

Rockville Planning Commission
Special Meeting
Via Zoom Virtual Meeting
December 8, 2020 – 6:00 p.m.

1. **CALL TO ORDER – ROLL CALL:** Vice Chair Jane Brennan called the meeting to order at 6 p.m. Present were Cheryl McGovern, Ken Rybkiewicz, Linda Brinkley, and Jane Brennan. Town Clerk, Vicki S. Bell, recorded the meeting.
2. **DECLARATION OF CONFLICT OF INTEREST WITH AN AGENDA ITEM.** No conflicts of interest were declared.
3. **DISCUSSION AND ACTION ON A REQUEST FOR A DESIGNATION OF A GROUP OF FIVE OR MORE UNRELATED INDIVIDUALS AS A FUNCTIONAL EQUIVALENT OF A FAMILY PER THE ROCKVILLE LAND USE CODE** –Jane asked Jennifer to share why she would like to be designated as more than the four or more for a family designation. Jennifer explained the Harris home is a large home with four bedrooms upstairs. [Jennifer's daughter] Kali and [Kali's boyfriend] Kristian have friends that work in the park that might need housing in the future. Jennifer does not have any intention of renting out all the rooms but said there are four bedrooms upstairs that will never be used by her family and saw potential to help out friends who are willing to pay for affordable housing during the time they are employed at Zion. Having people rent one or two of the rooms would put Jennifer's family over the unrelated limit per household. Having read the ordinance before, she was not sure how family and unrelated individuals were counted. Her son is working in California and not planning on coming here, but if he ever decided to come to Rockville, she wanted to verify there will be no conflict with the number of unrelated people cohabitating in the residence.

Jane asked if any Commissioners have any questions or want to ask Jennifer anything. Linda asked who will be initially moving into the house. Jennifer stated that her family have medical things they are tying up in California and the sale has been a challenge due to a contingency in the home sale. Since Kali and Kristian are building a home right behind the Harris property, they are going to be moving into the Harris home once the sale closes and until their home can be occupied. In the meantime, Jennifer and her husband will be transitioning back and forth and getting their affairs settled, preparing for their move to Rockville. Linda asked if Jennifer will be living in California part of the time when Kristian and her daughter are living there. Jennifer responded 'yes' that she will be going back and forth during that time. Jennifer's husband has some medical appointments in California due to a serious medical condition and both will be going back and forth to California to complete the necessary medical appointments. Linda asked for clarification about who will be present and residing in Rockville. Jennifer and her husband will be in and out for the first few months and Kali and Kristian will be in Rockville full-time while their home is being built. Jane asked about the number of bedrooms in the house. Jennifer said there is one bedroom in the basement and a master and second bedroom with a full bathroom on the main floor and four bedrooms upstairs, making seven bedrooms total. Jennifer plans for Kali and Kristian to have one bedroom on the main floor with she and her husband in the master bedroom on the main floor. When Jennifer's son visits, he will stay in the basement bedroom. Linda asked about the number of vehicles they will have at the house. Jennifer has a car and although her husband has a vehicle, it will remain at their business in California. Kristian and Kali have a car, but they can park at their own property. Cheryl asked for clarification about who will reside in the residence for the long-term. Jennifer clarified it will be her primary residence. For the first three or four months, Jennifer plans to be going back and forth while they settle their affairs in California.

Ken voiced concerns about the home sounding like a group home, more of a commercial enterprise, and was uncomfortable with the definition the Town has for a long-term rental. A long-term rental is currently thirty days and believes that should be adjusted to something with a minimum of a six-month lease. He also questioned where all of the owners and renters will park their vehicles, believing there is going to be a massive issue with the amount of parking with all the proposed residents and asked: "How many of the renters can realistically fit on your property?" Jennifer responded, saying there are two carports and parking around back with enough room for four or five vehicles on the property but indicated that she can make arrangements in the carport around back to increase parking spaces to a quantity of six. Cheryl asked for clarification from Jennifer that she is wanting to see if it is okay to have more than four adults in your house that are not considered family and rent rooms to non-family. Our Ordinance allows for four or less adults that are not married and we allow for a minimum of thirty-day rentals. There is nothing in that Ordinance that restricts who you can rent to. Unless we change our Ordinance to allow people to rent more than what we allow, we are setting a precedent and that would allow anybody in Town to rent rooms, as long as they have a thirty day or more stay and a place to park off the road. Does anybody have an argument with those facts? Linda voiced, that is the way it reads, and she thought they should go with how it reads. As a former wildland and structural firefighter Ken had serious concerns about fire protection and egress. With this [proposed] number of occupants, you cross the line from being a single-family residence to a multi-family residence. That opens the door to people paying you to live in a structure, without guarantee they can egress safely in a fire which is why commercial structures need to be sprinklered. Jennifer responded saying that home is built for many people as a family of nine lived there and has proper entry and exits.

