

Keweenaw County Zoning Board of Appeals
Public Hearing
Courthouse Courtroom
Minutes – July 21, 2015

Vice Chair Kastelic called the meeting to order at 6:00 PM

Ann took the roll call:

Frank Kastelic, Vice Chair	Pauline Johnson, member
Steve Peters, member	Tom Hall, Planning Commission member
Ann Gasperich ZA	

Members excused: Jim Vivian recused himself

The Pledge of Allegiance was recited.

M/S Johnson/Hall to approve the agenda with the change to remove the public comment prior to the public meeting. All in favor, motion passed.

M/S Peters/Hall to approve minutes of June 18, 2015, all in favor, Motion passed.

Public Comment prior to public hearing removed from agenda

Directions from the Chairman – Passionate subject on both sides. We are not here to decide the merits of this ordinance. We are here to decide whether we agree with the zoning administrator's determination. We have letters, 23 that have been received prior to the last 10 -15 that we have here. The board has read and understood those letters and I would have them placed in the minutes without reading them.

A motion to place the letters in the minutes without reading was made by Johnson/Peters, all in favor motion passed.

We would ask that we not have side conversations and everyone control themselves from outburst. We will not be taking questions from the floor tonight. We have two sides, the feelings will be the same whether you are opposed or in favor of. What I am asking for is that we don't go through the exact statements over and over. If you have something new to add, that is fine. Hopefully everyone will understand that. As it is now we have 15 letters to read into the record.

At this point I will open the meeting for the review of the administrative interpretation.

Open Public Hearing for review of administrative interpretation

Initial Comments by aggrieved party representative Michelle Halley were given.

Good evening, thank you for giving us the opportunity for this hearing this evening. Thank you for having us this evening. As you pointed out we are here to discuss the administrative interpretation of section 0 of the conditional uses on tourists home and bed and breakfasts. As the ordinance is written the ordinance

Public Comments -- Please limit comments to 3 minutes per person.

says, no events except for those which involve, I'm sorry, no receptions, private parties or activities for which a fee is paid shall be permitted except for those which involve registered guests only. The interpretation before you tonight says, "No events except for those which involve only registered guests are permissible in RR.

Our position is that the administrator went beyond her authority and changed the meaning of the ordinance through the interpretation. That is a violation of the ordinance itself. It is a violation of state law and it is a violation of federal due process. A staff person does not have the authority to change the meaning of the ordinance in this way, by simply ignoring one phrase, for which a fee is paid, it changes the meaning of the ordinance from meaning that a person renting a tourist home a lessee cannot then have an event at the home for which they charge a fee. It changes the meaning of the ordinance from that to the only event that can be held at the home are those that involve the registered guests only. Period. And the word only is included and even was underlined in the administrator's interpretation. So the practical reality is that before this interpretation, you, me or anybody else renting a tourist home could have a party there, a family reunion there, a birthday party there, a wedding any event. An event is not defined in the ordinance which makes this discussion a little bit harder. So, there is some gray area about what an event is. But those things are events. I think most people would agree on that. So now under this interpretation, none of those things are allowed if they involve anybody who is not a registered guest. The interpretation drastically changed the meaning of the ordinance. That is simply not allowed. The administrator does not have the authority to change the meaning of the ordinance. I think it is useful to put in the context that the planning commission was already in the process of looking at all the conditional uses on tourist homes and bed and breakfasts including some of these definitions that are missing from the ordinance. My clients are perfectly happy to live with the ordinance as it is until they finish the process. And they were involved in that planning commission process, attending the meetings, making comments and submitting comment letters. Then all of a sudden this administrative interpretation arrived and changed everything. It really changed the whole dynamic of what was going on. And this brought us here tonight. Our preference is to let the planning commission finish what they are doing because that is really the proper channel for changing the ordinance if it is to be changed at all. That's the way it needs to be done from a legal perspective so that citizens can have input. There was no citizen or public citizen input with this administrative interpretation that changed the ordinance. May I give you written materials? I have a couple here, (Kastelic asked if we have received this information before – exchange between Halley and Kastelic)

Pages were handed out. The second and third pages I don't think that you would have gotten. This is a proposed findings of fact and its simply language for you to consider when you have to write findings of fact for whatever decision you are going to make tonight. This is language for your findings of fact that articulates exactly what I just said that the administrator cannot change the meaning of the ordinance and this interpretation changes it and does not allow for that.

