were no comments not in support of the application.

The Planning and Zoning Commission closed the Public Hearing and moved to New Business on their Agenda.

Under New Business the Planning and Zoning Commission voted to recommend to Mayor and Town Council approval of Ms. Passman's application without conditions and to be revisited in one year.



LEGAL NOTICE

Notice is hereby given that the Town of Milton Planning & Zoning Commission will hold a public hearing on Tuesday, June 16, 2015, at 6:30 PM, in the Milton Library, 121 Union Street, Milton, Delaware to hear the following:

The applicant, Ellen Passman, is requesting a conditional use for a Bed and Breakfast at the property located at 305 Federal Street and further identified by Sussex County Tax Map and Parcel #2-35-20.07-103.00.

The application is available for public inspection at the Town Hall located at 115 Federal Street during the hours of 8:30 AM. – 5:00 PM, Monday – Friday. All interested parties are invited to attend and comment on the proposed change. If unable to attend the public hearing, written comments will be accepted at Town Hall, but must be received prior to the public hearing. Said hearing may be adjourned without further notice. If there are any questions, please contact John Collier at (302) 684-4110.

Chapter 76. Bed-And-Breakfasts

§ 76-1. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

BED-AND-BREAKFAST

A single-family, owner-occupied dwelling which is used for lodging for up to six transient guests at any one time, none of who remain for more than five consecutive nights each, and which provides no food or beverage service for the transient guest other than for breakfast provided in the areas of the dwelling generally utilized by the resident family for the consumption of food.

BED-AND-BREAKFAST INN

Bed-and-breakfast.

BED-AND-BREAKFAST UNIT

Bed-and-breakfast room.

§ 76-2. Conditional use permit required.

Bed-and-breakfast inns are permitted, subject to the following minimum conditions:

A. The primary use of a bed-and-breakfast shall be residential.

B. Individual bed-and-breakfast units shall not contain cooking facilities, subject to the provisions of the ordinances of the Town.

C. Interior residential features shall be retained in a manner which will allow reconversion to residential use.

D. The dwelling shall be owner-occupied and managed.

E. No more than three rooms shall be rented and no more than two adults shall occupy a unit per night. An exception for this subsection may be granted by the Town Council upon request of the applicant and subject to the provisions of the ordinances of the Town.^[1]

Editor's Note: Amended at time of adoption of Code (see Ch. 1 General Provisions, Art. III).

F. Parking shall be provided on site; one parking space per room rented, plus one for the owner.

G. A business license shall be obtained in accordance with Chapter 93, Business Licenses, of the Code of the Town of Milton.

H.

All bed-and-breakfasts shall be subject to the provisions of the Town ordinances, county, state, and federal laws.

I. The initial bed-and-breakfast conditional use permit granted a property owner shall be issued for one-year duration, renewable upon request of the property owner pursuant to Subsections G and H. Thereafter the conditional use permit shall be reviewed only if complaints have been received.

J. The bed-and-breakfast use shall be shown not to be detrimental to the neighborhood.

K. All signs must comply with Chapter 220, Article VIII, Signage, of the Code of the Town of Milton.

§ 76-3. License nontransferable.

Any licenses are nontransferable

Chapter 220. Zoning

Article XI. Board of Adjustment

§ 220-89. Procedures for conditional uses.

A. A property owner(s) or his agent(s) may initiate a request for a conditional use or modification of a conditional use by filing an application which includes a legal description of the property and provide as required a proposed current site plan showing the size and location of the lot, the location of all buildings and proposed facilities, including access drives, parking areas and all streets within 250 feet of the lot, plans and elevations necessary to show the proposed development, other drawings or information necessary to an understanding of the proposed use and its relationship to surrounding properties and a filing fee. For applicable conditional use filing fees, please consult the currently effective Town of Milton Fee Schedule.
[Amended 9-9-2013 by Ord. No. 2013-04]

B. Before a conditional use is permitted the proposed conditional use shall be subject to public notice and a public hearing held by the Planning and Zoning Commission. The Planning and Zoning Commission shall fix the time and place of the public hearing and cause notice to be given as follows:

(1) By publishing notices of the proposed conditional use and the time and place of the public hearing in a newspaper of general circulation in the Town, not less than 10 days prior to the date of public hearing.

(2) By giving written notice of hearing to any required municipal, county, state or federal agency in a manner prescribed by law.

(3) The applicant shall notify all owners, within 200 feet of the boundaries of the property which is the subject matter of the petition, of the time and date for the public hearing on the proposed change or amendment or proposed land use by sending such property owners a copy of the notice that is published in a paper of general circulation. Such notices shall be sent certified mail return receipt requested to property owners a minimum of 10 days prior to the date scheduled for the public hearing. A list of properties mailed to, copies of proof of mailings and return receipts shall be provided to the Code Enforcement Officer five days prior to the public hearing.

C. The Planning and Zoning Commission will review the application and required material for the conditional use to ensure that all the requirements set forth in the this chapter are met and any additional requirements that will be imposed by the Planning and Zoning Commission are applied to the site plan prior to it being forwarded with the Planning and Zoning Commission's recommendation to the Town Council for its review and decision. If the Planning and Zoning Commission recommends disapproval of the conditional use, or recommends modification thereof, the Town Council shall not act contrary to such disapproval or recommendation except by a four-fifths vote.

D. Town Council will review the site plan and requirements established by the Planning and Zoning Commission, establish conditions of their own or deny the application in its entirety.

F. In the case where a conditional use has been approved a building permit shall be issued after the granting of the conditional use by the Town Council, and then only in accordance with the terms and conditions of the conditional use permit.

F. The Town Council, on its own motion, may revoke any conditional use permit for noncompliance with conditions set forth in the granting of said permit.

