



**TOWN OF YADKINVILLE
BOARD OF ADJUSTMENT
MONTHLY MEETING MINUTES
JULY 24, 2017
6:00 P.M.**

**TOWN HALL – COMMISSIONERS CHAMBERS
213 VAN BUREN STREET, YADKINVILLE NC 27055**

**BOARD OF ADJUSTMENT MEMBERS
(PRESENT/ABSENT):**

Steve Brown – Chair
Virgil Dodson – ABSENT
Mary Reavis
Perry Snow
Chip Thomas
Dale Wilhelm
H. L. Wooten

**TOWN OFFICIALS
PRESENT:**

Town Manager – Perry Williams
Town Clerk – Shelia Weathers
Planning Advisor – Richard Smith
Town Attorney – Ben Harding
Board of Adjustment Attorney – Andrew Brown

STAFF PRESENT:

Greyson Cox
Megan Cox
Von Groce
Brian King
Crystal Sprague

Quorum is met – Meeting proceeded

1. MEETING CALLED TO ORDER

Chair Steve Brown called the meeting to order at 6:00 p.m. and established that a quorum was present to conduct board business.

2. APPROVAL OF MINUTES

Mrs. Mary Reavis made a motion to approve the minutes for June 26, 2017. Mr. H. L. Wooten seconded the motion and passed unanimously.

Vote: 6/0

3. NEW BUSINESS

- Appeal of Zoning Administrator’s Decision Case #APP-2017-01:
 - ❖ 220 Taylor Street – Parcel ID Number 581718309560, PRN 133497
 - ❖ Appeal of May 17, 2017 Notice of Violation, wherein the Zoning Administrator found that the existence of a manufactured or mobile home at 220 Taylor Street, Yadkinville, North Carolina violates Section 9-3-4 (5) and Section 9-3-100 of the Zoning Ordinance.

Chairman Brown asked Planning Advisor Richard Smith to provide procedural guidelines to the Board and others present for tonight's hearing. Mr. Smith gave an overview of what a quasi-judicial hearing is and as it pertains to the appeal being heard by the Board of Adjustment this evening. Mr. Smith explained that evidence given tonight is presented under sworn testimony, anyone presenting evidence must be sworn in before the Board, no one is allowed to speak on the matter at hand unless they are sworn in, the Board of Adjustment is basing actual decision on sworn testimony, and that this is an evidentiary based hearing.

Chairman Brown thanked Mr. Smith and asked the Board if they had any questions related to procedure. Chairman Brown asked that anyone planning to speak regarding tonight's hearing come forward to be sworn in. Chairman Brown swore in those intending to speak regarding the appeal.

Chairman Brown recognized Town Attorney Ben Harding so that he could present the Town's evidence for tonight's appeal.

Mr. Harding thanked the Chairman and members of the Board and asked Mr. Leroy Turner to come forward to testify."

Harding: You lived here in Yadkinville, in until about April of or maybe February. Did you own the property at 220 Taylor Street here in Yadkinville? How long had you owned it?

Turner: It's been something over 10 years

Harding: And how did you come to own it?

Turner: Uh, my mother.

Harding: Did you inherit it from her?

Turner: Actually, she sold it to me for a dollar.

Harding: Ok and then did your mother live there?

Turner: Yeah

Harding: What sort of buildings are on this property, or structures?

Turner: There's an old camper, then there's a trailer house.

Harding: Do you know what year this mobile home is?

Turner: 67 or 69 somewhere in that neighborhood, in that area.

Harding: And had been there a long time?

Turner: About 40 years. Over 40 years.

Harding: Oh, ok. So did you rent this property out?

Turner: Well, I let this couple move in to keep the lot clean. They said they would keep it clean and I said well, they said, do you wanna charge me, and I said well do you have the money? You can pay me 250, whatever, but they didn't have my money and they had a kid, and I felt sorry for them.

Harding: Well that's nice of you. So you let them live there?

Turner: Yeah

Harding: You know when they moved in? Any ballpark idea?

Turner: They stayed there pretty close to a year, I guess.

Harding: Do you know when they moved out?

Turner: Well, not exactly. I went there in the later part of July, I never went down there much, and I seen that all the air conditioners were gone and all the furniture was gone. So, I just figured they moved out. They didn't let me know.

Harding: And they actually took the air conditioners and furniture?

