



**Minutes of the Regular Meeting of the
Board of Adjustment**

**Tuesday, November 21, 2017
1:00 p.m.**

Chairman Kilby called the meeting to order at 1:02 p.m.

ROLL CALL

**Present: John Kilby, Chairman
Mark Hoek
David Lusk, Seated Alternate
Rick Stockdale, Seated Alternate
Lyn Weaver, Seated Alternate
Stephen Webber, Council Liaison**

**Absent: Ronald Erickson
Melvin Owensby**

**Also Present: Brad Burton, Code Enforcement Coordinator
Michelle Jolley, Recording Secretary**

APPROVAL OF THE AGENDA

Chairman Kilby proposed adding item (A) under 'New Business' to discuss appointment of a temporary Chairman.

Mr. Hoek made a motion to approve the agenda as amended. Mr. Stockdale seconded the motion. All voted in favor.

APPROVAL OF THE MINUTES

Mr. Lusk made a motion seconded by Mr. Stockdale to approve the minutes of the October 24, 2017 regular meeting as presented. All voted in favor.

HEARINGS

(A) VROP-2017024, a vacation rental operating permit request from Barbara Ball; Bobbi Elliot, agent, to operate a residential vacation rental at 2687 Memorial Highway, Lake Lure, North Carolina (Tax PIN 1630769)

Mr. Burton, Ms. Elliot, and Heather Burdette, attorney for Mr. and Ms. Cooley, neighbors, were sworn in. There were no ex-parte communications or conflicts of interest to disclose. The Board felt they could reach a fair and unbiased decision. Ms. Elliot and Ms. Burdette did not wish to challenge the Board for cause.

Mr. Burton presented the case. He stated that Barbara Ball, property owner, through her agent Bobbi Elliot, is requesting a vacation rental operating permit (VROP) to operate a 2-bedroom residential vacation rental (RVR) at 2687 Memorial Highway, Lake Lure, North Carolina. The property is a condominium located in the Lake Side Estates community which is in the CG zoning district. Residential vacation rentals are a permitted use in the CG district subject to special requirements contained in § 92.042 of the Zoning Regulations.

This request was sent to the Development Review Committee for review on November 7, 2017 and no comments were received. He disclosed that he received a phone call and email from Ms. Cooley who had questions regarding the case. He stated he provided her with a copy of the packet and zoning ordinances pertaining to residential vacation rentals. Chairman Kilby pointed out that the Board attorney was not notified to be present as the Board was not noticed that the Cooley's would be in attendance with their attorney.

Ms. Elliott stated that Ms. Ball purchased the property on November 3, 2017 with the intent to use as a vacation rental as well as a second home. She mentioned there are two bedrooms on the lower level and a garage for additional parking. She stated there are two allowable parking spaces in the designated parking area for the condos as well as one additional parking space inside the garage. She added that they would only allow a maximum occupancy of six. Mr. Lusk noted that the application only lists parking for two vehicles. Ms. Elliott stated the maximum number of potential parking spaces would be three.

Ms. Burdette, attorney for the Cooley's, explained that the Cooley's are in strong opposition of this vacation rental request. She stated they were reassured and confirmed that the condos would never be allowed to be used as a vacation rental and purposely chose this condo for that reason. She read from their Covenants and Restrictions and stated the Covenants prohibits vacation rentals under Article 14. She noted the Cooley's were not opposed to renters for six months at a time or longer; their main concern was with short-term weekly rentals. She explained that the Home Owners' Association is responsible for the maintenance and repairs of the common area and all four unit owners are responsible for an equal portion of the maintenance fees. She stated a rental property in the town home would create more complications and create more expenses more frequently. She also mentioned there is no designated parking area for each unit and renters could potentially take up all the parking spaces. She noted there are no onsite trash disposals there for renters. She explained that under Article 14 of the Covenants and Restrictions, it states that each unit owner must not permit or suffer anything to increase the insurance for town homes or interfere with the rights of other unit owners or annoy them by unreasonable noises. She stated there was no indication that criminal background checks would be required prior to renting the

unit which could increase the HOA umbrella policy and increase the Cooley's personal liability of their town home. She explained the Cooley's have two small children and their main concern is to reside at their town home without the burden of different renters on a day-to-day basis. Mr. Burton asked for a copy of the Covenants and Restrictions as 'Exhibit 1 for Cooley represented by Attorney Burdette'.

Mr. Burton asked Ms. Burdette about the concerns she mentioned of an increase in property values. He stated he saw no supporting evidence for that. Discussion ensued. Mr. Burton stated he could not give a legal opinion on whether or not restricted covenants overrides town ordinances. Chairman Kilby felt this item should be tabled until the Town Attorney could be notified and present. He felt his opinion and guidance was needed.

Mr. Lusk moved to continue this hearing until December 19, 2017 at 1:00 p.m. Mr. Hoek seconded the motion. Mr. Hoek, Mr. Lusk, Mr. Stockdale, Ms. Weaver, and Chairman Kilby voted in favor.

NEW BUSINESS

(A) Discuss Temporary Chairman Position

Chairman Kilby explained he would be sworn as Commissioner at the time of the next BOA meeting and a temporary Chairman would be needed for that meeting. He asked Ms. Weaver and Mr. Lusk if they would like to be considered as regular members of the BOA. Both Ms. Weaver and Mr. Lusk stated yes, they would like to be considered as regular members. Chairman Kilby stated this would go before Town Council for appointment. He felt that the Board should keep three alternate members. Chairman Kilby noted he has spoken with Mr. Hoek who felt that Mr. Erickson may have more experience. Chairman Kilby recommended that Mr. Erickson be appointed as the temporary Chairman, based on Mr. Erickson's acceptance. The Board felt that would be the best route.

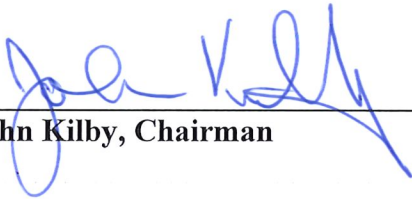
Ms. Weaver made a motion to appoint Mr. Erickson as temporary Chairman, based on Mr. Erickson's acceptance. Mr. Stockdale seconded the motion. Mr. Hoek, Mr. Lusk, Mr. Stockdale, Ms. Weaver, and Chairman Kilby voted in favor.

OLD BUSINESS

None

The Board recessed the meeting until Tuesday, December 19, 2017 at 1:00 p.m.

ATTEST:



John Kilby, Chairman



Michelle Jolley, Recording Secretary