Jane reiterated that the code says "five or more." Everybody can figure out that five or more means Jennifer, her husband, Kristian, Kali and that is it. Our code says a group of five or more individuals may request designation by the Planning Commission as the functional equivalent of a family for the purposes of this Zoning Ordinance. This is one of the few incidents where we can determine what we want to do. There are plenty of rules in this code that are inflexible; this one is flexible. If you want to consider it, it is very similar to a conditional use permit. We can add the condition that we agree to this functional family. Jennifer asked about adding more stipulations beyond what is already written. Jane asked Clerk Bell if parking is one of the seven stipulations to be designated as a family. Clerk Bell said 'no'; parking is not included in there, but it is a concern for the town with that many people [parking at one residence]. Ken asked if it [parking] is going to affect the neighbors, saying this is a pretty significant impact. Jennifer responded saying 'I cannot see a difference between having four people that are employed in the park that would also be just as similar to the Harris' teenagers.' She did not know what the difference is in that as far as parking vehicles. Jane agreed, saying as far as impact she did not see a difference and regarding safety, she thought that this house had been recently inspected for the sale. It passed the Fire Code when it was built for as many rooms as it has. We [the Commission] can designate it as a functional equivalent of a family if it is not a temporary living arrangement as would be a group of college students sharing a house. Jennifer assured the Commission that they would rent rooms only to career-oriented adults that are gainfully employed. Jane stated that if the owners are living there, she does not see a problem with this. Cheryl stated that she has been advocating for ways to have more housing for people in the canyon but was concerned about this specific situation saying if we do approve this request, then a precedent is set for that house. We cannot say 'you can do it' but anybody else cannot. Jane said we can; these are individuals who have come to the Town to request designation. This Town says, 'this house only and this situation only.' This is an individual. Cheryl inquired how many kitchens are in that house? Jennifer responded there is only one kitchen and they do not plan on adding anything else. There are no kitchenettes being added, there is nothing like that; they will be cooking in the one kitchen. Jane declared that counts as number one. Number two they share expenses for food, rent or utilities. Jennifer confirmed "definitely". Jane continued, to all outward appearances, is it a relatively normal, stable, or permanent family unit? They are not as stable as a family as they are going to be working seasonally possibly six months. Jennifer – It depends on who they are, it could be six months or a year. I cannot think that it would be less than six months. If they pass my background check, they could sign a one-year lease. I cannot see that it would be less than six months.

Clerk Bell received a comment from the chat room from Jan Fasselin he said, "I agree with Ken on the parking issues. What hasn't been addressed is where are the potential boyfriends, girlfriends and visitors going to park? When parking overflows onto the main road it will more than likely be in front of my property. In economic terms this is an externality. I do not have a microphone so I can only provide a chat response." Jennifer responded saying the property is a whole acre and they could turn a part of that area into parking. She stated they could also turn the orchard area into a parking area if necessary. She does not plan to have that many people; she does not want visitors to overflow. She is going to be [residing] there and there will not be parties of people coming and going. If it [parking] is a concern she will be more than happy to create a space for more parking. Jane reminded everyone that as much as parking on the road bothers people - that it is simply a preference. Cheryl said it is not a preference for the Bed and Breakfasts, none of those vehicles can park on the road. Jane said when you get a building permit, yes, and a Bed and Breakfast is different as this is a residence. Ken said 'understanding that we had to provide enough parking for our own single-family residences that was off-street. Regardless of building permit or not, for the longevity of the house, owners need to have enough parking for the occupancy of the designated structure, right?!' Jane agreed that you do and continued saying 'but you are not required by our Code to use it, that you can park in the street legally.' Ken said it is probably a right-of-way, but you still have to have enough [parking] for the capacity of the approval. Jane responded that is for a building permit, this [request] is different, that Ken was talking about a building permit. Ken clarified that he was talking about occupancy.