Turner: Everything. Everything.

Harding: They take the appliances too?

Turner: Refrigerator, stove, beds and everything.

Harding: And can you give us about when that was?

Turner: That was in the later part of July.

Harding: Ok. And how do you know that?

Turner: Well I called my brother and he came and helped me board the windows up where the air conditioners were, there were three of them. And I was boarding the last one up but I fell. I fell off the ladder, which wasn't a ladder; it was an old couch at the back. And I fell off and busted my shoulder all to pieces.

Harding: And then how do you know, how do you relate that to the date you were down there putting the up and everything?

Turner: I went about a week and I wasn't going to the doctor, but I finally had to go. So I went to Dr., here a week or so ago and asked her when I came to visit her, so she told me and gave me a paper showing. And uh they setup a meeting with a specialist and I had surgery on August the 30th.

Harding: So do you know what date it was that you saw her?

Turner: I... I could make heads or tails out of the paper she wrote.

Harding: Take your time.

Turner: It was uh, actually, it was 8-9-2016.

Harding: That you saw her?

Turner: Yes, I went about a week or so before I went over there.

Harding: So it would have been when you were there and you were putting up the boards and everything, it would have been uh late July?

Turner: Yeah

Harding: All right. After that time, did you make any effort to rent this mobile home?

Turner: No sir. After the fall, I didn't want to try nothing.

Harding: What did you do?

Turner: The wife and I talked it over and I told her that Wednesday just sell it, because I was unable to keep it clean and take care of it. So I put a for sale sign on it.

Harding: And then what was the next thing that happened after that?

Turner: Well I got several, are you talking about people call that want it? Several callers wanted it and uh they didn't want to meet my price on it. So Mr. Welborn and I was out in the yard one day doing something and uh he came by and he said I see your for sale sign, what do you want for it? And I told him and he said would you come down 500 and I said yeah, and he said well then I'll buy it. That's more or less, what it was.

Harding: Do you know the date that he bought it?

Turner: No

Harding: Was it February?

Turner: Could have been, I don't even remember. This was after I fell, that I know this happened.

Harding: Right. But it went for a period of time before you sold it.

Turner: Now this I can't remember.

Harding: Was it empty when Mr. Welborn bought it?

Turner: Yeah

Harding: And had it been occupied at all since at least the date of when you fell to when it was sold?

Turner: No

Harding: It hadn't been occupied at all?

Turner: No not to my knowledge.

Harding: I think that's all for those questions.

Attorney Harding turned it over to Mr. Ed Powell, attorney for the appellant and Mr. Powell questioned Mr. Turner.

Powell: So, it was sometime about the second of August when you first went out there and saw that they had left?

Turner: Late part of August.

Powell: And you don't remember what date Mr. Welborn came up to you?

Turner: No, I don't. I really don't.

Powell: Ok I believe that's all.

Mr. Harding: You may step down. All right, we'll call Mr. Williams, Mr. Perry Williams, Mr. Williams will you just state your name for the record please.

Williams: Perry Williams.

Harding: And how are you employed?

Williams: I am the town manager for the Town of Yadkinville.

Harding: As part of your duties as town manager, are you also Zoning Administrator?

Williams: Yes sir

Harding: As part of your duties as zoning administrator, are you familiar with the property at 220 Taylor Street, here in Yadkinville?

Williams: Yes sir

Harding: And can you tell us what zoning district it's located in?

Williams: It's in R-10 residential neighborhood.

Harding: Do you know what sort of buildings or structures are on this property?

Williams: It is a mobile home.

Harding: Can you tell the age of the mobile home?

Williams: It's an older mobile home; I didn't know what the actual age was.

Harding: You don't have any reason to doubt as Mr. Turner's said, testified, that it was 66-68, in that range?

Williams: No.

Harding: Now, are mobile homes permitted use an R-10 zoning district?

Williams: No sir.

Harding: Where are mobile homes permitted use in the Town of Yadkinville?

Williams: Just in R-MH districts, is permitted for mobile homes.

Harding: And R-MH is generally a mobile home park. Now regarding this particular property, in April of this year did you know that the water to the property had been turned on by the town?

Williams: Yes sir.

Harding: What date did you know that?

Williams: April the 19th, 2017.

Harding: And do you know the date that it was turned on?

Williams: July 7th.

Harding: No, on.

Williams: Oh. April the 19th, 2017.