In addition to the lack of authority on the administrators part to change the ordinance, I talked a little about the due process cause in state and federal court. Those are discussed fully in the brief that you got. I want to talk about that a little bit. We operate in a democracy where one person does not have the authority to change a law. One person in this case has the authority to interpret what the law means. However, the administrator here went far beyond that and the practical implications of that are really going to impact property owners that rent these home as well as the people who are accustomed to coming here and renting these home. It will dramatically change what happens in the RR district on a day to day basis.

That is the end of the comments I would like to make right now. I see that I have three minutes later. I will reserve that. In the meantime, I know you are not taking questions but if you have questions of me now or later, I will try and answer them.

Initial Comments by Zoning Administrator (7 minute time limit)

As the Zoning Board of Appeals, you have jurisdiction over this appeal as stated in Section II, Section III, Argument A of the request for a Public Hearing supporting documents provided by the Attorney. Your duty is to hear and decide the appeals of my administrative interpretation. My interpretation is 1) Extremely liberal in nature and 2) I did determine that Events are a Commercial Use which is not allowed in Residential Zoning. That is why we are here. Your job tonight is to decide if you support or oppose my interpretation.

Please allow me to explain how we got to this point.

Vacation rentals have long been an issue in Keweenaw County as far back as 2002. Some of you were on the ZBA in 2002 when it was brought to your attention the first time as well as the Planning Commission. With the advent of Air B&B, Home Away and VRBO (vacation rentals by owner) vacation rentals/tourist homes are in the spotlight. This topic was placed as a new business item on agenda in the February 2015 Planning Commission meeting. It has had its priority in discussions ever since that time.

A complaint was filed to the Chairman of the Planning Commission regarding properties that were in violation of our Zoning Ordinance as they were advertised for events. The complaint was discussed at the Planning Commission meeting.

Later, I reviewed that complaint as is my responsibility.

After thoughtful consideration regarding, "should the complaint or question come to the ZBA for interpretation or should I exercise my authority as provided by the ordinance. I choose to make the initial interpretation for one primary reason. If the questions were to come to the ZBA it could be conducted in the normal course of business. A public hearing WOULD NOT have been REQUIRED. Vacation/tourist home RENTALS AND events deserves **this** public hearing;; a step in the United States Due Process Clause, Section III Argument D.

Section III Argument B – my authority to interpret is provided in the Keweenaw County Zoning Ordinance, Article 1, Section 1.3 Interpretation & Application At the end of that section it reads - *Interpretations made by the Zoning Administrator may be appealed to the Zoning Board of Appeals."*

There is no doubt there is a crying need to rewrite the ordinance regarding vacation rentals. That duty is neither my job nor the job of the Zoning Board of Appeals this evening. Any changes to the zoning ordinance must go through Planning Commission, the public hearing process and ultimately rests with the Board of Commissioners. Argument C.

While drafting my interpretation, I took the liberty to understand that specific items under the right with conditions would need to be modified. The requirement of owner on premise would not be realized and knowing that I set that aside as well as included the new wording regarding events. This interpretation conclusion was made knowingly and with full consideration of the imbalance in the zoning ordinance.

Prior to my interpretation, which in fact is in favor of the Coles, the renting of a home to transient population was prohibited by the ordinance. If you didn't have a bed and breakfast you were in violation and subject to the fines as stated.

In the zoning ordinance table 4 page 4-12 and again on 4-17 talks about Lodging /Accommodations and Tourist Service Establishments are by right in B-1, RS-1 and RS-2. This is not exclusionary zoning Section III argument E.

There is a subheading in a paragraph that reads **Other establishments similar to and compatible with the above uses, as first determined by the zoning administrator.** This is consistent with my interpretation. A tourist home can be used by right with conditions in RR and AG.

The use of the term EVENT in the advertisement of the rental of properties is a Commercial use. Commercial use is not allowed in Residential Districts. There are numerous other locations within Keweenaw County to hold EVENTS. The commercial use of the rental property is not an allowable use in RR

I do take EXTREME exception to the final sentence in the argument section III which reads "Although the Coles are not at this time bringing a TAKINGS claim, this topic is included for the record and for the information of the ZBA."