Clerk Bell interjected 'No' encouraging Jane to look in Chapter 8.9.1 in the old Code that specifies about off-street parking. That Code is in relation to Bed and Breakfasts but also necessary for other uses that each renter should be provided with an off-street parking space. Ken stated that on Bridge Road parking is problematic with a non-conforming, illegal rental that causes serious parking issues on Bridge Road. Linda confirmed 8.9.1 is the table of required off-street parking in the new Code. Jennifer asked, "If four of us are related, does that count against the unrelated people or is it with how many people are related to each other?" Jane read the code: it says, 'In general a group of five or more unrelated persons living in a single dwelling'. Commissioners, does it get a pass on the first floor because they are related? Linda said, "They are not related; Kristian is not related." Clerk Bell clarified the parents and daughter count as one and Kristian counts as two. They could do two more [renters] without having to get this designation. Jane disagreed with that interpretation of the Code citing 'In general, five or more unrelated persons.' Jane did not think the first three should count at all. Cheryl said once you put however many people in there then you have to count everybody because everyone coming in is not related to each other. Jane agreed that counting the three family members as one would make more sense. Linda agreed counting the family as one.

Jennifer asked if Kristian and Kali were married, would it then count as one [with Jennifer and Jeremy]? Jane confirmed that was right. Jennifer wanted to know specifically how that is, so that she better understood the Code, if a couple lives together, they would count as one? Do they have to be married? Cheryl responded no. An unmarried couple would be counted separately [as two]. If they were counted as one, that would mean every bedroom that you rent could be rented to a couple, counted as one.

Jane asked the Commissioners: Why do you think that this is in the Code? What do you think was the original purpose of writing these specifics in the Code - is it to prevent somebody from having a boarding house? Cheryl agreed, that was her interpretation. Ken believed the intent is to prevent a group-home. Jane reminded that Commissioners that Rockville has other Codes that allowed group-home situations and congregate living facilities. Do you mean a boarding house? Cheryl confirmed that they fall under ADA and it would have to be a boarding house. Jane told Ken that it is under a different chapter. As congregate living facilities and such if they are not ADA they can file for [inaudible]. Linda told Jane she thinks this is because our goals and mission statement is for single family dwellings. Renting out rooms eventually looks like a boarding house. Jane explained as long as they are sharing facilities, they are allowed to rent the rooms. It is just how many can we [inaudible]. Linda reiterated there is a limit on the numbers because we do not want it to look and have the neighbors feel like it is a boarding house next door with all kinds of people coming and going. As previously stated, we cannot control how many kids people have. But we can control how many unrelated adults live there.

Jane stated that Jennifer has come to us being absolutely forthright and honest about this. There have been houses in the neighborhood very close to us that have fifteen people living there but they are all cousins. Whether they are cousins or *cousins* – How can we tell? This is relatively unenforceable unless somebody is honest with us. Cheryl commented that as a community we need to do everything we can to help people have a place to live without losing the single-family goal of the Town. She does care how many people you want to have living in the house with you as long as you are there. If you move out that is a whole other ballgame; that is not going to be acceptable. If you are living there and you have a whole bunch of people that you want to rent rooms out to - for however long, whoever they may be - I feel comfortable that it is not going to turn into "Animal House". That is why my first question to you was: "Who is going to be living there and whose primary residence is it?" Because the second you decide you do not want to live there anymore and move out, that house no longer qualifies for renting out eight bedrooms as a rental property. Ken stated that he recently had a neighbor renting rooms and during the spell of that whole experience, I witnessed multiple drug dealers in our shared driveway. This individual obviously did not have a robust background check system in place but when you have a son that is ten years old with drug dealers appearing in your driveway because one of the tenants was a former rehab client from the rehab center that is in our Town. He really had a problem with that. Jennifer asserted that you know you have that chance whenever you have any neighbor move in next to you; you do not have any control over what your neighbors do. Ken stated that he did not have any control or say on whom she rented her rooms to. I know there were multiple rooms rented in a very similar fashion. And it is my job to help protect my neighbors and my own son and my community and that is why I raised the concern. I really do not appreciate the sarcasm. Jennifer stated that incident would definitely be something that should be taken care of, but you could say that I do not want you to rent the house out at all next to me because there is a chance that somebody in your household might do or buy drugs.

