

10. An approved Special Use is valid for the Applicant only as identified on the special use application submitted to the Planning & Zoning Commission. An approved Special Use shall become null and void upon any change in ownership of the property which results in the removal of all prior applicants. Such change in ownership of the property will require a new special use application and approval.

Kristin Otto, applicant, stated her and Anthony Bleull, manage multiple properties on Air Bnb and this property is more unique than a hotel experience. Additionally, Ms. Otto will be repairing the fence.

Chairperson Wiesehan opened the public hearing at 2:22PM.

Brian Mooty, Kavanagh Law Firm, questioned the fence waiver. Mr. Mooty believes it's highly inappropriate to allow for waivers through a special use, they should go before the Zoning Board of Appeals.

Senior Urban Planner Weick, read letter from Demeatra Annan, 323 W Corrington Ave, asking for property to be donated to her day care.

Anthony Bleull, property owner, stated they are not interested in donating the property. Additionally, Mr. Bluell stated the fence was there prior to them purchasing the property in 2015.

There being no further public testimony, Chairperson Wiesehan closed the Public Hearing 2:26 PM.

Discussion on the Findings of Fact was held.

Chairperson Wiesehan stated the commission has granted waivers long before he's been a part of it. It won't set a precedent; they have been granted and accepted by City Council.

Motion:

Commissioner Barry made a motion to approve; seconded by Commissioner Grantham.

The motion was approved by roll call vote 7 to 0

Yes: Wiesehan, Heard, Barry, Ghareeb, Grantham, Martin, Unes - 7

Nay: None

PZ 642-2021

Hold a Public Hearing and forward a recommendation to City Council on the request of Bill Kwon and the Bill Kwon Trust #8322-BK Dated 11-6-2008, to obtain a Special Use in a Class R-2 (Single-Family Residential) District for a Short Term Rental, for the property located at 5918 N Elm Lane (Parcel Identification Nos. 14-16-426-007 and 14-16-426-012), Peoria IL (Council District 3)

Senior Urban Planner, Kerilyn Weick, Community Development Department, read the case into the record and summarized the request.

The Development Review Board recommends approval of the request for a short term rental with the following waiver and conditions:

1. Waiver to permit a 4 foot tall wrought iron and brick fence in the front yard. Said waiver applies only to the existing location and length of the fence as identified on the site plan.
2. Fire extinguishers shall be installed according to the 2018 International Fire Code Chapter 9, Section 906.
3. Interconnected smoke alarms shall be installed according to the 2018 International Fire Code Chapter 9, Section 907.
4. Carbon monoxide detector shall be installed according to the 2018 International Fire Code Chapter 9, Section 915.
5. Additional dwelling units cannot be added to the single family dwelling.

6. Occupancy of the short term rental shall not exceed the standards set forth in the Building and Fire Code of ten (10) total persons. Of the maximum occupancy allowed, no more than six adult guests may stay in the dwelling unit at any given time.
7. The owner shall obtain and maintain a valid Short Term Rental license from the City of Peoria and the owner shall pay Room Rental Use or Privilege tax to the City of Peoria.
8. An approved Special Use is valid for the Applicant only as identified on the special use application submitted to the Planning & Zoning Commission. An approved Special Use shall become null and void upon any change in ownership of the property which results in the removal of all prior applicants. Such change in ownership of the property will require a new special use application and approval.

Senior Urban Planner Weick explained neighborhood association covenant.

Bill Kwon, applicant and property owner, stated he bought house in 2016 and spent over \$100,000 to upgrade the house. They started Air Bnb a little over a year ago and are a super host. The main clientele are physicians are business owners.

Chairperson Wiesehan opened the public hearing at 2:45 PM.

Brian Mooty, Kavanagh Law Firm, 301 SW Adams St Suite 700, representative of the Viewpoint Neighborhood Association. Mr. Mooty stated the neighbors sought to prepare a declaration to formalize their neighborhood association and is not aware of any neighbors who support this application. Mr. Mooty stated the City doesn't count them as a neighborhood association even though they meet all requirements to be recognized as one. This special use should not move forward. Additionally, Mr. Mooty has issues with the findings of the City of Peoria, they are not making these properties disable accessible.

Senior Urban Planner Weick, stated they are following building code requirements for the properties. The City walks through each home if there is a special use and are addressing those elements through interior inspections.

