

Department of Planning & Community Development



A meeting of the Franklin County Board of Zoning Appeals was held on May 2, 2023, in the Board of Supervisors room located at the Franklin County Government Center.

THOSE PRESENT:

William D.S. Lee- Chair

Billy Kingery- Vice Chair

William Cooper

Melissa Keen

Pamela Washington

Kevin Hunt

Wayne Worley

OTHERS PRESENT:

Lisa Cooper- Planning Director/Zoning Administrator

Megan Fenner – Clerk

Chris Dadak – Zoning Administrator Legal Counsel

Eric Ferguson- BZA Legal Counsel

THOSE ABSENT:

None

The meeting was called to order by Chairman William Lee at 6:00 p.m.

The first order of business was the approval of the April 4, 2023 meeting.

Mr. Kevin Hunt motioned to approve the minutes as written. Mr. William Cooper seconded the motion.

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Chairman Lee asked if there was any discussion. Hearing none, Chairman Lee asked for the roll call vote.

A roll-call vote was conducted. The minutes shall stand as written, 6-0-0-1; voting on the minutes was as follows:

AYES: Keen, Cooper, Washington, Hunt, Worley, Kingery
NAYES: None
ABSENT: None
ABSTAIN: Lee

Chairman Lee introduced the next item on the agenda and asked for the staff report.

PETITION TO APPEAL- Petition of Tabitha Collison and Cathie Cummins, applicants, to appeal a Zoning Administrator’s decision dated February 21, 2023, regarding the permitted uses on the property located at 399 Royal Estates Boulevard. The Zoning Administrator determined that the proposed motel and 11 canvas cabins on the property fall within the categories of motel, hotel, tourist, and resort facilities, which are uses permitted by right in B2, General Business District. The petitioners appeal on the basis that the Zoning Administrator “overlooked numerous important variables such as easement rights, public safety concerns, road integrity, noise issues, and building discrepancies.” The appeal documents stating the full grounds for the appeal are available for review online at the link provided below or in person at the address also listed below. The property is zoned B-2, General Business District and is located at 399 Royal Estates Boulevard in the Union Hall Election District of Franklin County and further identified in Franklin County real estate records as Tax Map/Parcel Number 0470005201 (APRQ-03-23-17612).

Mr. William Cooper stated he was going to remove himself from the Board for the duration of this meeting due to a conflict of interest. His wife has ownership in a family farm in the area.

Mr. Chris Dadak, legal counsel for the Zoning Administrator Lisa Cooper, introduced himself to the Board. Mr. Dadak wished to emphasize key points prior to Ms. Cooper’s explanation on the basis of her determination. The zoning letter written by Ms. Cooper is an interpretation of the zoning ordinance. Mr. Dadak has reviewed the citizen comments submitted for the appeal, and stated the letters only address

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the concerns regarding the project. Mr. Dadak emphasized the purpose of tonight's meeting was to review Ms. Cooper's interpretation of the zoning ordinance, and whether the concept of a motel and the canvas cabins falls under the permitted use in the B-2, General Business District. Mr. Dadak stated a zoning letter is not approval of a project, site plan review, or any other process. Any reason not to develop the property is not relevant to the Zoning Administrator's determination. The only thing Ms. Cooper looks at is the use proposed by the applicant in conformance with the use that is permitted by right in that zoning district.

Director Lisa Cooper presented the basis for her determination.

On February 3, 2023, Mr. Elliott, owner of the property at 399 Royal Estates Boulevard, John Boughton, Franklin County Building Official, and Lisa Cooper, Planning Director met to discuss the proposed project. Mr. Elliott described that the project would consist of renovating the existing single-family dwelling to a 7-room motel and 11 canvas cabins. The motel would include three (3) guest rooms with a maximum of two (2) guests per room, three (3) guest rooms with a maximum of one (1) guest per room, and one room for staff for operations. The 11 canvas cabins would be erected on permanent decking throughout the site. The canvas cabins would be equipped with furnishings and one full bathroom per cabin. We also discussed that Mr. Elliott envisioned most of his guests to be fishermen. At the February 3, 2023, meeting, Mr. Elliott requested a zoning opinion (determination) of the Zoning Administrator about the proposed project.