I will take a moment to remind you of the rights associated with ownership of real property. Everyone who owns property, not just the Coles have what is referred to as a "bundle of rights". They have the right to sell, lease, use, give away, enter or leave or do none of the above.

With these rights in place, my interpretation is not "a taking." I have not taken any of those rights away from the Coles.

There are also rights removed by government. They are the power to tax, escheat, the power of eminent domain and the Police Power also known as the power to regulate. The Zoning Ordinance is that police power.

All owners of real estate and real property have the right to a reasonable return on their investment. Zoning cannot unreasonably deprive the owners of that return. With my liberal interpretation the Coles are not deprived of returns on their investments - They are allowed by right with conditions to rent the property as a vacation rental. Events are a commercial use, not allowed in RR.

The Community of Eagle River has a strong interest in maintaining the integrity of their community as exemplified by the two letters received from Houghton Township. If those letters don't speak loud enough, the result of the public

hearing in 2013 to rezone all of Eagle River to RS, which was overwhelmingly turned down by the property owners of Eagle River.

The Vice Chairman called for public comment from property owners within 300 feet public comments first those opposed to the interpretation. Chairman called for property owners within 300' opposed to the interpretation again. If you agree with Ann you are in favor if you do not agree with Ann you would be opposed and this would be your opportunity if you live within 300' to take the podium. Ok, with no one stepping up, again, we will call for property Owners within 300' in Support of Determination. You are welcome to come up and speak state your name. You have three minutes

Mark McEvers – in our ordinance, I'm allowed to rent a room or an entire house only by right with conditions. Why do we have these conditions? They are there to maintain the community character of resort residential districts and not allow the more intensive business use of single family homes. If one looks at the two preceding conditions in front of the one being questioned, I am also allowed to rent a room to registered guests, sell merchandise to the registered guests and also allowed to offer food. I am not allowed to offer merchandize or food to anyone off of the street. Why, that would essentially turn my property into a business that is not allowed in RR. It would turn my property in to a gift shop or a restaurant. The activities the appellants are trying to do are exactly the same logic. They are trying to bring other people other than registered guests into a home that is rented just for tourist or vacation purposes. This is exactly the intent of the ordinance. If the meaning isn't clean in the ordinance one must then go to the intent. The intent is what is most important in this case. I wouldn't be allowed to come into this town or any other place around the whole county and build in a resort residential area a reception hall, or a banquet hall. So why would the fact that I rent a room for a night stay suddenly make that allowable. It makes no sense at all. The appellants offer their own interpretation of the existing language of the ordinance. Where they say a fee is only charged to someone what attends a wedding. I've actually never heard of anything so ridiculous. Has anybody here ever gone to a wedding that you have been charged a fee? There is no reason in the world why that would be in the ordinance. Also in the ordinance, in the very beginning of the ordinance. All of the purposes are stated as what the ordinance is intended to accomplish. They're to insure that uses of the land are situated in appropriate locations and relationships. Meaning that your neighboring properties must all be in compliance. Also to conserve land, community character and property values. What we are talking about here is obviously community character. The last purpose of the ordinance is to prevent nuisances.

This, contrary to what is being spread around town and in the Gazette. This isn't about Aunt Vera or Uncle Ned from copper city stopping by from copper city to stop by and say hello because they are in town. They can stop by, they can have a drink they can have a burger in the back yard on the patio if they want. Why is that allowed? Because it is not an event. We are not trying to stop anyone from visiting someone who is a registered guest. If this interpretation is not upheld this will affect not only eagle River but the entire shoreline more than half of lac la belle, half of Lake Medora and large areas surrounding Mohawk, Ahmeek, Allouez

and Fulton. Any neighbor of anybody in those areas could rent to a Tech student and he could call up 40 of his friends, and have a keg party – Chairman Interruption you are well over your three minutes. I urge this board to uphold the obvious intent and purpose of this ordinance