Harding: Did you then investigate the date the water had been turned off?

Williams: Yes.

Harding: And do you know the date the water had been turned off?

Williams: July the 7th, 2016.

Harding: Were you able to determine the number of days between July the 7th, 2016 and April the 19th, 2017?

Williams: Yes, 286 days.

Harding: As a result of determining that the water had been turned on, what did you do?

Williams: I called Richard Smith, our planning advisor and asked him the question of whether changing ownerships, from one property owner to another, could a mobile home be left in that zoning district. And Mr. Smith checked into it and we had the conversation that the mobile home had not been used in 275 days.

Harding: Are you familiar with the town ordinance 93-24 (2)?

Williams: Yeah

Harding: And what does it say about discontinuing uses of non-conforming uses? So what does this ordinance say about discontinuance of non-conforming uses?

Williams: In 93-24 (2) a non-conforming use of offered change to but a conforming use when a non-conforming use has been changed to a conforming use and premises shall not matter as not being used for non-conforming use.

Harding: And then does it speak to the number of days that about discontinuance. I think that's number five.

Williams: Yes. Number 93-24 (5) if a non-conforming use is discontinued for a continued period of more than 275 days, any future use of the land or buildings have to be in conformity with the division of this town.

Harding: Ok. Now could you maybe tell the Board a little bit about the non-conformed use and what it is?

Williams: A non-conforming use is where a building or structure was built, kinda like grandfathered in before the zoning ordinance was changed. So when the zoning ordinance got updated or put into effect. These buildings that were non-conforming use got to stay there, until they come into some divisions of the ordinance to make them come into a conforming use.

Harding: And if they cannot come to a conforming use then what does the ordinance say will happen to them?

Williams: They will need to be removed.

Harding: Is it the policy of the town and the zoning ordinance that non-conforming uses are not favored?

Williams: Yes.

Harding: And is the policy of the town that, as non-conforming uses lose being grandfathered in, that the town would like to see them removed?

Williams: Yes.

Harding: All right. So, as a result of concluding that it had been unoccupied. I'm sorry as a result of concluding that the water had been turned off for a period over 275 days. What did you do?

Williams: I sent the owner, Mr. Mark Welborn, a violation notice.

Harding: And did it ask that, or order that, this non-conforming use be removed from the property? Uh and did Ms. Welborn take any actions for result in a non-conforming use?

Williams: She appealed my decision of the ordinance.

Harding: And is that why we're here today?

Williams: Yes sir.

Harding: That's all I have. Mr. Powell it's your witness.

Powell: Mr. Williams, have you talked to Ms. Welborn about what she did there with the power?

Williams: Yes.

Powell: Did she tell you she turned the electric power on there back in March of 2017?

Williams: Yes.

Powell: And what day did she tell you she did that?

Williams: Uhh. I don't remember.

Powell: Could it have been March 10, 2017

Williams: No, it wasn't March; it was in April sometime earlier, or May.

Powell: Regardless, the time frame between the disconnect of the water and the time of turning on the electric power was less than 275 days.

Williams: Duke Power? Duke power?

Powell: Yes and that would indicate occupancy by what your turning the electric power on.

Williams: No, it wouldn't provide that there was an occupant.

Powell: Are you saying in front of the board here that if someone goes out and pays to have the electricity turned on their lot that, that's not an indication that somebody's going to live there?

Williams: Not saying that. No.

Powell: In any event, you don't disagree that the electric power was turned on within a 275-day period? Far less time than that.

Williams: No.

Powell: That's all.

Harding: Thanks Mr. Williams. Mr. Greyson Cox. Mr. Cox will you please state your name for the record also?

Cox: Greyson Cox

Harding: And how are you employed?

Cox: I work for the Public Works Facility

Harding: You work for the Town?

Cox: Yes.

Harding: What's your job?

Cox: I'm a meter reader

Harding: And what does that entail you doing?

Cox: I take care of all the water meters in town.

Harding: Are you familiar with the property we're talking about, at 220 Taylor Street?

Cox: Yes sir

Harding: Um. How are you familiar with it?

Cox: We've been there multiple times to cut the water on and off for other renters with non-payment.

Harding: How long have you worked for the town?

Cox: Almost 4 years.

Harding: And how many times would you estimate that you have been there to cut the water off and on in those 4 years?

Cox: Probably 10.