On February 21, 2023, Lisa Cooper, Zoning Administrator for the County, issued the following zoning verification (determination) concerning the property located at 399 Royal Estate Boulevard identified as Parcel ID and Tax Map Number 0470005201 and zoned B-2 General Business. (Determination letter is enclosed.)

In 1988, this property was zoned to B-2 by the Board of Supervisors when zoning was adopted in part of the County; at the time of the adoption of zoning, the Lakeview Home for Adults was located on this property as indicated on the official zoning maps of 1988. The property surrounding the subject parcel is zoned R-1 Residential Suburban Subdivision and A-1 Agricultural. The Royal Estates subdivision was platted and recorded in August of 1987. The road that accesses this property is a private road with no recorded road maintenance agreement.

The B-2 zoning district allows the uses motels, hotels, tourist, and resort facilities as by right. The zoning ordinance defines "motel, hotels, and motor lodge" as a "building or group of attached or detached buildings containing lodging units intended

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primarily for rental or lease to transients by the day, week, or month.” The zoning ordinance defines a building and structure under Section 25-40 of the Franklin County Code as, building “A structure having a roof supported by columns or walls, which is designed and intended to house, shelter, or enclose persons, animals, activities, processes, equipment, goods, materials, or personal property” and a structure as “Anything constructed or erected, the use of which requires permanent location or placement on the ground or attachment to something having a permanent location or placement on the ground”.

After several discussions with the Franklin County Building Official, John Broughton, it is the Zoning Administrator’s understanding that the canvas cabins and motel are considered buildings as long as the construction and renovations can meet the regulations found in the international building code.

If the canvas cabins are buildings, it is the Zoning Administrator’s determination that the motel and 11 canvas cabins fall within the categories of motel, hotel, tourist, and resort facilities. Accordingly, it is the Zoning Administrator’s opinion that the proposed motel and canvas cabins comply with the B-2 zoning on the property.

As of April 21, 2023, a demolition permit has been issued for the property and the renovation and building permits and site plan/erosion and sediment control plans have been submitted to the Planning and Building departments for review and approval.

Director Lisa Cooper advised that she would answer questions. Chairman Lee asked if any members had questions for staff. Hearing none, Chairman Lee advised they would now hear from the applicant.

Mr. Jim Gilbert, legal counsel for the applicants Ms. Tabitha Collins and Ms. Cathie Cummins, introduced himself to the Board of Zoning Appeals. Mr. Gilbert stated the applicants will make their presentation and he would follow up with a few comments.

Ms. Tabitha Collins, 396 Royal Estates Boulevard, lives directly across from the property mentioned in the zoning letter. Ms. Collins stated the infrastructure of the Royal Estates subdivision is inadequate to support operations larger than a single-family home. The impact on the cove, already deteriorating road, and neighbors would be too heavy of a burden. There are sixteen (16) single-family homes in the neighborhood, and only half of the parcels have been developed. Ms. Collins stated she and her neighbors do not believe that a high-capacity business, such as a motel and campground would be cohesive to the surrounding residential

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community.

Ms. Cathie Cummins, who lives in the Union Hall area, states she occasionally kayaks over to see her friends in Royal Estates. Ms. Cummins suggested 35 years ago, Franklin County made an extraordinarily misguided zoning designation on a lot which is adjacent to the Royal Estates residential subdivision. She stated since the situation was caused by Franklin County, the county should contribute to finding a solution. Ms. Cummins quoted a section of the Franklin County webpage, under land development, where it states the county is currently updating code requirements related to land use and development. She continued to explain these ordinances help to guide growth and development by governing how land is used, arranged and built upon. The ordinances play a vital role in protecting property rights by mitigating the potential impacts of development and by establishing clear expectations for investment decisions. Ms. Cummins explained the situation they would talk about is an example of how a zoning ordinance has failed to serve this purpose. She believes not only other residents of Royal Estates placed in a bad spot, but certainly also is the buyer of the lot who was expecting that commercial development was suitable. Residents of Royal Estates and surrounding residential neighborhoods were opposed to Franklin County forcing a residential subdivision to allow a commercial business to use their private unmaintained neighborhood road and believed this created significant liability and safety issues for residents.