Commissioner Unes asked Mr. Mooty to submit his language to City Council or city attorneys, it is not the Planning and Zoning Commission jurisdiction.

Mr. Mooty stated it's a commercial business, it's a hotel/motel use. Mr. Mooty stated the City has not applied those standards to the short-term rental. Additionally, Mr. Mooty has submitted a 5-page letter to the City laying out most of these statements.

Noah Benckendorf, 100 N Main St. Morton, Il., lawyer for Bill Kown. Stated there is no recorded written agreement for a neighborhood association, a 2.5 mile radius standard should apply here. The timing of the application for the short-term rental was substantially before the application for the home owners association. Mr. Kwon did not receive a notice for the meeting until the day after it was schedule. As for safety Mr. Kwon has wonderful tenants and renters and has had no issues regarding stately. Parking has been accepted, two full spaces street side and 2 parking in garage. Mr. Kwon has put a lot of money in this house. The property complies with all ordinances regarding short-term rentals.

Matt Smutz, 5922 N Elm Ln, stated he lives next door to the Kwon property. The neighborhood association has been informal for decades, the Kwon's have paid dues into that over the years, and the property listing states it is part of an HOA.

Jennifer Albert, Santa Rosa Beach FL., stated she went to Richwoods High School, owns a business and a home. Ms. Albert stayed at the property through Air BnB and found the property to be exclusive and private. The driveway is long Ms. Albert does not see a problem with parking. Ms. Albert stated it is nice to stay in a quality home while visiting family in Peoria and not a hotel.

Dar Mathison, 5933 N Elm Ln, stated he is not part of the neighborhood association and has not seen any issues, problems, or extra traffic due to the Air BnB.

Senior Urban Planner Weick read letters on the request

- John Wilkins, 5902 N Elm Ln., letter in opposition
- Gene and Becky Doubleday, 5934 N Elm Ln., letter in opposition
- Sanda Spalding, letter in opposition
- Matt Smutz, 5922 N Elm Ln., letter in opposition
- Dave Thompson, 5925 N Elm Ln., letter in opposition.
- Steven Heine, 5950 N Elm Ln., letter in opposition

Bill Kwon, stated he takes special consideration with the guests, they have a 3 day minimum stay and a no party rule. Mr. Kwon asked the commission to approve this short term rental since he is following the rules and trying to do what's right.

Commissioner Ghareeb asked how long the house has been a short term rental and if any neighbors complained.

Mr. Kwon stated they have been renting out the house for 14 months and not a single neighbor has complained.

Commissioner Grantham asked when Mr. Kwon applied for the special use.

Senior Urban Planner Weick stated they received the application November 30, the HOA covenant was December 13.

There being no further public testimony, Chairperson Wiesehan closed the Public Hearing 3:32 PM.

Commissioner Unes stated he will not be supporting this request, the commission has never had such a large amount of opposition.

Chairperson Wiesehan stated he needs direction from legal and council for the issues addressed.

Senior Urban Planner Weick stated the department has determined the standards as being met based on opinion, some may find some standards are not being met.

Commissioner Barry asked the City legal staff to vet the ordinance.

Discussion on the Findings of Fact was held.

Commissioner Unes left the meeting at approximately 3:35 pm.

Motion:

Commissioner Martin made a motion to approve; seconded by Commissioner Grantham.

The motion was approved by roll call vote 6 to 0.

Yes: Wiesehan, Heard, Barry, Martin, Grantham, Ghareeb - 6

Nay: None

Absent: Unes -1

PZ 647-2021

Hold a Public Hearing and forward a recommendation to City Council on the request of Kenzie Neely of Neely Brothers to obtain a Special Use in a Class C-N (Neighborhood Commercial) District for Auto Sales and Repair

Kerilyn Weick

From: Leah Allison
Sent: Monday, December 27, 2021 9:47 AM
To: Kerilyn Weick
Subject: FW: [External]Public Comment for the Jan 6, 2022 Meeting from John D Wilkins, 5902 N Elm Lane, Peoria IL 61614

-----Original Message-----

From: Jack Wilkins <jwilkins@tradersins.com>
Sent: Friday, December 24, 2021 4:14 PM
To: Leah Allison <lallison@peoriagov.org>
Subject: [External]Public Comment for the Jan 6, 2022 Meeting from John D Wilkins, 5902 N Elm Lane, Peoria IL 61614

I would like to request that the special use permit for 5918 N Elm Lane not be granted.