Cheryl asked if she could interject one more time, saying it seemed like things are escalating. Our goal is to decide whether or not we as a Commission, are going to allow them to rent however many bedrooms. Having this discussion about who, what, where, when, how is moot because we do not have any control over that unless we tell them they cannot rent them. That is it. That is the only control we have. I think we should just move as to whether or not we are going to do this or not instead of everybody's fears; they are real but there is nothing we can do about it unless we say 'no.' That is the bottom line.

Clerk Bell indicated that Jan Fasselin has another comment in the chat box. 'I bought my place to garden. I have not yet decided if I want to sell produce. If so, it would be direct to restaurants not to people coming down the street. The house next to me is a single-family residence not a boarding house.' Clerk Bell stated that this comment came earlier in the conversation, it took her a while to get it in. Jane stated that this is not a boarding house. This is not a commercial entity. This is a residence, and it is a private family home that at one point when it was built was inspected and deemed safe to have as many occupants as can fit in as many bedrooms as they have. I personally would like to see some restrictions on parking and of course the thirty-day minimum and I would like to see that either Jennifer or Kali, the owners or the relatives are always in residence when it is being rented. Also, as our Code insists the facilities need to be shared and it cannot be a separate apartment situation. I do not have any problem with designating this as a larger family. We can limit the number I suppose – of the members of the family. Who does she have? She has got four bedrooms upstairs and three bedrooms downstairs. Cheryl stated her personal proposal would be, right now with the four of them living in there, that they should be allowed to rent one room and then when the other two move out they can rent two. That is four adults. Stick with the Code. Jane remarked we are sticking

with the Code in that we have the opportunity to designate them as a larger family. Cheryl remarked let us decide on it. We can talk until we are blue in the face.

Linda reiterated that earlier it was decided to count them as one; the family as one and then the additional ones. So, if we are going to say four, wouldn't the family count as one and then three other people? Clerk Bell remarked yes. That is kind of what Jane said. The three family members would count as one, Kristian would count as one and they could rent out two more rooms. Jane clarified without needing a Planning Commission designation. Linda clarified that when Kali and Kristian move to their house then Jennifer can rent out three rooms. Jennifer remarked that there are two bedrooms. So, we could only rent two of the bedrooms upstairs until they leave. Jane clarified that you could do that now without us deciding on this. Jennifer said that is what she was just thinking. I mean I can do that now. I do not think there is a purpose that I called this special meeting. Jane stated that is what they are saying. You can do that now without our designating it as a family. Ken, do you have anything else to say? Ken replied no. Jane stated that she would like to make a motion. Clerk Bell asked to add another comment from Mr. Fasselin. "Wouldn't this require a variance? It is a safety issue. The main street through the community is already clogged with cars traveling to and from the National Park. As a resident of the community for a year, I use the parking area in front of my property as a deceleration lane. Turning the property into a parking lot is also a major concern that will potentially impact the value of the properties on the other side of each property. Doesn't this require a variance with approval from Tom Dansie?"

Jane answered no. It does not because the code allows us to determine this if we want to. The variances are available if it is against our Code. Since the Code allows us to decide on this, we can decide on this. Do you feel like we have done enough discussing this? Is everybody ready to decide? Yes or No? Cheryl stated that she thinks is that we should not go beyond what the Code allows and so four adults, I am willing to let them rent one more room. When (Kali and Kristian) move out, rent a second one. That is where I stand on it. Jane stated you keep saying 'if the Code allows'. The Code allows us to be our own variance committee. Cheryl replied she knew. And that she does not want to set a precedent. She stated that she would love to go back and change that Code and fix it. Right now, it is what it is. She always disliked that idea, but it is what it is. Jane replied that this is flexible for us. It is one of the few times we can be flexible. Cheryl remarked that then the next person comes and somebody on the committee does not like them and we say 'no'. I do not think it can be fair and equitable. Jane asked 'Do you really think that we would do something because we did not like somebody? Thank you for that confidence.'