Ms. Tabitha Collins went through the history of the lot to be used as a hotel. In 1983 the lot was sold to Collins with the intention of the property being used as a single-family home. Access to the property was via an easement which allowed use of an outlet road from the property's northeast corner to Burnt Chimney Road. In 1986, adjoining parcels were sold and the lots were created for both the Royal Estates and the Twin Chimney subdivisions. In 1987, an agreement between all the individuals of the subdivisions was finalized for road and water usage. Ms. Collins inferred the purpose of the private road and a private water agreement were to provide access to private residences in single-family homes. Ms. Collins showed a map that displayed the outlet road connecting to Burnt Chimney Road.

Ms. Cathie Cummins advised Franklin County began zoning in May of 1988. The property of the proposed use was designated B-2, General Business, to allow for a small, assisted living facility for adults. The rest of the subdivisions were zoned, R-1, Residential Suburban.

Ms. Tabitha Collins advised the assisted living facility was started in September of 1988. The residence was expanded to include six bedrooms. Ms. Collins wanted to point out the Piedmont Community Service Board lists assisted living facilities in the

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area. Three (3) or four (4) of these properties are zoned R-1, Residential Suburban. The Collins lived on the property where the assisted living facility was located. The Collins did not register their business with the County Commissioner of Revenue, nor did they pay taxes as a business. Their business license expired in 2003. Ms. Collins stated for the past twenty (20) years the neighbors of Royal Estates have only seen the property used as a residence by the Collins, and they used the road as citizens of their community. In September 2022, Mr. and Mrs. Elliott purchased the Collins property. The deed on file with the Franklin County Circuit Court describes this property and an easement that no longer exist was conveyed. The road described no longer exists and is not the same road as a private road known as Royal Estates Boulevard. The agreement between Collins and real estate developers was on file with the Franklin County Health Department and does not appear to have been conveyed with the deed at the time of sale to Mr. and Mrs. Elliott in 2022. Ms. Collins stated that the agreement between the Collins and the neighborhood was made prior to zoning.

Ms. Cathie Cummins stated in February 2023, a letter to Mr. Elliott from Franklin County Planning and Community Development Director Ms. Lisa Cooper stated the access to the property was by a private road Royal Estates Boulevard which has no established road maintenance agreement. Ms. Cummins stated the private residential use only road is not inclusive by use by the Elliott property as indicated on the Elliott deed dated September 2022, and the road belongs solely to the residents of real estate subdivision.

Ms. Tabitha Collins wanted to call attention to the letter written by Ms. Lisa Cooper does address the private road. Ms. Collins believes through the zoning letter, Ms. Lisa Cooper has given permission for up to 40 guests a day to travel their private road. This road is their only access in and out of their community. The daily use of the roads include resident traffic in and out of the subdivision, adults and children walking, bike riding and dog walking. Ms. Collins believes the road will be the most affected part of the project, and will more than double the daily traffic. If the project is complete, motel guests will be traveling the roadway to load and unload boats and trailers and to obtain meals. Ms. Collins stated that private roads containing 50 lots or less can be taken into the state system as a secondary roadway, however there is an extreme financial burden the residents must bear before the road may enter the VDOT system.

Ms. Cathie Cummins again stated to have the road taken into the VDOT system is too expensive for residents. She stated the B-2 zoning designation is misguided and inappropriate, as there has never been a public or commercially designated road to access the property. She suggested the daily travel of tourists would disrupt the

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daily activities of the residential area.

Ms. Tabitha Collins called for access to Royal Estates Boulevard to be restricted to residential use, and for Franklin County to take responsibility for the situation imposed upon the residents of the subdivision. Ms. Collins stated according to AEP Shoreline Management, this use would be designated as a high-density commercial property. She also motioned the cove located at this property is small and shallow, creating a safe habitat for several species of wildlife.

Ms. Cathie Cummins stated they have collected over 370 signatures of opposition to the project.