I am not opposed to rentals of one month or longer but do not feel that shorter rentals are appropriate in this quiet residential neighborhood.

Respectfully submitted,

John D. Wilkins

Sent from my iPad

Kerilyn Weick

From: Leah Allison
Sent: Sunday, January 2, 2022 10:05 PM
To: Kerilyn Weick
Subject: Fwd: [External]Public Comment for January 6, 2022 Meeting from Becky & Gene Doubleday, 5934 North Elm Lane, Peoria, IL 61614

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From: Gene <abner62@ameritech.net>
Sent: Sunday, January 2, 2022 11:06:26 AM
To: Leah Allison <lallison@peoriagov.org>
Cc: Rita Ali <rali@peoriagov.org>; Denise Jackson <djackson@peoriagov.org>; Charles Grayeb <cgrayeb@peoriagov.org>; Andre Allen <andreallen@peoriagov.org>; Denis Cyr <dcyr@peoriagov.org>; Kiran Velpula <kvelpula@peoriagov.org>; John Kelly <jkelly@peoriagov.org>; Zachary Oyler <zoyler@peoriagov.org>; Sid Ruckriegel <sruckriegel@peoriagov.org>; Tim Riggerbach <triggerbach@peoriagov.org>; Beth Jensen <bjensen@peoriagov.org>
Subject: [External]Public Comment for January 6, 2022 Meeting from Becky & Gene Doubleday, 5934 North Elm Lane, Peoria, IL 61614

Leah,

We are making you aware of our opposition to the Air-BnB which is currently operating in our neighborhood at 5918 North Elm Lane in Peoria, which is owned by Bill & Cathy Kwon. There is a hearing scheduled with the City of Peoria Planning & Zoning Commission on January 6, 2022 at 1:00pm to review the Kwons' application for a short-term rental at 5918 North Elm Lane.

According to regulations approved by the Peoria City Council, a maximum of 3% of houses in a defined neighborhood, or Homeowner's Association, can operate as an Air-BnB. The home at 5918 North Elm Lane which has not been approved by the Peoria City Council to operate as such, represents 7.1% of houses on North Elm Lane. North Elm Lane was registered with the City of Peoria as the Viewpoint Subdivision Homeowner's Association on December 13, 2021; instrument # 2021027892. Additionally, we draw your attention specifically to "Article 3 General Restrictions" of the "Declaration of Covenants & Restrictions" of the Viewpoint Subdivision Homeowner's Association, which prohibits any home on North Elm Lane from operating as an Air-BnB, or other short-term rental.

Our opposition to the STR at 5918 North Elm Lane is also based on safety concerns on our block: Neither the Kwons, nor Air-BnB, are concerned with the safety and well-being of the other North Elm Lane Homeowners when the home is rented because they don't actually reside on North Elm Lane. We bring your attention to an article that appeared in the June 15, 2021 *Bloomberg Business Week* titled, *Airbnb is Spending Millions of Dollars to Make Nightmares Go Away*: <https://www.bloomberg.com/news/features/2021-06-15/airbnb-spends-millions-making-nightmares-at-live-anywhere-rental>. This article sheds light on the lengths Airbnb is willing to go to, to protect Airbnb homeowners and Airbnb renters, but it says nothing about what either party is willing to do to protect the interests of those people who actually reside in close proximity to an Airbnb home. In reality they don't care, they're only in it for the money, to the detriment of the long-term viability of the neighborhood.

We also raise our objection to the STR application for 5918 North Elm Lane for the simple reason the Kwons did not follow the rules and laws as set forth by the City of Peoria to apply for an STR. They have operated the home as an Airbnb for many months without approval by the City, and have been fined thousands of dollars by the City to force them to actually follow the laws of the City. It is our strong opinion, the homeowners at 5918 North Elm Lane have not followed the laws of the City of Peoria in regards to licensing their home as an Air-BnB, and should not be approved to do so for future short-term rentals.

Sincerely,

Gene & Becky Doubleday
5934 North Elm Lane
Peoria, IL 61614

December 30, 2021

Concerning case P26420211 special use/short term rental

To Whom It May Concern:

I am a resident of Elm Lane, a short, one block, dead-end street, where one of the home owners has been illegally renting a home as a short term rental and is now seeking to legitimize the process by getting a license to continue the practice.