James Rovano I am here on behalf of my wife Susan and her Mother Ruth LaBlanc, owner of 7442 East Main Street, just next door to the pub. Ruth is celebrating her 99th birthday in August, those of you that know her she should be up and we look forward to it. We support the zoning administrators interpretation and believe the ordinance is quite clear. The fee in the ordinance allows for those owner occupied properties to have an event. In the case of an owner occupied property, the owners child graduates from high school, they can certainly have a party. There would be no fee charged there would be no event, no issue. Should a leasee choose to pay a fee to the leasor, that crosses the line and is not allowed in the ordinance and I believe that is the case here. I would point to evidence that came from the appeal specifically the invoice dated January 28th where the three properties are shown. These are all owned by the Edoche LLC this limited liability corporation. I appreciate all of the wonderful color in the appeal about the owners. Please keep in mind, tomorrow it could sell and someone else could own it and whatever decision here would pass to that new owner. On this invoice it is clear that amongst the three properties one of them is the pub. And the fee is totaled up on the bottom and includes the pub rental. In the pub rental it speaks specifically to a maximum of 40 party guests. Right, so there is really little to interpret in terms of what the intent is that it is an event and the pub is included in this invoice and there are charges for these three facilities. So from my perspective the fee is clear. The idea that the fee is paid by any guest, um, I believe that any event that has alcohol involved and would charge a fee would really be in violation of many other laws including the liquor commission laws. No one can do that. The fee is really the payment for the rental that in with the idea that it is going to be a party. My concern and our concern is that well it is obvious in the first invoice the same thing is happening in the other invoice provided for the lighthouse. Except it's not clear it doesn't say specifically it is for a party. That is the concern. As was addresses earlier, and I'm sure you will hear it again, there really is no limit as to what these people can do as to what these people will do once this thing is overturned, keg parties and the like. If I want to have a party and bring all my friends I can go rent somewhere and do that. I think the interpretation was spot on. It really comes out of the fact that vacation rentals were not considered before it was owner occupied facilities and in those cases those people would be allowed to have an event for their family without any concern of because there was no fee involved. Thank you

My name is Gary Erickson I have been a resident of Eagle River for the last five years and I whole heartedly support what Mark and Joe have stated along with Ann's interpretation. I would hope that you would rule in her favor. Thank you

Call for anymore property owners within 300'

Kathy McEvers I live at 7432 E Main St Eagle River. And at the risk of being redundant I decided I would just read a couple of paragraphs from the letter that I

submitted that won't be read tonight. Let me start by stating what this appeal is not about. It is not about prohibiting birthday parties or family barbeques, yet the appellants and their effort to mislead us with a misinterpretation of the ordinance would have us believe that. They would have us believe if we enforced the ordinance as intended you would be preventing activities as simple and common as kid's birthday parties and family BBQ's. This is false. This appeal is not about such simple common activities. This appeal is about real estate investors who would like to use SF homes in our RR community for business activity. This appeal is about experienced property investors who purchased property in single family neighborhoods in a small town in the least populated county in Michigan for business purposes. Perhaps they had an expectation that zoning was not that important or that it would not be enforced or that perhaps they believed a change in the zoning would be a minor obstacle in their development plans. They were wrong. They didn't know that the community they found so desirable the residents also found desirable. Desirable for its residential characteristics that the appellants wanted to change. They didn't realize that the residents prized the residential nature of their surroundings and chose to live and invest there precisely for those reasons. Appellants misjudged the dedication of the residents to their community and likely misjudged the resistance they would meet when they tried to rezone the town for their businesses. The appellants had every opportunity to determine allowable uses to these properties prior to purchasing them. This was their responsibility and their responsibility alone. They either neglected to do this or choose not to. After purchasing the blue house on east main they initiated an attempt to rezone the town. They didn't attempt to get input from the community. The community only learned through a notice of public hearing on the matter. The township board was not advised properly as to why the appellants were pursuing the reason of the rezoning and were actually misled by the township supervisor.

There was no vote taken of the township board, only a mention by the seller and township supervisor that the zoning was necessary for the township residents to continue to rent their properties etcetera, June 17, 2013 and July 7 2013. The truth is that a change of zoning was not necessary. Interruption Vice Chair – you're three minutes are up.

I would just like to end it with the conditions section of the rental properties will be discussed at future planning meetings. And I know of one planning meeting recently the appellants were requesting that there be no limit as to the number of room to be rented. I know the fight is not over.

Chairman Kastelic, Anyone else? At this point we will be reading the letters. Steve will you read the letters.