Harding: And why would you be turning it off that many times?

Cox: Non-payment.

Harding: Ah. Ok.

Cox: Because people moved out.

Harding: So, do you recall turning the water off on this property, July the 7th, 2016?

Cox: Yes sir.

Harding: Um. Tell me about that. How do you recall that specific day, turning it off?

Cox: Two of the guys that I work with cut the wrong meter off, so I went back in and cut the right one off.

Harding: And how did you get instructions to turn the water off?

Cox: I get a call from Town Hall telling me to go cut the water off at a certain address, I go cut it off and get a reading, and I call it back into Town Hall.

Harding: And do you know what the water reading was when you turned it off?

Cox: 25191 stationary zero

Harding: 251?

Cox: 2-5-1-9-1 stationary zero

Harding: All right. Ok. Now do you often drive by this property, 220 Taylor Street?

Cox: Yes.

Harding: Why do you drive by it on a regular basis?

Cox: I read the meters once a month.

Harding: And so tell us how you do that.

Cox: I drive in the truck and it brings all the meter readings in the computer.

Harding: So it is an electric thing?

Cox: Yes.

Harding: And why would you notice this particular piece of property by just riding by?

Cox: Because it's right in a curve, where there's a bunch of meters.

Harding: Now, when was the last time that you drove by there?

Cox: Woulda been last Thursday.

Harding: Ok, but prior to that when was the last time that you drove by?

Cox: The 10th of last month.

Harding: Of last month?

Cox: mmhmm.

Harding: All right. Did you ride by there in May?

Cox: Yes.

Harding: And did you notice this property in May?

Cox: Yeah.

Harding: Now, on July the 7th, 2016, to the time you went in May, which would have been about when in May?

Cox: It would be around the 10th.

Harding: During all that period of time, from July 16th, 2016 to May 2017, did you ever notice any cars parked in this lot?

Cox: No.

Harding: Did you ever notice anybody there, people present?

Cox: No sir.

Harding: Did you ever notice any garbage cans outside?

Cox: No sir.

Harding: Did you ever notice any lights on?

Cox: No sir.

Harding: Did you ever notice any toys, or bicycles, or lawn mowers in the yard?

Cox: No.

Harding: What was the condition of the yard or home at the time as you rode by?

Cox: Grown up

Harding: Do you have an opinion of whether anybody was living there from July 7th, 2016 to May the 10th, 2017?

Cox: I don't think anyone was living there.

Harding: And you base that on what?

Cox: My going by once a month and not seeing anything going on.

Harding: That's all the questions I have.

Powell: You heard Mr. Williams testify earlier didn't you?

Cox: Yes sir.

Powell: Did you hear him testify to learn the water was turned on, on April 19th?

Cox: Yes sir.

Powell: And did you hear my question to him whether or not the electric power had been turned on to this property on March 10, 2017?

Cox: Yes.

Powell: And do you have any reason to doubt that?

Cox: No.

Powell: So you think that could well have happened?

Cox: Yes.

Powell: I believe that's all.

Harding: You may step down.

Harding: Mr. Brian King. Mr. King will you please state your name for the record?

King: Brian King

Harding: All right and who do you work for?

King: The Town of Yadkinville

Harding: What's your job?

King: Street supervisor

Harding: I'm sorry what?

King: Street supervisor

Harding: Ah. Do you do anything else other than street supervising?

King: Yeah, I read meters.

Harding: You read meters, so, tell us a little bit about how you all read meters.

King: It's either me or Greyson, one drives, and one of us sitting in the truck with a computer in our lap, and we go through every street and read all the meters.

Harding: Are you familiar with the spot we've been talking about?

King: Yes.

Harding: Taylor Street How come you know it or are you familiar with it too?

King: Because we go by it a lot of times and read meters through there all the time.

Harding: Had you had any involvement over the years, say over the past 4 years with turning the water off and on, as people didn't pay?

King: Yes I did.

Harding: So you've been there many times?

King: Yes

Harding: How many times would you say you've been to the property?

King: Right many in the last 3 or 4 years.

Harding: Right many?

King: 10 or 20 times.

Harding: Like 10 or 20 times in the last 4 years. So, did you turn the water back on?

King: I did.

Harding: And how did that occur?

King: They called me from Town Hall to go turn the water on, and I went there, Mark was there, and I turned the water on and it didn't have none up at the house so he checked underneath the trailer.