Mr. Jim Gilbert stated his clients expressed their emotion and the negative consequences that this development would bring to the Royal Estates Subdivision. The first thing Mr. Gilbert focused on was the county ordinances and some of the definitions that are found in the county ordinances and, and why some of the definitions of the county ordinance that weren't included in Ms. Cooper's letter should be considered by the board. Mr. Gilbert also wanted to talk about the road going through Royal Estates Subdivision. Mr. Gilbert provided the board with a one-page document with definitions from the Code of Franklin County. He did not believe the definitions of the ordinance allowed canvas cabins in a B-2, General Business area. Also included on the document were definitions from the Merriam Webster dictionary which defined tents as a shelter of fabrics such as nylon or canvas stretched and sustained by poles and used for camping outdoors. Mr. Gilbert believed this fit the description of the canvas cabins that would be used for the project. He then touched on the County's definition of hotel/motel: a building or group of attached or detached buildings, containing lodging units intended primarily for rental or lease to transients about the day, week or month. Mr. Gilbert believed the key word in this definition was 'building.' In the County's ordinance the definition of the word building states a structure having a roof supported by columns or walls. He suggested that the canvas cabins do not have walls to support roofing, and thus is not a building. He also pointed out that the only place that contains the word 'tents' is within the definition of camping units. The definition of a camping unit is a tent, tent, trailer, travel trailer, camping trailer, pickup camper, motorhome or any other device, or vehicular type structure for use as a temporary living quarters or shelter during periods of recreation, vacation, leisure or travel. The definition of camp is a lot, track, or parcel of land operated as either a commercial or noncommercial enterprise in which seasonal facilities are provided for or any of the following: camping, picnicking, boating, fishing, swimming, outdoor games and sports and activities incidental on relating to the foregoing. Mr. Gilbert stated that if the Board of Zoning Appeals finds that the canvas cabins are tents, then that makes

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them a camping unit and not a building. Mr. Gilbert stated there is a problem with the developer using Royal Estates Boulevard. In land use records, there is an agreement for the Collins to use the road as an outlet road and they will later come to another agreement. Mr. Gilbert spoke on rulings of the courts that show this does not qualify as an easement.

Chairman Lee advised they would now open the period for citizen comment. Each citizen who wished to address the Board of Zoning Appeals had three (3) minutes to speak.

Mr. Scott Elliot and Ms. Meredith Elliot addressed the Board of Zoning Appeals, along with their legal counsel, Mr. Barrett Lucy, and their project engineer, Mr. Jamie White. Mr. Lucy introduced Mr. and Ms. Elliot, stating they have had residence in Franklin County for six (6) years and that there has been misinformation spread regarding the project and their plans for the property. Mr. Lucy spoke on the zoning that took place in 1988, stating that anyone could make the claim that a property was zoned in the 80's and that it should be changed. He also pointed out that no one has attempted to rezone the property until his clients purchased the property. Mr. Lucy stated that the purpose of tonight's meeting is not to rezone the property, but to decide if the canvas cabins meet the definition of a tent. Compared the definitions presented by Mr. Jim Gilbert to the ones used by Ms. Lisa Cooper in the zoning letter. The definition of a camping unit states the word 'temporary,' and camping units can be moved. The canvas cabins proposed for the Elliot's' project are not temporary, and cannot be relocated. Therefore, the canvas cabins are structures.

Mr. Scott Elliot stated they spoke to the manufacturer for the canvas cabins for four (4) years, and purchased the property in July of 2022, and had a study period where they spoke to the county and the health department. Mr. Elliot wanted to speak as to how the canvas cabins are constructed. They are constructed on a deck system that is held by concrete footings. There is a steel frame that makes up the cabins, and the canvas goes on the outside. Mr. Elliot advised that he has experience as a contractor, and that he would not classify the canvas cabins as a tent. A tent is temporary and has rigging. Mr. Elliot advised that the material is fire retardant, insulated walls, R24 insulation. He and his wife stayed in a canvas cabin while in Africa to tour the manufacturer's facility prior to purchasing them. Their vision was to bring something different to the area. He assured the board that anything they do, will not be done halfway. There have been allegations, such as toilets sitting on the front porch. Mr. Elliot reminded everyone that the property is currently a construction site, and the toilets are sitting there until they can be recycled. They want to do something that will enhance the properties.