Written Comments Property Owners within 300' read by the ZA
In Opposition to Determination–
Mike Lamotte
Mike & Fay McMahon

In Support of Determination

Elizabeth A Cooper
John and Sharon Deal
Elaine Hall
Stanley & Hill
Tom Johnson
Sarah Kelly
Mary Long
Tim Olson
Amelia Schuler
Treganowan, Carol
Treganowan, Jack

Public Comment from Interested or affected persons/organizations**

In Opposition to Determination-

Frank Fiala - I have a 30 year old daughter who out of a variety of different places is looking to have a wedding. My wife and I and family have rented property here in Eagle River for on several occasions having a great time. We enjoy the area very very much. When we looked around because of the charm the essence and the people of Eagle River, my daughter wanted to do her wedding here. So we began this journey in January. We went to the office downstairs my wife and daughter. They talked to the three ladies there. There was all kinds of excitement about the fact that my daughter was getting married here. We were referred to many different properties in which to explore perhaps the rental for guests. So we decided that this is where we wanted to go. My daughter is a very bright young lady. She is marrying a bright young man. They are extremely educated people that are coming from all over the country to this wedding. There's probably 60 people that will be here, all older. I am a little appalled by the insulation that we are going to be disrupted or going to be disrespectful of the property owners here in this county. We can take our business elsewhere I suppose. But I think what really bothers me the most is the effect of the timing of this decision. From what I have heard tonight, you have a serious problem with the language of this ordinance. This ordinance needs to be fixed and a determination out of the blue, which affects a process that has already been in the works for six months in my opinion, is wrong. We already have thousands of dollars invested in this process. We have invitations to people that have gone out we have made reservations here and there. If this stands what do we do? Do I pass the hat? To get reimbursed the money we are out because someone thinks that we are going to come in and ruin the tranquility of the community character of this place. That's wrong. So I ask you and I ask the good citizens of this community, what are we going to do? How are we going to resolve this? I don't want to lose that kind of money. I can't afford to lose that kind of money. I have a great daughter. I have a great future son-in law here. I hope he is still with it. I talked with my daughter just the other night, and she said, you know, I'm beginning to wonder if we are going to be met with all kinds of oppositions now because we are here to celebrate a joyous occasion in a beautiful setting. Lastly I think what really concerns me is that for those of you that know me I have 32 years in government, I have written regulations, I have interpreted regulations and I have enforced regulations. I guarantee you this, your ordinance needs fixing. You have some problems with

that ordinance. What particularly bothers me is the fact that the information that was posted on the web had our names on it. Everybody in the world now knows who is involved in this issue. Most importantly it had a check of my son in law which had a bank account number, routing number and name of bank. I defy anybody in this room to stand up and say they would like their check out there for the rest of the world to see. There is something called due diligence in government. The protection of individual identity is paramount these days. I am appalled at the process that occurred with that. You owe Tyler Jenson an apology. He is watching and his bank is watching. I hope, I just hope nothing happens. If the decision stands, I guess the decision is wrong, no offense to Ann, the decision is wrong. And it cannot stand. It needs fixed. I highly recommend that you get together and fix it. You know everyone is throwing stones right now. It goes back to the heart of the matter. The Ordinance needs revision. There is an outside Attorney who issued an opinion on that. It needs to be resolved. This decision isn't going to really affect anything in terms of resolving the issue that you have. To me, today it's me, tomorrow it could be someone else. I highly recommend that you oppose this determination and you recommend to the board of supervisors that they sit down through the planning commission and follow the ordinance process and try to resolve the issue.

Do we have anyone else opposed to the determination? Outside of the 300'

In Support of Determination

Doug Dawson, I live at 5389 Lakeshore Drive. I will cut out some of the stuff in the letter that has been redone many times. My wife and I are totally against the proposed modifications and totally support Ann's decision in this matter. I currently live next door to a rental home, right next door to a rental home in Eagle River. Over the years I have experienced many problems and some of them very significant. If you ever want to take the time and sit down and hear them, I'd be glad to share them with you. Loosing or broadening allowable activities and events in a resort residential area is asking for more conflicts between neighbors and law enforcement. Many of us who live in Eagle River homes zoned Resort Residential have had a host of problems; excessive noise, swearing, intoxication, public urination, cars parked all over and physical abuse. Changing the zoning laws to include the proposed types of activity would be a big step in the wrong direction for Eagle River and its citizens. Some of the issues Eagle River residents and home owners have had in the past have been shared with the zoning board; I have shared them over the last 10 years at least and especially with Mr. Vivian in the past. I hope the zoning commission understands those issues. If they do I'm sure Ann's decision will be supported. In addition I have been here to talk about this resort residential zoning issue many times and have asked and have talked to the zoning official many times. I have even hired lawyers to help me make my decision about buying property because of the complexity and dichotomy involved in the term resort residential. The terms resort residential are mutually opposed to each other. The issue will only get worse as time goes on. The concept of resorts has changes dramatically over the years. Remember in the 50's resort was 4 or 5 cabins by the lake with the owner living next door cabins and