Jennifer asked to be clear, making sure she understands; if three of us (or four if they were married) count as one and there can be five or more... Clerk Bell clarified four. Jennifer asked if that is what it says? Cheryl responded it is a total of four. Jane added five or more need to be designated as a family. Four or more unrelated people is ok. Jennifer clarified if three or four of us count as one, then that is one, two, three... so with Kristian, that is one, two and then that is three, four. OK.

Jane **MOVED** that the request for a designation for a group of five or more individuals be considered as a functional equivalent of a family as per the Rockville Land Use Code by Jennifer McKenzie; since Jennifer and Jeremy or their family members will be living at the house and Jennifer assured us that they will be able to contain the parking within their facility and since the house has seven rooms that can be used as bedrooms and the house hasn't been added; that property was formerly inspected by the fire inspector and is deemed to be safe to live in, I see no reason why we can't designate a larger than five or more people as a family for this residence. Ken stated that the motion does not define the maximum capacity. Jane responded no it does not. Ken commented that he thought that was the concern with this group; he stated it should be held to four. Jane responded that is what we are voting on. Ken remarked it does not really make it any clearer.

The motion was SECONDED by Cheryl McGovern.

Jane asked if the Commissioners wanted to amend the motion to a limit other than four? Ken responded not at this time. Jane asked if there was any discussion on the motion. Linda asked to clarify the motion; what we are saying is that we are going to go with the way it reads which is four or less. Jane responded that the motion was to allow a designation of a family of five or more for this residence because Jennifer assures us that parking will be controlled within the property because she assures us that no one will be renting for less than thirty days, because she is assuring us that they will be sharing facilities and costs such as kitchen facilities and living facilities and I moved that we designate this property to allow more than four non-related people to live in this facility. Linda asked there is no limit. We are not designating a limit. Again, Jane asked if any Commissioner wanted to alter the motion to designate a limit?

Linda stated with five or more, you can get as many people [as possible] in there... Every bedroom could have a couple in it. Jane asked please suggest a limit. Linda remarked she thought we talked about this earlier. A limit other than their family of three more, or four more. Cheryl stated it would have to be a limit of the total amount of adults then it would be clear. Ken stated what everyone is asking for is: Is it eight? Is it ten? Is it six? I think that is what everyone is asking to clarify. Jane asked the Commissioners to pick one.

Pick one and we will put it in the motion. Jennifer stated the house has six bedrooms, so that seems like the amount of people that should be allowed. Jane asked Jennifer to clarify is it going to be couples per bedroom or individuals? Jennifer responded it is going to be individuals. She has no intention of renting to couples or people that have children. This is just helping out people solely on the basis of what happened with Kali's situation. She was able to be close to work and work up at the Park and she has come to absolutely love Springdale and Rockville and Zion. These people just need a place to stay; they are not starting families there. No, that is not what this is, it is just to help them out for the time being that they are employed up in your community. Clerk Bell stated that if you do one adult for every bedroom, it would be maximum of six adults, seven if you count her husband. Jennifer agreed seven is fine. My son may come but it does not matter. She is not looking to have sixteen people milling around in her home; that is not what she is looking to do. They have four bedrooms upstairs that I am never going to use.

Jane asked if they want to alter the motion to allow four unrelated people to join her functional family. Cheryl stated that means potentially a total of nine could live there with her son. Jennifer clarified her son is not going to be living there. Jane stated that if they had kid...Cheryl interrupted and added it is out there on the table...Jane responded yes. Cheryl remarked whoever wants to make that number that is fine with me and she would like to move on. Jane remarked it does not matter, you guys are not going to vote for this anyway. I could say two extra and it would not matter. Somebody say how many you want. How many would be ok? Is it zero? Is the number zero? Linda asked other than their family, Ken, what do you think? Four? Ken answered he thought it should be held to what it reads in the Code. He does not think there is this flexibility. Cheryl's comment earlier... Jane interrupted and stated that the Code states there is flexibility. Cheryl agreed that the Code says it. But when those two move out... Ken stated flexibility does not mean we can approve it or not. Cheryl responded right. Jane called for the vote on the motion.