In the forty-eight years I have lived in my home, no issue has caused more acrimony and dissention within what used to be a very harmonious group of neighbors. If a poll were taken, I think you would find thirteen out of the fourteen homeowners on the street strongly object to the home being rented out as a short term rental. If Ramada or Hilton were to buy the property and wish to put in a hotel/motel, I'm sure the zoning board would deny the request as putting a commercial business in a residential neighborhood. A short term rental is no different...it is a business running in a residential neighborhood, only unlike a Ramada Inn, there is no on site manager to keep down the noise and make sure garbage is taken care of properly.

When this property was listed on Airbnb, the listing claimed that it could sleep a large number, (I believe it was around 10). Consequently, when rented, the house usually has multiple cars in the drive way and even occasionally, on the grass outside the fence in front. When I left town on Christmas Eve, there were three vehicles parked in the drive. This seems to indicate that even through the city council has limited the number of guests allowed in a rental, this property has more staying there. If the rules are being ignored now, can the owner be trusted to follow the rules in the future?

People living on our block pay a large amount in city taxes and expect our elected officials to protect the value of our property and to preserve the integrity of our neighborhood. This does not include allowing a person to run a commercial business in a residential neighborhood.

Please deny this special use permit.

Sincerely,

Andrea Spalding

To the City of Peoria Planning and Zoning Commission

January 2, 2022

Regarding the proposed short term rental license request for 5918 N. Elm Lane, we would like to submit the following information for your consideration.

First and foremost, the property does not meet the restrictions as established by the City of Peoria adopted in October 2021. Elm Lane properties are part of the Viewpoint Subdivision Homeowners Association, which consists of 14 properties on the lane. Under these restrictions, no more than 3% of a neighborhood may be allowed a short-term rental license. This would limit our neighborhood to .42 (less than 1) of the 14 homes x 3%. One rental home is therefore 7.1% of our neighborhood. Therefore, even the one request for 5918 N. Elm Lane will exceed this limit.

While it is true the Homeowners Association (HOA) was only recently formally filed with the city, Elm Lane residents have functioned as an association for decades. Dues have been collected and paid for ongoing common area maintenance. It was only upon the realization that the city did not have any formal documentation of our Association on file, that we submitted our bylaws and covenants with the city. Please note our covenants and restrictions clearly prohibit any short-term rentals of this nature. In addition, the license requestor of 5918 N. Elm Lane acknowledges the prior existence of our HOA. They have paid homeowners dues for years, **and** their real estate listing shows their own residence as a member in the homeowners' association.

Based on the City's own restrictions, we believe the license request should be denied.

Elm Lane is a 14 home, quiet dead-end lane. The lane is very narrow and there are no sidewalks. The majority of the residents are retired and enjoy its quiet nature. Residents and dogs regularly walk the lane. The addition of a short-term rental has altered the quiet atmosphere of our lane, and overall will be detrimental to the quiet enjoyment by the residents. The home at 5918 N. Elm Lane regularly has 3-4 cars or more when it is rented. Often, there are multiple families staying on the premises, because the guests are here for a wedding, a reunion or some other sort of group gathering. This one short term rental has increased traffic on our lane by an average of 20-25%. At other times, rental parking has spilled onto the side of the narrow lane, and also into the neighbors parking pad across the street. In multiple conversations with our Elm Lane neighbors over the last few months, 13 of the 14 homeowners support the banning of short-term rentals on our quiet lane. The one homeowner in support is obviously the Kwons at 5918 N. Elm Lane.

We greatly enjoyed the Kwons when they lived in our neighborhood. However, that remains our desire now- to have neighbors who will also enjoy our small, quiet neighborhood community. Finally, we understand the Kwons have purchased a Florida residence and plan to spend a substantial amount of time out-of-state. We are greatly concerned this will increase the difficulty to maintain their property appropriately if it becomes a short-term rental, and they become absentee owners.

Therefore, for all the reasons above, we ask you reject the short-term rental license request for this property.