controlling the environment. Businesses today of three hundred bed hotels gambling casinos restaurants and businesses are now called resorts. The resorts of the world are truly currently revolving into commercial enterprises. Some of the facilities in Eagle River are trying to become commercial businesses. I obviously love the culture and the pristine environment of Eagle River and believe that we should do everything possible to retain what we have and cherish. In order to make that happen I believe the Zoning commission should take the necessary steps to ensure we keep what we have including elimination of the term resort commercial, resort residential.

I have two questions – I'm sure your watch is fast. We have some folks that keep trying to make their assets more commercial then their neighbors would like to see and they don't seem to care about how the neighbors feel. If we don't care and if they don't care now, what is to going to look like in the future when big issues will come up.

My name is Jim Huovinen I live here in Eagle River directly across the street. I was on the planning commission for a number of years. I found that the members of the planning commission are very dedicated and they are led by a wonderful guy by the name of Jon Soper who is a very knowledgeable and understanding person. THE ZA is also understanding and reasonable. When I was on the planning commission I was given a copy of an email that was sent to Abbey Green who is the Copper Dog 150 Guru and she received an email from Bud Cole in Tokyo Japan. In the letter he talks about what he feels are negative things that are occurring. And he said that the opposition to his wishes he says honesty it's being led by a few selfish people regarding opposition of him regarding expanding his operation. He also said that the Keweenaw needs more tasteful exciting and interesting events in commercial development like what you guys are not less and this restriction on renters because of a few people want to protect their private retirement playground. I'm one of those guys that came up from Lower Michigan about 11 years ago. I haven't found any selfish people in this town. I have found a lot of people that care. A matter of fact Ann Gasperich is one of the volunteers for Copper Dog and she helped organize it here the copper dog 40 a few years ago. People volunteer in this town for everything. We pick up the highway, we do flowers, we clean up the beach, we help our neighbors, and we cut their grass when the lawn mower dies. We are all volunteers I don't know any selfish people in this town. I support the decision the planning commission made. Some people like to try to ping on Ann .

Vice Chair – you said the planning commission?

JH – The planning commission has listened to this issue for quite a while. We basically, in conjunction with Ann have agreed with everything. And so Ann is responding to the vote of the planning commission as it stands right now. It seems now it is an individual attack on Ann which is not appreciated. Thank you

I am Marcy Erickson daughter of Audrey and Gary that live here. I do not live here. I am in support of the decision. I will say that I think a lot of this could have been avoided had things been approached in a more due diligence way. But I think that today what we are seeing is that we still have come to the same result. That there is a resounding opposition to any changing in the zoning. I think there is a little

ambiguity in the wording. Using the word events is ambiguous and I think we are going to maybe hear something about that from the legal person in the room later. That some people are calling a birthday an event and then some people are calling a wedding an event and they are saying an event like a birthday is allowed and an event like a wedding is not allowed. There is some ambiguity there. In this community best interest the board should try to eliminate that. and also I want to say that having spent a lot of time up here through the years. I have seen a lot of weddings on the beach. I don't know anyone is opposed to that. I don't think that is contrary to any ordinance that has been passed. It is a public beach. To my knowledge I think that is still allowed. I don't know where this upcoming wedding is supposed to be held. I think there is sympathy in the room for the people that are planning their daughter's wedding I don't think that anybody wants to see them loose money. I don't think that the community of Eagle River is going to be negatively impacted by this decision in an economic way. There may be a few individuals that own property that were hoping for a financial gain in ways that maybe are not going to be allowed. But, yep, I do support the decision, but I would advise maybe some rewording to protect the community in the future.

Chairman called for other to speak in favor of the determination.

Written Comments from Interested or affected persons/organizations
In Opposition to Determination-

Julie Springer
Dr. Ken Taylor &
Theodora Morgan

In Support of Determination

None that have not already been seen.

