

**BOARD OF ADJUSTMENT
MINUTES
Thursday, October 24, 2002**

The Blowing Rock Board of Adjustments met on Thursday, October 24, 2002 at 7:30 p.m. for a regular Board meeting. Chairman Lisle Snyder called the meeting to order at 7:35 p.m. Members present were Jim Thirtle, Jim Steele, Mark Klein, and Barbara Wright. Staff present were Allen Moseley, Town Attorney, Kevin Rothrock, Planning Director and Sonya Long, Administrative Assistant.

Mr. Steele made a motion to approve the minutes from the August 2002 meeting, seconded by Ms. Wright. All were in favor of the motion.

The following people were sworn in to give testimony; Mr. James Craig, Mr. Mark Hughes, Mr. Kent Dewey, Mr. John Surr, Mr. Lowell Thomas, Mr. Stevens, Mr. Charles Ellis, Mr. and Mrs. Rosenfeld and Mr. Kevin Rothrock.

Appeal Case #2002-03 –Mr. Gregory Rosenfeld – Administrative Appeal

Mr. Rothrock stated that Mr. Rosenfeld, the applicant, appealed Mr. Rothrock's decision requiring him to refrain from using his house at 242 Heritage Lane as a short-term rental. Short-term rental is a rental period of less than 28 days. Mr. Rosenfeld's property at 242 Heritage Lane is zoned R-15, single family. Short-term rental of property is not permitted in the R-15 zoning district. Mr. Rothrock explained that the appeal was in response to a Final Notice of Violation, dated August 5, 2002, (Exhibit A).

The application for appeal (Exhibit B) was submitted on September 4, 2002, which was within the 30-day appeal period. Mr. Rothrock gave the board a chronology that provided a brief history of events in the case. Mr. Rothrock submitted into the record the following exhibit's; copy of complaint notes (Exhibit C), copy of the website posting (Exhibit D), first letter to Mr. Rosenfeld from Mr. Rothrock (Exhibit E), notes from Mr. Dewey (Exhibit F), Mr. Dewey's formal complaint letter (Exhibit G), letter from Mr. Greeson (Exhibit H), and a copy of the Blowing Rock Town Code Table of Permissible Uses (Exhibit I).

Mr. Rothrock pointed out the days of the week that the house was rented by a report that was obtained by Blowing Rock Properties, which was submitted as Exhibit J into the record. In summary, Mr. Rothrock reiterated that short-term rentals were not allowed in the R-15 zoning district and by the complaints received and the other evidence, Mr. Rosenfeld's house was rented on a short-term basis. He explained that the Board of Adjustment is charged with making a determination on the facts, evidence, and testimony presented for the case. The Board may reverse, affirm, or modify the order, requirement, decision, or determination made by Mr. Rothrock.

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Chairman Snyder asked about other complaints on short-term rentals. Mr. Rothrock reported that he has written a final violation to one and the other case paid a civil penalty and has gone to a long-term rental.

Mr. Rosenfeld submitted to the board a packet of information. He stated that he had purchased the house in 2001 and it had a rental history before that through Blowing Rock Properties. Mr. Rosenfeld explained that he had allowed employees and friends to use the property. He explained that there were inconsistencies with the Town Code and that it was worded vaguely. He also pointed out that the code could allow up to 13 rentals per year. Depending on who interprets the code, there really isn't a clear understanding of the ordinance.

Mr. Klein asked questions regarding whom Mr. Rosenfeld was receiving interpretations of the Town Code from. Mr. Rosenfeld stated he had spoken with several rental companies in Blowing Rock but also had Mr. Rothrock explain the ordinance to him.

Mr. Rosenfeld stated that the previous owners of the house had a second home in the same subdivision that also did short-term rentals. He explained that the main concern seemed to be about trash and disturbing the landscaping. The property looks no different than when they bought it and have had no prior history of complaints. Mr. Rosenfeld went on to explain that the ordinance should be enforced to everyone, not just by complaints. He stated that the short-term ordinance had no place in Blowing Rock with it being a major tourist destination. If the ordinance remained, the town should notify the property owners and the realtors of the ordinance.