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Ms. Meredith Elliot stated their main goal was to bring everyone together. Ms. Elliot stated she doesn't foresee large parties taking place, and she's not sure where the term 'fisherman's motel' and 'glamping' originated from. They have four (4) children, and they want to make this a place they can bring their children and their church families. Indoors there will be hardwood flooring, haring bone tile, and high-quality materials. This is a place where they want families to come together.

Mr. Jamie White, White Engineering, has been working with the Elliots on the site. Mr. White wanted to inform everyone that they will still have to go through a site review process, and they will have to meet county, AEP, and DEQ requirements to be able to operate. Mr. White understands the concerns about overburdening the road. Mr. White thought Royal Estates Boulevard met the minimum level state subdivision road in design. That level can handle up to 2,000 vehicles a day. He acknowledged the issues over maintenance agreements but advised that they only expect to add 30-40 vehicles to the regular amount of traffic daily.

Mr. Mike Lester advised he and his wife reside on Kings Way. Mr. Lester questioned how a property used as a single-family residence in 1983 was zoned in 1988. Mr. Lester called the B-2 zoning a "gross mistake." The private road of Royal Estates Boulevard didn't exist when the Collins bought the property in 1983. He questioned if the easement was valid since the 1985 and 1987 agreements are in question. Mr. Lester requested the property to be rezoned to R-1.

Mr. Chris Bordeaux stated that it was a mistake to zone the property B-2, and that it should be rezoned to R-1. He stated there is no way visitors to the property will want to swim in the cove, as it is very shallow. He also stated there is no way for boats to be placed in the cove. Mr. Bordeaux stated that he doesn't understand how AEP can accept the project and the impact it will have on the cove. He stated he lives in a neighborhood adjoining to Royal Estates. This project would be detrimental to the safety, harmony, and peace of the cove. Mr. Bordeaux stated he agrees with Mr. Jim Gilbert when he questioned the validity of the easement to the property.

Ms. Jennifer Allen, 445 Royal Estates Boulevard, stated her room is less than 100 feet from the proposed hotel. She claimed the letter written by Ms. Lisa Cooper allowed for one individual to facilitate numerous hardships on the Royal Estates subdivision. Ms. Allen stated her education and professional background allowed her to speak on the hardships created by operation of the business. For 12 years she served local and state governments, law enforcement, and public safety operations. She then trained and worked with the forensics division of the National Center for Missing and Exploited children. Ms. Allen stated witnesses have noted seeing one or more

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strangers attempting to blend into residential settings and parks in the event of non-familial kidnappings. She suggested that if this business is allowed in the Royal Estates subdivision, it allows people to take part in criminal activities in their formerly safe neighborhood. Ms. Allen stated the proposed business will lower her property value and increase the potential for her home to be burned down. She suggested the property owners finish renovating the home and sell it for a profit.

Mr. Randy Cummins, 3579 Kemp Ford Road, was concerned about the firepits on the commercial property being located in a residential area. He stated he contacted Steven Crook, who is a certified fire fighter and instructor. Mr. Steven Crook could not attend, but has already submitted written comments to the Board of Zoning Appeals. Mr. Cummins spoke about Mr. Crook's concerns. The only access to the neighborhood is by a private and unmaintained road. The first response would come from Westlake/Scruggs Fire Station. Mr. Crook questioned if there was enough space for this apparatus to respond to emergencies at the proposed property. Smith Mountain Lake fire boats would also be dispatched. The cove where the property is located would not provide access for the fire boats. The home being renovated to a hotel would require a new fire suppression system, and a fire suppression system would also need to be installed in the canvas cabins. Mr. Cummins claimed the well that services the Royal Estates neighborhood is not a sufficient source of water in the event of an emergency.

Ms. Amy Bordeaux advised that she is one of the original families in Twin Chimneys. Her parents purchased property for their family to grow, and to have somewhere to swim and kayak. Ms. Bordeaux questioned if this project is the right fit for this area. They had heard rumors that this was geared towards fisherman, and they imagined people with bass fishing boats speeding through the cove. She stated that she has gone 'glamping' before and enjoyed it, but stated this would bring overcrowding to this area. She stated that they never knew this property was zoned B-2, and assumed that it was zoned residential like the rest of the properties. Ms. Bordeaux stated she would like Franklin County to keep homeowners happy and to welcome business owners, but in the right place. She finished her comments by stating she agrees with the comments made by Mr. Jim Gilbert and the other residents of Twin Chimneys and Royal Estates.