Respectfully, Matt and Linda Smutz
5922 N. Elm Lane

Kerilyn Weick

From: Leah Allison
Sent: Tuesday, January 4, 2022 7:51 PM
To: Kerilyn Weick
Subject: FW: [External]Public Comment for the January 6, 2022 Meeting

From: Dave Thompson <dlt5925@yahoo.com>
Sent: Monday, January 3, 2022 3:23 PM
To: Leah Allison <lallison@peoriagov.org>
Subject: [External]Public Comment for the January 6, 2022 Meeting

I am Dave Thompson and I live at 5925 N Elm Lane in Peoria IL. My wife Ellen and I have lived at this address since 1996. I am opposed to the short term rental of Bill Kwon at 5918 N Elm Lane. Elm Lane is a very secluded and quaint street that is very neighborhood friendly whereby everyone knows each other and share common views. I find it very disruptive to keep seeing new nonresident people occupying Bill's house with both many cars parked in the driveway together and strangers walking up and down the street. On one occasion a party bus returning from a wedding party brought the occupants home late and were quite loud late at night.

We also have a Home Owners Association (HOA) which consists of the 14 houses on Elm Lane. Our HOA states that short term rentals are not allowed. With the cities 3 percent rule I feel this disqualifies any short term rental possibility. Hopefully the Peoria Planning & Zoning Commission will not recommend approval of this property for a short term rental.

Kerilyn Weick

From: Leah Allison
Sent: Tuesday, January 4, 2022 8:02 PM
To: Kerilyn Weick
Subject: FW: [External]KWON REQUEST FOR SHORT TERM RENTALSPECIAL USE JAN. 6, 2022 MEETING P2642 2021 5918 N. ELM LANE PIN14-16-426-007/14-16-426-012 PUBLIC COMMENT FOR THE JANUARY 6, 2022 MEETING

From: Stephen Heine <badgervq1@gmail.com>
Sent: Tuesday, January 4, 2022 6:01 PM
To: Leah Allison <lallison@peoriagov.org>
Cc: linda.smutz05@gmail.com
Subject: [External]KWON REQUEST FOR SHORT TERM RENTALSPECIAL USE JAN. 6, 2022 MEETING P2642 2021 5918 N. ELM LANE PIN14-16-426-007/14-16-426-012 PUBLIC COMMENT FOR THE JANUARY 6, 2022 MEETING

Below is my communication of 12/14/2021.

This is supplemental to that e-mail. It is also a part of this Public Comment.

The by-laws of the neighborhood association preclude the special use. This precludes any short term rental by any property owner.

Kwon's use of the property for short term rental has existed for more than one year and was without any basis or permit and was always an impermissible use in the residential neighborhood of single family homes. Homeowners' Association By-Laws preclude any action by the City to even consider the Kwon request.

The Kwon property is listed for sale. The owners reportedly reside in Florida.

The house is obviously not in compliance with fire, electrical and life safety codes.

The renters often park on private property of others.

The renters often park on property of the Peoria Park District, across the street from the property.

Elm Lane is a narrow, dead end street. Use of the property as a short term rental increases congestion and will impair the ability of the Peoria Fire Department to access the lane in an emergency.

The Peoria Planning and Zoning Commission should deny the Kwon Special Use request.

To: Peoria City Council and Mayor
From: Stephen J. Heine
5950 N. Elm Lane
Peoria, IL 61614
(309) 229-7087

Date: 12/14/2021

The Viewpoint Subdivision Homeowner's Association located within Viewpoint Subdivision and Viewpoint Extended Subdivision has now been established.

The HOA Declaration of Covenants and Restrictions and the By Laws of the HOA preclude short term rentals.

The neighborhood has only 14 homes. One home is therefore 7.1% of the properties. The City precludes short term rentals constituting more than 3% of properties in a neighborhood.

Short term rentals in residential neighborhoods are injurious to the safety of neighborhood residents, detrimental to the quiet enjoyment of the residential neighborhoods, increase traffic and wear and tear on streets not designed nor maintained for such traffic, and serve to diminish the property values in the neighborhood.

Peoria has already seen a proliferation of “payday loan” businesses, another property use detrimental to all citizens. Peoria does not need anything else that diminishes its desirability as a place to live. Short term rentals in residential neighborhoods do just that. The Kwon property has inadequate parking. Elm Lane is a narrow street without sidewalks, without curbs and gutters and is a dead-end cul du sac.

Short term rentals on Elm Lane should be prohibited entirely.