VOTE on motion:

Cheryl McGovern - Nay
Ken Rybkiewicz - Nay
Linda Brinkley - Aye
Jane Brennan - Aye

The motion failed.

Jane conveyed to Jennifer that this motion did not pass. Cheryl remarked that she would like to put something in the comments [inaudible] rules on it. Again, this has been an issue that we should have brought up a long time ago and changed but it has not changed. That does not mean that we cannot look at it in the near future since our new Code book is coming out and this could be changed. But for now, it is what the Code is and unfortunately for you I am voting to stick with the Code. Jennifer questioned, if we do have for example the two bedrooms upstairs and say my son comes to stay even for two months and maybe Jeremy has to stay in California for the next six months for the doctor situation, how do we... Cheryl reiterated four adults. Jane remarked No; you are all related you do not have to worry about Ethan and Jeremy. Jennifer agreed Ok. Jane apologized that the Commission did not have the discussion amongst themselves prior to the vote. A couple of members were not planning to be here; I think that brought that down.

Cheryl asserted she was always going to be at the meeting. She thought it was Ken that was not able to make it tonight and apologized [for any misunderstanding]. Ken conveyed to Cheryl that he saw her text on Thursday that said she voted to cancel it. Cheryl affirmed cancel it, yes. But she did not say she was not going to be there. Ken said he felt as though this was an important issue that needed to be discussed. He felt as though he had participated in a robust conversation prior to this meeting and did not know where that comment came from. We [Ken and Jane] discussed it some, he did not feel as though this meeting was as pressing or as important. He remembered being asked to join the planning board for a time... Jane intervened that she understood continuing to say most of that discussion was about whether the meeting should take place or not, not about what we were asking [during the meeting]. Jane asked Linda to make a comment and then go on [with the next agenda item]. Linda commented that she thought this is very confusing. Ken agreed there are a lot of things in the Land Use Code that are confusing. Linda restated that this whole thing about family and numbers... this is very, very confusing. Cheryl reminded Linda that when our new Code Book comes out that is one of the things we will be working on... Jane encouraged everybody to make their list of things they want to change.

4. **CONCEPTUAL DISCUSSION ON THE POSSIBILITY OF OPERATING A SHUTTLE SERVICE UNDER THE REQUIREMENTS OF A HOME OCCUPATION:** Jennifer conveyed that this has changed and is not going to happen now. Kali and Kristian thought perhaps Jennifer could help them run a shuttle through Zion on the weekends to make some extra money. That is not going to work out as Zion is not even doing Conditional Use Permits this year. It was just an idea they had, and I was willing to help them get a van for them to work on the weekends. But that is not going to happen now. Jane revealed that Rockville does

have a couple of those [shuttles] in town and they are allowed because they have very little impact. People do not park there; they get picked up at a hotel etcetera.

5. **ADJOURNMENT** – Linda Brinkley **MOVED** to adjourn the meeting. Cheryl McGovern **SECONDED**.

Cheryl McGovern – Aye
Ken Rybkiewicz – Aye
Linda Brinkley – Aye
Jane Brennan – Aye

The motion passed unanimously.

The Special Meeting adjourned at 7:03 p.m.

Minutes prepared by:

Pearl Meadows
Deputy Town Clerk

APPROVED

A handwritten signature in black ink, appearing to read 'Jane Brennan', is written over a horizontal line.

Planning Commission Chair/Vice Chair



**Rockville Planning Commission
Special Meeting
December 8, 2020 6:00 p.m.
Via Zoom Electronic Meeting
43 E. Main Rockville, UT 84763**

PLEASE SIGN YOUR NAME AND PLACE OF RESIDENCE FOR THE RECORD

NAME

ADDRESS

m. Honer-Orton

Jennifer McKenzie

Kristian Evenson

Jacob Andersen