

**TOWN OF NAPLES
PLANNING BOARD
MINUTES
Tuesday, May 6, 2014– 7:00 pm
Municipal Offices Building**

Larry Anton called the meeting to order. Also present were John Thompson, Kevin Rogers, code enforcement officer Renee' Carter, town secretary Kate Matthews, and town attorney Bryan Dench.

Mr. Anton motioned to accept the minutes from the April 1st, 2014 as written. John Thompson seconded, all were in favor.

New business:

A public hearing for a possible subdivision located at Sunshine Lane and found on Naples Tax Map U25, Lot 1 submitted by American Holdings, Inc.

David Lourie was present to represent The Klimeks, owners of American Holdings, Inc. He disagreed with Code Enforcement Officer Renee' Carter's decision that the parcel was currently an illegal subdivision, therefore a minimum lot size violation. He stated that the way our definitional ordinance was written, it would not be valid to classify this particular property as a subdivision. In our ordinance it reads, "A subdivision shall be the division of a tract or parcel of land into three (3) or more lots for the purpose, immediate or future, of lease, sale, development or building, whether this division is accomplished by immediate platting of the land or by sale of the land by metes and bounds. The term subdivision shall include the subdivision of land for non-residential purposes, mobile homes parks and re-subdivision of land." Mr. Lourie explained American Holdings was not dividing the lots, but selling the buildings. He then referred to a newly revised state statute that states if you are converting industrial or commercial property into three or more units that it's also a subdivision. Mr. Lourie said that the town's definition for commercial use excludes renting out property.

Mr. Anton argued that in his eyes a hotel would be considered as a commercial property, therefore rental cabins should as well. Mr. Lourie said it didn't matter, according to our ordinance it was not.

Mr. Thompson was worried that once the cabins were sold, the new owners would want to use them year round, which would be considered as a change of use. Mr. Lourie said it would be pure speculation to assume the buildings would be used for anything else than what they were used for previously.

Bryan Dench was present to represent The Town of Naples at the meeting. He explained that the issue went back to 1999 when the Klimeks bought the property. The Klimek's application state that there are presently 4 seasonal cottages, a year round trailer and a main building containing three apartments and one commercial space. Somewhere along the line the commercial activity in the main building was converted or was proposed to be converted to residential use, and it should

have been brought to the board for a change in use. The building would also need to meet the lot size standards. Mr. Dench believes that it is a very straightforward case. He reflected that the Klemik's predecessors had been to the planning board twice, once in 1990 and in 1992, and had been denied by the board essentially seeking permission to make the same kinds of changes and had been denied.

Mr. Klimek stated that Mr. Dench was incorrect. He said in 1999 when he bought it, in the main building there was two commercial units downstairs, two residential units out back, and one residential unit upstairs. Mr. Dench said that there shouldn't have been any residential use in that building at all, because it had been denied in 1992 by the planning board. In 2006 when the condominium was created, one building that used to have a couple of apartments and a couple of commercial spaces, into one building with five residential units, which is considered a subdivision under state statute. Mr. Klimek reiterated that the building is still used the same way as it was when the previous owner possessed it.

Mr. Anton said that the real issue was that the cabins were being sold separately. The way he saw it was that there was a change of use from commercial to residential and it should have come to the planning board a long time ago.

Mr. Rogers said that he was concerned not only the change of use for the property, but also the square footage that was being bought with the sale of each cabin. Mrs. Carter agreed that there was not enough density for each cabin being sold. Mrs. Carter also mentioned that no kitchens or bathrooms were ever permitted in the cabins.

Mr. Anton concluded that there would not be an agreement at the meeting. He said that the town ordinances could not be ignored and he believes it is classified as a subdivision, and it should have been brought to the board as a change of use. But the problem is that, a few of the cabins have been sold already.

John Thompson made a motion to deny the application. Larry Anton seconded the motion. All were in favor.

Meeting adjourned.

Respectfully Submitted,

Kate Matthews
Town Secretary