Shelby County Board of Zoning Appeals
Meeting Minutes
February 11, 2025

Members Present:
Kevin Carson
Terry Knudson
Dave Klene
Jim Douglas

Members Absent:
Megan Hart

Staff Present:
Desiree Calderella – Planning Director
Jody Butts – Attorney

Call to Order and Roll Call:

Dave Klene called the meeting to order at 7:00 pm in Room 208 A at the Court House Annex, Shelbyville.

Approval of Minutes:

Kevin Carson made a motion to approve the minutes from January 14, 2025. Terry Knudson seconded the motion. The minutes were approved 4-0.

Old Business:

None.

New Business:

V24-22 – KAREN P BARLOW IRREVOCABLE TRUST: ZONING VIOLATION. Located at 2084 E Old Rushville Rd, Shelbyville, Addison Township.

Desiree Calderella provided an overview of the case as indicated in the Staff Report.

Jeremy Musgrave with Stephenson Rife represented the property owner on behalf of Eric Glasco with Stephenson Rife. He requested a stay of enforcement action and indicated that a pending short-term rental ordinance would most appropriately regulate short-term rental of the property. He explained that the County has historically regulated short-term rentals in the same manner as long-term rentals, therefore, imposing enforcement action would cause an undue burden on the property owner.

Eric Glasco was present via Zoom.

The Board opened the hearing for public comment.

Curt Johnson, who lives at 2216 E Old Rushville Rd, stated that he disagrees with a stay in enforcement action. He indicated that the property owner has continued to rent the property after receiving the notice of zoning violation and that the violation letter does not provide a stay in enforcement action as an option for corrective action. He indicated that the UDO requires the holding of any application for approval to allow for continuance of use of a property in a manner that violates the ordinance until resolution of the violation. He expressed concern that a stay in enforcement action would set a precedent, about the large number of people that occupy the property, and liability to the County by allowing the violation to continue without information regarding proper fire protection and sanitation facilities. He asked the Board to deem the property in violation and deny the request, but withhold any penalty until the County adopts an ordinance regulating short-term rentals.

Karen P Barlow explained that before she began operating the short-term rental, her attorney had advised her that the County does not regulate short-term rentals outside of the city limits. She indicated that she had contacted Eric Glasco at Stephenson Rife imminently after receiving the zoning violation and has followed his advice. She explained that she has invested a large sum of money into the property and has not rented the property in January, but has several bookings throughout the rest of the year. She spoke about the property's safety features. She indicated that she has renovated the property. She indicated that she does not rent the property for single-day events. She explained that her rental agreements prohibit use of the property for parties. She indicated that neighbors to the property have not expressed a concern about noise and that she has not heard any noise from the property from her residence across the street. She indicated that she has proper insurance on the property. She indicated that she does not believe the property is in violation. She explained that Airbnb would impose a financial penalty and ban her from operating on their platform if the Board requires her to cancel her existing bookings.

Darren Sawyer, an excavator who has knowledge of the septic system on the property, indicated that the County had approved the septic system and that it adequality services the property.

The Board closed the public comment portion of the hearing.

Jeremy Musgrave explained that he does not believe that the property is in violation. He indicated that taking enforcement action would impose irrecuperable harm to his client's retirement investment.

Jim Douglas indicated that he had previously visited the property for an event, and due to

the size of the property and tree lines, it did not occur to him that noise would pose an issue to neighbors. He suggested approving a stay in enforcement action until the County adopts a short-term rental ordinance because of the previous confusion in communication regarding the legality of the use between the Barlows and the Planning Office.

Dave Klene indicated that asking the petitioner to bring the property into compliance for two months until the County adopts a short-term rental ordinance would not pose a significant hardship.

Jim Douglas indicated that canceling existing bookings within that timeframe would break the property owner's contract with Airbnb. He indicated that the County had not received any other complaints on the property and asked Mr. Johnson for clarification on his specific concerns.

Curt Johnson referenced trespass of guests onto a neighboring property and an incident when guests made his daughter felt uncomfortable being outside.

Kevin Carson explained that the Board has previously granted time for properties in violation to come into compliance.

Eric Glasco indicated that the notice of violation deemed use of a structure for temporary lodging in the RE District a violation. He explained that State code does not allow for prohibition of short-term rentals in residential areas, therefore, the cited violation violates State Code. He explained that his client did not receive notice of a violation regarding renting of the structure to multiple persons as outlined in the Staff Report. He indicated that the pending short-term rental ordinance would most appropriately regulate short-term rental of the property

Dave Klene asked if the property owner had bookings within the next month.

Karen Barlow provided the dates of existing bookings.

Terry Knudson indicated that the property owner had not previously received clear guidance from the County regarding regulation of short-term rentals and allowing the property owner to rent the structure for two months while the County writes a short-term rental ordinance seems reasonable.

Desiree Calderella provided information regarding the pending short-term rental ordinance. She indicated that the previous confusion in communication regarding the legality of the use between the Barlows and the Planning Office may warrant a stay in enforcement action, however, understands a stay in enforcement action would allow for continuance of an illegal use of the property.

Kevin Carson made a motion that the Board **place a stay on enforcement action for three months, and if the use of the property violates the adopted short-term rental ordinance, then the property owner has one month from the date of the adoption of**

the ordinance to apply for a variance/rezoning or to bring the property into compliance. Jim Douglas seconded the motion. The Board unanimously approved the motion.

Discussion

None.

Adjournment:

With no further business to come before the Board, Kevin Carson moved to adjourn, and Jim Douglas seconded the motion. The meeting was adjourned.