

DRAFT MINUTES
Town of Blowing Rock Board of Adjustment
October 23, 2003

The Town of Blowing Rock Board of Adjustment met in regular session on Thursday, October 23, 2003 at 7:30 p.m. Members present were Chairman Lisle Snyder, Jim Thirtle, Jim Steele, Cullie Tarleton, and Mark Klein. Lowell Thomas was present but was excused from the meeting because of a conflict of interest. Al Wheeler was also present in the audience. Staff present were Planning Director Kevin Rothrock, Town Attorney Allen Moseley, Deputy Clerk Sharon Greene.

Chairman Snyder called the meeting to order and welcomed Boy Scout Troop 101 to the meeting.

Approval of Minutes:

A motion was made by Jim Steele and seconded by Mark Klein to approve the minutes of the February 27, 2003 meeting.

PUBLIC HEARINGS:

Variance #2003-03 John & Glenda Schenck Setback Request

Mr. & Mrs. John Scheck and Mr. James Taylor were sworn by the Clerk to the Board.

Mr. & Mrs. John Schenck residents of 186 Buxton Road, requested a setback variance from Section 16-184 of the Land Use Ordinance to build a single-car parking deck. The deck would be built 3.75 feet from the property line, thereby encroaching 8.25 feet into the required 12-foot sideyard setback.

Mr. & Mrs. Schenck spoke of their desire for a parking deck on their property because they felt unsafe backing their vehicle onto their one-lane street.

Their neighbor Mr. James Taylor voiced his dissatisfaction with the Schenck's request. He stated the proposed parking deck would be only 8 feet from his front porch, and while sitting on his porch he would be looking at the underside of the deck. He also stated all residents on Buxton Road had to back out onto the street and the Schencks' had more parking than most of the others.

Mr. Klein made a motion to close the public hearing, seconded by Mr. Steetle, with unanimous approval of all members.

The Board voted on the Findings of Fact found in Section 16-92 of the Land Use Ordinance.

- 1. If the applicant complies strictly with the provisions of the ordinance, he can make no reasonable use of his property.**

All members voted ""True"

- 2. The hardship of which the applicant complains is one suffered by the applicant rather than by neighbors or the general public.**

All members voted "False". Since Finding #2 did not pass, the application was denied.

Administrative Appeal #2003-02 Ms. Marshall Logue Appeal of Final Notice Violation and Notice of Penalty

Sworn by the Clerk to the Board were the following people, John Pfeifer, Clark Hughes, Charles Ellis, Marshall Logue, John Moore, Seth Adams, Jake Strickland, Charlene McInay, Mary Ellis and Catherine Thomas.

Mrs. Marshall Logue, the applicant, appealed a Final Notice of Violation and Notice of Penalty issued to her regarding short-term rental of her house located on 516 Dogwood Lane. Her property is zoned R-15 single-family dwelling. Short-term rental (less than 28 days) is not permitted in the R-15 zoning district. Mrs. Logue's appeal was submitted on September 11, 2003, within the 30-day appeal period.

The dates in question were from **July 24th to August 3rd, 2003**. The Civil Penalty in the amount of **\$5,000** was also appealed by Mrs. Logue.

Planning Director Kevin Rothrock presented a brief history in this case. He stated that on **June 16, 2003**, Mr. Lowell Thomas submitted an e-mail complaint regarding short-term rentals at 516 Dogwood Lane during **June 14th and 15th 2003**.

On **June 18, 2003**, Mr. Clark Hughes submitted a complaint letter regarding short-term rentals at same address during the same dates in the Thomas complaint.

On **June 19, 2003** a **Final Notice of Violation and Notice of Penalty** was mailed to Ms. Logue from the Town of Blowing Rock, with a **\$1000** civil penalty.

On **June 26, 2003**, the Town received a letter from Mrs. Logue stating her justification for the use of her property on June 14th and 15th. She also submitted a "guest list" of friends and family that might be staying at her home during the next several months.

On **July 3, 2003** Kevin Rothrock sent a letter to Mrs. Logue accepting her explanation and justification contained in her June 26th letter. He also lifted the **Notice of Violation** -and **Notice of Penalty** which relieved Mrs. Logue of the **\$1000 civil penalty**.

On **July 28, 2003**, Mr. Hughes submitted another complaint of short-term rental during **July 24th through July 27th**.

On **July 29, 2003**, Mr. John Phiefer submitted a letter of complaint for **July 23rd through July 28th**.