Harding: Do you know the date you turned it on?

King: It was 4-19-17.

Harding: All right. And how do you know that?

King: Because it's noted right here where I called it back into Town Hall.

Harding: And what do you got there?

King: It's a work order.

Harding: Would you let us hold that?

Harding: Do you know the meter reading when turned on?

King: 251-91 stationary zero.

Harding: Was that the same meter reading as when it was turned off?

King: Yes sir. It was.

Harding: What does that indicate to you?

King: That nobody had been living there.

Harding: Does it certainly indicates that there's no water usage in that period of time?

King: no water usage in that period of time.

Harding: And if there had been any water used then, the meter would have been...

King: Then it would have been a different reading than when we turned it off and turned it back on.

Harding: All right, so how many times do you go by that property? At least once every month?

King: Oh yeah

Harding: And what causes you to notice this particular piece of property?

King: It's in a curve. You turn that curve; you gotta look straight at the trailer.

Harding: And did you observe this property at least from July the 7th, 2016 to May 2017?

King: Yeah I did.

Harding: At least once every month?

King: Probably more than that.

Harding: During that period of time, did you see any cars parked there?

King: No sir.

Harding: Did you see any people there?

King: No sir.

Harding: Did you see any garbage cans out?

King: No sir

Harding: Did you see any lights on?

King: Nope

Harding: See any toys, bicycles, lawn mowers in the yard?

King: No sir.

Harding: What was the condition of the yard during that time?

King: It was growed up, hadn't been mowed, stuff like that.

Harding: Do you have an opinion based on all you saw, didn't see? Whether during that period of time if there was anybody living there?

King: In my opinion, there wasn't nobody living there.

Harding: That's all Mr. Powell, your witness.

Powell: If you look on your order, you showed me a moment ago, it shows that Mr. Frank Zachary handled the closing on this property. And did you talk to Mr. Zachary there during this time?

King: Nope.

Powell: That you made a note of that there on your...

King: No I didn't.

Powell: How is that?

King: It says closing attorney Frank Zachary, verified with Bobby and Frank, please turn the water on and reread, they called me from Town Hall.

Powell: Who made those notes on there?

King: Rebekah Brown

Powell: So you didn't make any notes on this document at all?

King: No sir.

Powell: And you didn't check to see if the electric power had been turned on there on March 10th, did you?

King: No sir.

Powell: And could it had been turned on without your knowledge?

King: It very well could have been.

Powell: Yes sir and that's all.

Harding: You may step down. Thank you Mr. King. Crystal Sprague. Mrs. Sprague would you state your name for the record?

Sprague: Crystal Sprague

Harding: Now you're going to have to speak up a little bit. And you work for the town as well?

Sprague: Yes sir.

Harding: And what's your job?

Sprague: Tax Collector

Harding: Do you do anything else other than that?

Sprague: Yes, I help out with utility billing and water.

Harding: Ok. And what do you mean you help out? What do you do?

Sprague: If someone active or if they're busy with another customer, I will help assist or wait on somebody.

Harding: And would that involve turning water off, turning water on?

Sprague: Yes. Taking care of water service.

Harding: Are you familiar with this property Taylor Street, 220 Taylor Street?

Sprague: Yes.

Harding: Why are you familiar with it?

Sprague: Because I did the work order to have, the water turned off.

Harding: And do you have that work order?

Sprague: I do I have it right here with me.

Harding: Is that the same work order that Mr. King had?

Sprague: Uh. No, I don't think so. He had one to turn on.

Harding: Ok. would you let Mr. Powell see that, that work order?

Sprague: Ok.

Harding: So, do you know whose name the water bill was in on April 2nd, 2016?

Sprague: I'm not exactly sure. I know I took a work order for Kayla Chappell to have the water turned off.

Harding: Ok. And at that address?

Sprague: mmhmm.

Harding: And is that what you have there, is this work order?

Sprague: Yes.

Harding: So how did you come to take this work order?

Sprague: I don't remember if she called or she came in, but I took the work order for her to have the water disconnected because she was leaving.

Harding: Ok. And what did you do as a response to her either calling or coming in?

Sprague: I called the Public Works facility and had someone go and turn that water off and read the meter.

Harding: And as a result of your call what happened?

Sprague: They called in after they had gone out and turned that water off and got the reading for that property.