Mr. Kent Dewey, property owner at 154 Heritage Lane, stated he was one of the adjoining property owners that complained. He stated that the ordinance was very clear. The situation has been going on for the last three years and the trash problem was the reason he complained to the Planning Department and to Blowing Rock Properties.

Mr. Mark Hughes, property owner at 199 Heritage Lane stated he had purchased his home because the area that did not have short term rentals and that they understood the ordinance when they bought the house. Mr. Hughes explained that renters sometimes thought their house was the rental house because they look so much alike.

Mr. Lowell Thomas, property owner in Laurel Park, was very concerned about short-term rentals and it's growing issue in the community. He stated that short-term rentals only causes noise problems and excessive number of vehicles. It was Mr. Thomas's understanding that the Town Council's intent for short-term rentals was to be for a 28-day period inclusive. This summer, two additional properties have been placed in the short term rental properties in Laurel Park. One of the properties has had a situation of noise complaints and the police have been called. Mr. Thomas stated that although this did not directly impact the Laurel Park neighborhood, the

decision made would have an impact on the community. Mr. Thomas asked the Board to make a decision supporting the decision of Mr. Rothrock's.

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Chairman Snyder explained that it was not the intent of the Board to adopt or delete town ordinances. The Board had to uphold or change the administrators ruling of the complaint on the agenda.

Mr. Stevens, property owner in Laurel Park, stated he would like to see the ordinance remain as written and that the Town should notify all realtors of the ordinance so that there is no question on the law. Mr. Moseley pointed out that every realtor in Blowing Rock has received a letter from the office stating the ordinance.

Mrs. Rosenfeld spoke and stated that she had called several rental companies researching the short-term rentals in Blowing Rock. She told them she was interested in renting a home in the Blowing Rock city limits the first weekend in November and every company had something. Mr. Rosenfeld stated the ordinance needed to be enforced uniformly.

Mr. Rosenfeld stated that he did not say he wasn't doing short-term rentals but that his point is that it is not being interpreted consistently across the board. Some realtors have told customers they could rent 13 times a year according to the town.

Mr. Rothrock clarified the interpretations issue. He also stated that in 2000, there was an amendment to the town code regarding short-term rentals. The town enacted an overlay district in April 2000, which allowed an opportunity to allow short-term rentals in the R10M and R6M zoning districts. Before Mr. Rothrock started with the Town of Blowing Rock, it was understood that as long as you rented one time a month you could rent short term. That is not the case now.

Mr. Charles Ellis, property owner at 502 Dogwood Lane stated that it seemed like there was a communication problem between the rental agencies and how the ordinance is interpreted. He explained that he has lived at his residence for 30 years and has never had to call the police to complain until a few months ago.

Mr. Klein made a motion that the public hearing be closed, seconded by Mr. Thirtle. All were in favor of the motion.

Mr. Klein made a motion to deny the appeal of the Rosenfeld's and uphold Mr. Rothrock's decision, seconded by Mrs. Wright.

Mr. Klein stated he thought that Mr. and Mrs. Rosenfeld had been given misleading information, but the ordinance is very clear. The fact that we are a small community and we can not enforce it like we would like to, it's the Board's role to decide that your particular appeal is valid.

Mr. Steele stated the town code does say that the rental could take place during a 28 day period, your house was rented twice within that 28 days, that is in violation of the code.

All were in favor of the motion.

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Mr. Steele requested a letter be sent to the Town Council asking them to adopt a fine to be given to real estate companies as well as the owners for short-term rental offenses. Mr. Klein stated he would draft the letter.

Adjourn

With no further business, Ms. Wright made a motion to adjourn at 8:45 p.m., seconded by Mr. Steele. All were in favor of the motion.

Chairman, Lisle Snyder

Sonya Long, Administrative Assistant