Mr. Hugh Conklin, Boxwood Green Subdivision, has been visiting Twin Chimneys since 1971. He is very much in sympathy with the residents of Royal Estates. Mr. Conklin talked about the reason he and his neighbors would like to rezone their area to R-1, to prevent projects like this from moving to their area. He encouraged the Board of Zoning Appeals to side with the residents of Royal Estates.

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Ms. Suzanne Kiefer, 160 Crown Point Drive, stated she moved to Franklin County from the Manhattan area. Ms. Kiefer stated she and the other residents take care of their roads, they clear debris from the road, and expenses that come along with maintenance. Ms. Kiefer stated that this business would bring in a lot of people who don't care about the area. She suggested this project would cause devastation to the area. She stated that there is a campground down the road from the subdivision, and occasionally you can hear noise coming from the area. Ms. Kiefer questioned how they would address disturbances coming from the proposed project. She also mentioned that there would be no room in the small cove for both boats and swimmers.

Mr. Jody Lyons and Ms. Polly Lyons, 120 Crown Point Drive, stated they own a real estate company. Mr. Lyons stated that the first thing they do is contact the property owners in an area prior to developing. Mr. Lyons stated that there were no meetings, and none of the property owners knew what was going on with the property. Ms. Lyons stated the residents are not here to get the property rezoned, they are just expressing their concerns for the neighborhood. She questioned if there are going to be additions to this project which cause more of a disturbance. Mr. Lyons stated their main motivation for coming is their seven (7) grandchildren who jump off their dock and play in the water. He stated that boats speeding by are a great concern.

Mr. Lynne Decker mentioned he has heard this project referred to as a fisherman's motel. This makes him think that the business will need to gain access to the lake to put boats and other crafts into the water. Mr. Decker stated when there are fishing tournaments at the lake, hotel availability becomes scarce and there are boats and trailers everywhere. He suggested if word got out to participants, that would bring many people with boats and trailers into the subdivision. Mr. Decker questioned where all the vehicles and trailers are supposed to park.

Ms. Denise Manoogain, 105 Twin Chimneys Drive, stated as a retired planner she knew to check the zoning of the area when she purchased her house. Ms. Manoogain stated a lot of people do not think to check for the zoning and the uses of properties in an area when purchasing. She stated she doesn't know if you can justify the spot zoning of the property that should have never happened. Ms. Manoogain stated she has a cabin up in Maine and went through a storm burst. She said she was fearful just staying in her cabin, and questioned how it would be in the canvas cabins. Even if the property owners shared in the cost of the road, she said it would be unfair for them to pay a small portion when they are contributing to the increase in traffic. Ms. Manoogain stated she agreed with the statements made by Mr. Jim Gilbert, Ms. Tabitha Collins and Ms. Cathie Cummins.

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Ms. Lisa Leitz stated she resides a few miles from the neighborhood, but the situation felt reminiscent of a situation she was in involving her neighborhood. She stated there is no need to question someone's integrity or character, but she wants to call attention to the inappropriate zoning occurring across Franklin County. While they can't change the situation right now, recognizing that change is needed and that they can choose to protect the neighborhood is what is important. She stated that she googled 'canvas cabins' and all she found were tents.

Mr. Bill Cooper stated he was speaking on behalf of his wife, Ms. Robin Turner Cooper. Ms. Cooper and her brothers own the farm across from the subject property. Mr. Cooper stated the zoning administrator's decision is incorrect, and the canvas tents make the property a campground. He stated the boy scouts have wooden platforms they place their tents on, but it is common sense that these are not permanent structures. Mr. Cooper suggested this could be viewed as a way to circumvent the building code. Mr. Cooper stated that the question is whether or not the canvas tents are permanent structures.