Harding: And do you know what that reading was?

Sprague: At the time when they called me back, it was a different reading because the wrong meter had been turned off.

Harding: Ahh. So then, what happened?

Sprague: Then they called back later. I believe Mr. Childress had called between that time, I did not take that call, but I believe he had called in and the wrong water meter had been turned off. But then they called back again and it was another lady at the Town Hall.

Harding: So who called back in?

Sprague: To me?

Harding: Mmhm.

Sprague: Um. Ms. Wallace called back in for the reading, when they called me.

Harding: All right. So as a result to all this, was the water turned off at 220 Taylor Street?

Sprague: It was after they went back out and corrected it.

Harding: And what date was it turned off?

Sprague: It was turned off on July the 7th, 2016

Harding: That's all I have. Thank you very much, but Mr. Powell wants to ask you some questions.

Powell: Yes ma'am. Did you write those statements down on those sheets of paper?

Sprague: I did. The only part I did not write down was right here, but the rest of it is mine.

Powell: So, how did you become aware that Mr. Zachary was handling the closing, as well?

Sprague: I did not know honestly, there were no notes on this right here.

Powell: What about the page after? Did you write those?

Sprague: Uh. No.

Powell: Who wrote that?

Sprague: Rebekah Brown.

Powell: Ok. And you don't have any knowledge as to whether or not the power had been turned on March 10th do you? Or had it been turned on without your knowledge, without your permission?

Sprague: Yes.

Powell: That's all.

Harding: All right. We have one more witness. Ms. Megan Cox. And once again ma'am will you state your name for the record?

M. Cox: Megan Cox

Harding: And just for Greyson Cox, is he in relation to you?

M. Cox: Well I guess he's my husband.

Harding: And you have a brand new baby that's how old?

M. Cox: 7 weeks today.

Harding: Congratulations. And so what's your job with the town?

M. Cox: Utility billing clerk.

Harding: And what does that involve doing?

M. Cox: Well I do the utility bills, and I also send out people to cut on and off water. I get the readings in when they go, I download them into the system, then the computer system figures the billing. I have to go through and check each meter individually every month and see if there's high usage, low usage. That sort of thing.

Harding: So are you familiar with this spot, 220 Taylor Street?

M. Cox: Yes sir

Harding: And how are you familiar with it?

M. Cox: Cause it was rental property and people moving in and out of it all the time up until the day it became vacant.

Harding: And did you keep..First of all, do you know whose name the water bill was in for this property on July 7th, 2016?

M. Cox: That was the day that Kayla called and requested the water be turned off.

M. Cox: Back on at his house and off at the correct one. Because there's both 220 E Taylor and 220 Taylor.

Harding: So part of your job is you keep a record of the water being turned off?

M. Cox: Yes sir

Harding: And would you show Mr. Powell that record?

M. Cox: Yes sir.

Harding: I'm not talking about the work order, Im talking about the F7 sheet. Show Mr. Powell that.

M. Cox: Yes sir. Here's the F7.

Powell: This area where you have highlighted in pink there?

M. Cox: Mmhm (Yes).

Powell: What's that? Read that if you would.

M. Cox: It says Moving. Final 6/10 to 7/7. Apply deposit to balance. Water is off per GC at 4:05 pm. Read at 2-5-1-9-1 stationary zero equals 251.

Powell: So, what that means, what date it was honey?

M. Cox: You can see right here it says 7-7-16

Powell: Ok. So that's all in ink there right?

M. Cox: Mmhm (Yes).

Harding: Ok. So, let me go back just briefly. Did you make those entries in the computer yourself?

M. Cox: Yes sir.

Harding: And did you make them about the same time the events occurred?

M. Cox: It's all entered in the same day.

Harding: And did you have personal knowledge of what went on?

M. Cox: Yes sir.

Harding: And did you keep this record in ordinary course of business?

M. Cox: Yes sir.

Harding: And is this regular practice for the town to portray?

M. Cox: Yes sir

Harding: So, what went all down, what does this mean about the day the water was turned off?

M. Cox: Well that's the date we cut it off and had that final reading that we took at the time of shut off, and when it was cut back on it was the same reading, so there was no water usage.

Harding: That's all. Mr. Powell may want to ask you some questions.

Powell: You don't know whether Samantha Welborn had the power turned on, on the March 10, 2017 or not, do you?