12034

Final Comments which have not been heard given by Michelle Halley (3 minute time limit)

First of all I want to address the notion that somehow sticking with the original interpretation the original meaning of the ordinance which allows events that are not charged for somehow would create a big change in the Town of Eagle River. That is not the case. The ordinance has been the way it has been, I think it was last amended in 2010, but that part of the ordinance has not been touched for, I'm not sure, Ann would probably know better. But I think about 15 or so years. The Coles have had exactly one wedding, at any of their properties, one. There were about 50, if even, people in attendance and there were no complaints whatsoever made to the township or anywhere else related to that one wedding. This issue has risen to this level because a couple of neighbors had complaints about parking. Those complaints have been dealt with. The Coles have submitted the required parking plan that is one of the conditional uses. Their concerns are addressed. They're not interested in having a churn of events every weekend with hundreds of people. That is not what is being contemplated. Certainly not by

them and I don't think by other tourist home either. That is exactly why we offered up the compromise of limiting the number of people and limiting the number of events. That is a good faith compromise that addresses all of the concerns you have heard here. They don't want to turn Eagle River into a tourist trap I don't think anybody does. That's not in anyone's best interest. And they are legal residents of this town. Some of the other people paint them like they are from far away. They have been coming here their whole lives. Just like many of you. I want to talk about the nature of Eagle River. A little bit this nature of the community argument, within less than a block of what's called the old hotel, that's a telling title it used to be a commercial building. There is nothing wrong with that. The pub used to be a public building a pub. The lighthouse again used for public purposes. Within one block of those areas there is a general store, a print shop, a restaurant a public beach. I drove around this town today. The parking lot down by the beach was full. Today is a week day. I don't even know what it would look like on a Saturday. The idea that having a couple of weddings here a summer is somehow going to turn this town upside down is ridiculous. It is really misleading and that is really unfortunate. Also misleading and unfortunate this inference that the Coles were the impetus behind some effort to have the town rezoned. It's just not true. And even worse is the inference made that somehow the planning commission was in cahoots on that with them. Again really not true and very unfortunate representation of the way things happen -- three minutes are up -- I'll give you latitude.12402

The last thing I want to say is that there is case law in Michigan it's very clear it says this, When interpreting an ordinance to determine the extent of a restriction on a use of property, which is exactly what is going on here, the language must be interpreted must, this is what the court says, where doubt exists regarding the intent in favor of the property owner. The property owner in this case is the Coles and you have before you the interpretation of the existing ordinance language and I encourage you to make a disciplined decision. Your job here is not to be the judge of a popularity contest it is to determine the legal validity of this interpretation. Based on the language of the ordinance. This interpretation goes beyond the administrators authority and this decision should be moved back to the planning commission where it belongs that is exactly what we offered in our compromise.

12515

Final Comments which have not been heard given by Zoning Administrator (3 minute time limit)

12522

In the Zoning Board of Appeals Handbook Introduction, your appointment to the ZBA carries a significant responsibility for protecting your community and its future. No zoning should be about one property or one owner. This isn't about the Coles. This is about what goes on in residential neighborhoods in vacation rental homes throughout Keweenaw County. The administrative interpretation was not a 'snap judgment'. As I said in my beginning my interpretation supports the Coles. Without the interpretation they would not be allowed to have their rentals unless

they were owner occupied. As Michelle just alluded to when there is a benefit of the doubt it should go to the property owner. In this case the benefit of the doubt needs to go to all of the property owners in every residential neighborhood in order to maintain their community character. I compel the board to stand by my interpretation.12644

ZBA Questions through the Chairman – there were none

Close Public Hearing

Action brought down from Public Hearing

**A motion by _____Pauline Johnson_____ seconded by
____Tom Hall _____to _____(support or opposed) the
administrative decision by the zoning administrator with the
effective date of May 13, 2015.**

**Vice Chair called for discussion – and reminded that we are here to
abide or overturn Anns interpretation of the zoning ordinance. Any
questions by anyone – then we are prepared for the roll call vote --**

Roll call vote --

Pauline Johnson	Oppose
Tom Hall	Support
Steve Peters	Support
Frank Kastelic	Oppose

From the chair, We have a two two at his point. I believe we would need a three vote majority to overturn. At this point your determination stands as of May 13, 2015. Do you need anymore information than that.

Motion to adjourn – Pauline/Tom to 7:30

Adjournment