Stephen J. Heine

Sent from [Mail](#) for Windows

January 5, 2021

Via E-Mail: jdulin@peoriagov.org; lallison@peoriagov.org

Mr. Joe Dulin and Ms. Leah Allison
The Community Development
Department
City of Peoria
301 SW Adams St
Suite 700
Peoria, IL 61602

Case Number PA 642-2021
Kwon request for Special Use for a Short Term Rental
at 5918 North Elm Lane
PIN: 14-16-426-007 and 14-16-426-012

Re:

Planning & Zoning Commission Hearing on
Thursday, January 6, 2022

Our File Number: 24140.0001

Dear Mr. Dulin:

I am writing this letter on behalf of the View Point Subdivision Homeowners Association. This letter supplements the written objections previously sent by the Association to the City.

This letter will confirm the Association's opposition to the special use request for a short-term rental for 5918 North Elm Lane.

The Association was recently formalized after many years of the Elm Street neighbors meeting and assessing fees to maintain the common areas on Elm Street provided for in the subdivision plats that created the residential lots on Elm Street.

The owners on Elm Street, threatened with the possibility of the approval of short-term rentals in the City's single-family residential neighborhoods, recently decided to prepare and join in recording restrictions on their property that prohibit the use of their lots for a short term rental business.

The Association members became aware of the looming nature of this threat to their neighborhood by the illegal use of 5918 North Elm Lane as a non-owner occupied short-term rental property.

Application of the 3% Requirement of Section 5.3.3 (B)(9)(b)

The City should deny the request for a special use because approving the special use would violate the maximum 3% limit for a Neighborhood Association as outlined in 5.3.3 (B)(9)(b) of the Unified Development Code.

The City recognizes Neighborhood Associations that qualify for application of the 5.3.3 (B)(9)(b) 3% restriction on short-term rentals when a neighborhood association:

“To be recognized by the City of Peoria as a neighborhood association, your group must:

1. Have a Name
2. Have established boundaries
3. Have designated officers (President, Vice President, Secretary, Treasurer)
4. Have regularly scheduled meetings (monthly, quarterly, annually)
5. Meet at a location open to the public
6. Be dedicated to improving your neighborhood!”

From: *Neighborhood Information* City of Peoria, Illinois
http://www.peoriagov.org/peoria-police-department/neighborhood_programs/ (Last visited January 5, 2022).

The View Point Subdivision Association’ has provided its Declaration and Bylaws to the City and has asked for formal recognition as a Neighborhood Association. The View Point Subdivision Association qualifies as a Neighborhood Association as defined by the City of Peoria.

There is no requirement under Section 5.3.3 (B)(9)(b) that the City must recognize a neighborhood association before an application for special use for short-term rental has been filed with the City.

Section 5.3.3 (B)(9)(b) also has no requirement that the owner of the property applying for the special use be a member of the neighborhood association or that a specific restriction prohibiting short-term rentals be recorded against the subject property. This is the case because; (1) the requirements for City recognition of a Neighborhood Association do not include a membership requirement (either voluntary or mandatory) for the applicant’s property, nor is there a requirement that there be a recorded restriction prohibiting short-term rentals; and (2) several of the recognized Homeowners Associations, such as the Moss Bradley Residential Association, are voluntary membership associations.

If the City applies the 3% requirement only when the property applying for the short-term rental is a member of the neighborhood association where it is located, then the 3% requirement should not be automatically applied to any Neighborhood Association that is voluntary in nature

such as the Moss-Bradley Residential Association. For example, Case No. PZ 641-2021, also set for hearing on January 6, 2021, is located in the voluntary Center Bluff Neighborhood Association. The Development Review Board states that the 3% cap applies to the application for the property in the Center Bluff Neighborhood.

The better and more consistent interpretation of 5.3.3 (B)(9)(b), which will carry out the apparent intent of the City Council, is to apply the 3% limitation to any association that meets the City's definition of a neighborhood association and this includes the neighborhood of the View Point Subdivision Association.

The Application Fails to Meet the Special Use Standards required by Section 2.9.10

The Planning and Zoning Commission, should find that the application for the special use at 5918 North Elm Lane should not be recommended for approval by the City Council because:

A. The establishment, maintenance, or operation of the special use will not be detrimental to, or endanger the public health, safety, morals, comfort, or general welfare;

- a. DRB Finding: Meets requirements.
- b. Correct Finding: The operation of a short-term rental in the single-family neighborhood by an absentee landlord that results in strangers entering and leaving the North Elm Lane neighborhood on a regular basis will be detrimental to the safety, comfort, and general welfare of the neighborhood. The application also fails to address handicapped accessibility for parking and ingress and egress for disabled persons. It fails to demonstrate compliance with the Illinois Environmental Barriers Act and regulations.