On **July 30, 2003**, the Town Manager sent a memo to the Mayor, Town Council and Town Attorney summarizing the most recent complaints at 516 Dogwood Lane. It was suggested that Town Attorney, Allen Moseley, address this on-going problem and pursue any civil action.

On **August 2, 2003** and **August 5, 2003**, two noise complaints at 516 Dogwood Lane were received by the Police Department. Followed by another noise complaint from neighbor Clark Hughes.

On **August 15, 2003**, a letter from Mr. Phiefer was received summarizing the short-term rental occurrences.

On **August 18, 2003, a Final Notice of Violation and Notice of Penalty** was issued from Town Attorney, Allen Moseley. The amount of civil penalties charged to Mrs. Logue was **\$500 for each of the 10 violation dates, totaling \$5,000**.

On **September 11, 2003** Mrs. Logue submitted an appeal application, an appeal letter providing an explanation of events and a request for waiver of the \$5,000 penalty, and a long-term rental agreement for four (4) tenants from August 1, 2003 to May 31, 2004.

On **September 12-19, 2003** the Town of Blowing Rock received five (5) letters on Mrs. Logue's behalf from various people explaining the events in violation. (**See attachments**)

After Mr. Rothrock's synopsis of events, Mrs. Logue presented her case to the Board, stating she had sworn written testimony from various people justifying the use of her property during the dates in which she was given a violation notice. She stated she intended to comply with the ordinance and do whatever it took to solve the problem.

After Mrs. Logue spoke, Chairman Snyder asked if anyone else wished to speak. At that time, several of Mrs. Logue's neighbors spoke of their concerns with having different people staying at 516 Dogwood Lane for short periods of time.

Mrs. Catherine Thomas, who lives two doors up from the Logue residence stated there had been lots of occupants at 516 Dogwood Lane. She also stated the residence was listed by Blue Ridge Rentals for rent on a nightly, weekly or monthly basis.

Mr. John Pheifer, a resident of 403 Laurel Park Road, stated on July 28, 2003 a Grand Caravan arrived at 516 Dogwood Lane. He stated he called the house and spoke with the people staying there and they stated they were "renting" for the week. He also stated Mrs. Logue came to his house on one occasion and told him she bought her property at 516 Dogwood Lane as a tax-free exchange.

Mr. Clark Hughes, a resident at 448 Laurel Park Road, spoke next. He stated he had called the police nine times with noise complaints at 516 Dogwood Lane. He also stated he had talked with people at the residence in question and they told him they were "renters".

John Moore, one of Mrs. Logue's long-term renters, verified he and his roommates had a signed lease with Mrs. Logue from August 1, 2003 to May 31, 2004. He also addressed the noise complaints that had been received.

Mr. & Mrs. Charles Ellis spoke concerning the noise at 516 Dogwood Lane.

Mrs. Charlene McInay of Park Place Realty, spoke on Mrs. Logue's behalf, stating Mrs. Logue had let her friends stay at the residence in question free of charge during the time Mrs. Logue received a Notice of Violation.

After hearing from the appellant, Mrs. Logue, her long-term renter, Mrs. McInay, and several residents of Laurel Park, the Board conversed with the Town Attorney Allen Moseley concerning the Notice of Violation and Penalty. He concluded, that the residence may have been rented short-term during some of the dates mentioned by neighbors, but stated it was only "hear-say" and not reliable evidence for the dates that Mrs. Logue was being penalized for. Also, Mrs. Logue had sworn affidavits from several people stating they were staying at the residence during the time in question rent-free. A long-term lease was in place during some of the Notice of Violation dates, therefore, insufficient evidence, for the Notice of Violation and Penalty.

At that time, Mr. Thirtle made a motion to close the public hearing, seconded by Mr. Tarleton. Mr. Klein made a motion to reverse the decision and eliminate the fines of \$5,000 and also requested Mrs. Logue submit a signed affidavit to the Zoning Administrator when renting her home at 516 Laurel Lane. The motion was seconded by Mr. Thirtle. Mr. Tarleton then attempted to make a substitute motion. Mr. Moseley advised Mr. Tarleton that a motion, with a second, was on the floor and had to be dealt with. The Board voted on the original motion.

For: Thirtle, Snyder, Klein, & Steele

Against: Tarleton

The motion carried.

Mr. Steele also made the statement that short-term rentals in R-15 would be dealt with accordingly and subjected to violation notices and fines. They would not be tolerated.

There being no further business, the meeting adjourned at 9:35 p.m.

H. Lisle Snyder _____

Board of Adjustment Chairman

Sharon Greene, Deputy Clerk