Mr. Jim Lombardi, 15 Crown Point Drive, stated his concern was sanitation. He was concerned about the septic tank, stating eventually it will leach into the lake and the water quality will be deteriorated. Mr. Lombardi suggested a full environmental study to see how the water and wildlife will be impacted.

Mr. Barrett Lucy requested that the Elliot's be allowed to address some of the concerns regarding the canvas cabins, in order for the Board of Zoning Appeals to make an informed decision.

Chairman Lee stated he did not want to start a debate and cannot allow additional comments outside of the allowed time. However, Chairman Lee stated he would let Mr. Scott Elliot address the concerns regarding the canvas cabins.

Mr. Scott Elliot stated that every canvas cabin will have its own bathroom. The canvas cabins will be heated and cooled and will not come down as they are permanent structures.

Mr. Chris Dadak reaffirmed Mr. Jim Gilbert's statement that the decision tonight is whether or not the canvas cabins are structures. Mr. Dadak stated a part of the determination in the zoning administrator's letter is that the canvas cabins in a B-2 zoning must meet all requirements according to the building code regulations. Tents do not meet building code regulations. If the canvas cabins do not meet the building code requirements, then they are not covered by the zoning administrator's letter. Mr. Dadak stated the concerns brought up by the community

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tonight can be addressed in a different forum.

Chairman Lee stated they would now end the period for citizen comment.

Mr. Kevin Hunt questioned if the canvas cabins would pass building code, and how the Board of Zoning Appeals knows they would pass building code. Mr. William Lee commented that the canvas cabins would still need to go through the building inspector.

Mr. Billy Kingery asked Ms. Lisa Cooper if the property owners would need to have a special use permit to operate a campground. Ms. Cooper stated that this hearing is not a special use permit hearing, or a rezone hearing. Ms. Cooper stated that campgrounds are prohibited use in the B-2, General Business zoning.

Mr. Billy Kingery stated its hard for him to believe that the property in the middle of a subdivision is zoned B-2, and stated it was out of place. Mr. Kingery stated the road is going to become a burden on residents, and he witnessed its poor condition during his visit and while speaking to residents. Mr. Kingery also stated it would affect the integrity of the subdivision and lower their property values.

Mr. Eric Ferguson, legal counsel for the Board of Zoning Appeals, stated that the Board of Zoning Appeals is a quasi-judicial board and does not have the authority to rezone the property. The only authority the Board of Zoning Appeals according to the ordinance, is to determine if the opinion of the zoning administrator is incorrect. Mr. Ferguson stated that the Board of Zoning Appeals has to start at the position that the zoning administrator is correct, and it is up to the presenters and audience to provide evidence to prove the zoning administrator incorrect. It is not up to the Board of Zoning Appeals to determine if the zoning of the property is correct, this responsibility falls on the Board of Supervisors. If rezoning is the desire of the audience, they need to follow up with the Board of Supervisors. Mr. Ferguson agreed with Mr. Chris Dadak and Mr. Jim Gilbert when they stated the issue tonight is to determine if the canvas cabins are tents.

Ms. Melissa Keen requested Mr. Eric Ferguson to elaborate on the preponderance of the audience to prove the zoning administrator is incorrect. Mr. Ferguson advised he always interpreted that as it is more likely that the zoning administrator is correct or incorrect. Ms. Keen confirmed that they are not talking about beyond a reasonable doubt, but a lower threshold. Mr. Ferguson confirmed, advising the question is it more likely that the zoning administrator is correct or incorrect.

Mr. William Lee motioned that based on information and evidence presented, he

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moved to affirm the Zoning Administrator's decision and uphold her decision based on the petitioner/appellant has not demonstrated by a preponderance of evidence that the Zoning Administrator erred in her decision of February 23, 2023 that a motel and 11 canvas cabins fall within the categories of motel, hotel, tourist, and resort facilities, which are permitted uses in the B-2, General Business District.

Ms. Pamela Washington seconded the motion.

A roll-call vote was conducted. The minutes shall stand as written, 6-0-1-0; voting on the minutes was as follows:

AYES: Hunt, Worley, Washington, Lee
NAYES: Keen, Kingery
ABSENT: None
ABSTAIN: Cooper

Meeting adjourned at 7:43 pm.