

Town of Homer Zoning Board of Appeals
Minutes for Wednesday, April 26, 2023 at 6:00pm

Board Members (absent *)

Dan Gustafson, Chairman
Stuart Young
Gary Sweeney *
Caleb Leach *
Rhea Robinson
Ryan DuBois *
Lynn Gilbert
Lindsay Andersen (alternate)

Others Present

Lindsay Andersen, Recording Secretary
Kevin McMahon, CEO*
Pat Snyder, Attorney

Public Attendance: Jill Craft, Michael Pease Sr., Jennifer Sylstra, Anthony Smith, Christine Shanks, Brian Guy, Thaddeus Sudol, Dianne Sudol

Public Hearing

Chairman Gustafson opened the public hearing to consider **an application by Brian Guy for a use variance to construct 4 structures to be used as short-term rental cabins, at the corner of Searls Road and Route 13, tax map number 67.00-04-15.000.**

Chairman Gustafson stated this public hearing is a continuation of the previous public hearing from the March 22, 2023 meeting.

The applicant read from a handout he provided to the board members in which is included as an attachment to these meeting minutes.

Anthony Smith asked the applicant how he measured for the driveway. The applicant stated he measured the proposed driveway at 12 feet wide and used web soil survey. Mr. Smith asked if there would be required grading and curving to construct the driveway. He verified with the applicant that he understood the location of the proposed driveway. The applicant stated the grading and disturbance would be minimal. Christine Shanks asked the applicant if he is still applying to construct a campground per the code. The applicant stated CEO McMahon is using the guidelines of a campground due to the zoning regulations, but a campground is not his intent.

Diane Sudol stated her property is the closest to the proposed project and that she was a real estate agent for several years. She stated in her time as an agent she would advise clients of the regulations and of what they were allowed and not allowed to do on the property they were intending to purchase if their intent was to create a business of this nature. If they had plans that were not permitted by zoning in the municipality, she would advise them to keep looking in areas that allowed their intended plan.

In 1979, she and her husband chose to buy their home in the Town of Homer because of the strict zoning regulations. She feels the applicant should have known when he purchased this property that the plans do not fit the allowed uses of the area. She stated she is not comfortable with strange people in her neighborhood and potentially entering her property. The applicant stated he

does not believe people that sign the strict Airbnb rental agreement would be wandering onto neighboring properties when advised it is restricted and not permitted.

Attorney Snyder stated the applicant is applying for a use variance which is very difficult to obtain. Therefore, in certain circumstances a zoning amendment has been done but each circumstance is different.

Thaddeus Sudol stated he has no direct questions for Brian as he has already asked him directly and received a tour of the proposal. He stated he was originally supportive of Mr. Guy's proposal but after reviewing the proposal in greater lengths he is opposed to the proposal. He stated he has questions pertaining to the use variance. He would like to know how far someone can go with the use variance once it is granted.

Attorney Snyder stated there is no time limit to a use variance. The variance does not have an expiration date and is conveyed with the property. It runs with the land. Mr. Sudol would like to know if the applicant can continue to expand beyond the four units at a later date. Attorney Snyder stated that conditions can be added to the use variance, but he would not recommend that the board add conditions that cannot be enforced.

Christine Shanks stated she does not feel the applicant understands the concerns. She stated the neighbors have no legal recourse other than the applicant's word once the variance is approved and also feels that Airbnb has no way to enforce the rental agreement nor does the applicant have an obligation to continue to rent through Airbnb.

There were no further questions or comments from the public.

Regular Meeting

Chairman Gustafson opened the regular meeting to consider an application by Brian Guy for a use variance to construct 4 structures to be used as short-term rental cabins, at the corner of Searls Road and Route 13, tax map number 67.00-04-15.000.

Attorney Snyder stated he received a letter from the county planning department which recommended denial of the proposed use variance and site plan review due to the lack of sufficient information.

Attorney Snyder also stated that the applicant has not demonstrated unnecessary hardship, including competent financial evidence (also known as dollars and cents evidence) that none of the lawful uses will yield a reasonable rate of return. This requirement has to be proven and met to obtain a use variance.

Attorney Snyder stated if the applicant is able to provide the financial evidence, he will submit new information to the county for new GML review.

Member Young stated that he currently holds the mortgage on this property and feels it is a potential conflict and will abstain from the vote regarding the use variance decision.

Member Andersen made the motion to table the application and adjourn the meeting until the requirements are met and a revised application is submitted to the county Planning Department. Member Robinson seconded the motion. The motion was carried unanimously 5,0,0.

Adjournment

The meeting was adjourned at 7:00pm.

Lindsay M. Andersen, Recording Secretary