B. The special use will not be injurious to the uses and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood in which it is to be located;

- a. DRB Finding: Meets requirements.
- b. Correct Finding: The special use will injure the use and enjoyment of the single-family residences on Elm Lane by increasing traffic by non-owners, causing on-street overnight parking that will obstruct access along North Elm Lane and create security concerns. The value of the residences on Elm Lane will be negatively affected by the non-owner-occupied short-term rental business.

- C. Adequate facilities, access roads, drainage, and/or necessary facilities have been or will be provided;
- a. DRB Finding: Meets requirements.
 - b. Correct Findings:
 - i. During the illegal use of 5918 North Elm Lane as a non-owner-occupied short-term rental property, the property lacked sufficient on-site parking because patrons often parked on the street or private parking areas along Elm Lane. The application fails to address this important issue.
 - ii. The application fails to address handicapped accessibility for parking and ingress and egress for disabled persons. It fails to demonstrate compliance with the Illinois Environmental Barriers Act and regulations.
 - iii. The proposed two parking places are insufficient parking for the proposed use. The City of Peoria currently has no specific requirements for the number of parking spaces required for commercial uses. Short-term rental properties are a commercial use. However, the analysis of the parking requirements for a special use does not stop merely at determining the number of parking places.
 - iv. The purpose of the special use process is to ensure that the negative impacts caused by the proposed special use will not harm the surrounding neighborhood or the City. Consequently, the special use review process should consider the number of off-street parking places necessary to ensure the special use will not harm the surrounding neighborhood. Elm Lane is too narrow for frequent overnight on-street parking.
 - v. The provision of only two parking spaces for a four-bedroom short-term rental is not sufficient in general and precisely not adequate for the subject property. There should be one compliant off-street parking space for each bedroom, including at least one accessible parking space. All parking must meet the standards of the Unified Development Code, and no parking should be allowed in the front yard. Allowing stacking or end-to-end parking is unrealistic, not code compliant for commercial uses, and will result in patrons parking on the street.
 - vi. Section 8.1.5 of the Unified Development Code for Off-Street Parking General Requirements states that if parking spaces are provided that the parking spaces must comply with the standards outlined in Section 8.1.5. The application and its site plan fail to demonstrate compliance with the requirements of Section 8.1.5
 - vii. The site plan fails to show compliance with the requirements of Section 8.1.5 E for handicapped-accessible parking. The DRB

comments do not address the mandatory requirement that at least one handicapped-accessible parking must be provided if parking is provided. Nor do the comments address the lack of parking at the site.

viii. The site plan shows two parallel parking places of 19 feet. Section 18.1.5 D (3) requires 22 feet for parallel parking spaces.

D. Adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets;

a. DRB Finding: Meets requirements.

b. Correct Findings: See Comments above regarding parking.

H. The special use shall, in all other respects, conform to the applicable regulations of the district in which it is located, except as such regulations may, in each instance, be modified pursuant to the recommendations of the Planning and Zoning Commission.

a. DRB Finding: Meets requirements.

b. Correct Finding: The special use also does not meet the requirements for conformity because the existing front fence violates the height requirement for front yard fences. The front yard fence is not relevant to the special use application; however, the DRB recommends that the special use application, if approved, includes a waiver of the height violation of the front yard fence. The proper method for seeking approval of the fence violation is to apply for a variance by the Zoning Board of Appeals. The Association objects to this attempt to bootstrap a “waiver” for the fence violation onto the application for special use.

Thank you for considering this matter.

The View Point Subdivision Homeowners Association of the owners along North Elm Lane respectfully requests that the Planning and Zoning Commission send a recommendation to the City Council to deny the Special Use Request for 5918 North Elm Lane.

If you have any questions, please call.

Very truly yours,

**KAVANAGH, SCULLY, SUDOW,
WHITE & FREDERICK, P. C.**

Brian D. Mooty
Office: 309-676-1381
Direct: 309-322-8317
Fax: 309-676-0324
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By: _____
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