M. Cox: Actually, I don't know for sure but I saw Duke Power and they did tell me about what she had told us, it had been turned on

Powell: Can you verify that's true, that she in fact had the power on March 10th, 2017?

M. Cox: I don't know who it was, they couldn't tell me who it was, but it was.

Powell: But someone from Duke Power told you that too?

M. Cox: That it was reinstated on that date.

Powell: On March 10 of 2017?

M. Cox: Yes

Powell: Thank you.

Harding: All right, I said she was the last witness, but I got one more. Mr. Nettles would you state your name for the record?

Nettles: Joshua Nettles

Harding: And Mr. Nettles do you live in Yadkinville?

Nettles: Yea I live on 205 Taylor Street

Harding: And where is that in relation to 220?

Nettles: I have 8 acres that butts up to that property.

Harding: Which way do you imply? North, south, or what?

Nettles: I don't know my directions like that, but my house faces the same side of the street.

Harding: Does your house face this property or?

Nettles: No. Its side-by-side.

Harding: Its side. So you actually live beside it?

Nettles: Yeah my grass touches his grass, or lack there of.

Harding: Lack there of?

Nettles: It's just weeds over there; it's just a trash house.

Harding: Ok. How long have you lived there?

Nettles: 3 years.

Harding: Ok. Now in that 3-year period of time did you have occasion, see the house almost every day?

Nettles: Yeah. I see it every day.

Harding: And from July 7th, 2016 to at least April 19, 2017, did you by occasion see that house every day?

Nettles: Oh yeah.

Harding: And during that time did you ever see any cars parked on the property?

Nettles: No. My son's birthday is July 22nd, on the 23rd we had a birthday party and me and most of my friends and family came over and we were pretty happy that the people moved out. Nobody was living there at that time.

Harding: All right and now were talking about the period of July 7th, 2016 to...

Nettles: Nobody living there period. Actually, I actually seen the power company turn it back on.

Harding: Was there anybody living there at that certain time?

Nettles: No. They actually. It was weird because they actually went under the trailer. So, watching from my side window I could see what they were doing. Nobody moved back in after that day, so it was vacant.

Harding: Is there anybody in there now?

Nettles: Oh yeah. Somebody's living in there now.

Harding: But, but as of April the 19th the water was turned on, 2017, there wasn't anybody living there?

Nettles: Not at all.

Harding: So you don't often see anybody there, no cars?

Nettles: No cars, um I'm there, I go to work about 7 in the morning and get off every day and work from 2 to 4, and no, no cars. No lights on, no nothing.

Harding: No lights on?

Nettles: No.

Harding: No garbage cans out?

Nettles: No

Harding: No people in the yard?

Nettles: No. There's trash in the yard, but that's it.

Harding: No toys or bicycles or anything like that?

Nettles: Huh uh.

Harding: What did the yard look like?

Nettles: Just over-grown and..

Harding: All right. I think that's it. Mr. Powell.

Powell: And you saw the power company come in on March 10th, of 2017?

Nettles: Yes, I seen them come in. I don't know if they were turning the power on, but I seen the Duke Energy trucks there. There were actually one then two showed up. They got under the trailer, they messed around with something, a light came on and then they cut it off, then they left.

Powell: Since that time there's been people living there, in a short time frame.

Nettles: Yeah.

Powell: And they cleaned it up?

Nettles: No. They keep, they kept it mowed but.

Powell: Yeah that's what I'm saying.

Nettles: Yeah the trash is still. There's still stuff in the front yard and everything, so.

Powell: But it's cleaned up substantially more than what it was at the time frame you talked about.

Nettles: If you call that, clean, then sure.

Powell: And are they good neighbors?

Nettles: I don't know. I don't talk to them. I didn't talk to the last ones either; they tend to cuss each other out in the front yard, so.

Powell: Well that's not these neighbors.

Nettles: They're not home that much so.

Powell: You've have no problems with them at all then.

Nettles: Not yet. No sir.

Powell: And your gone a great deal of the time during the day, so you wouldn't know what was going on.

Nettles: Nah its summertime, so the lights out pretty late, so I sit outside all the time.

Powell: I'm talking about during the daytime. You're gone a great deal of the time.

Nettles: Yep.

Powell: You don't know what went on during that time.

Nettles: Nope.

Powell: I believe that's all.

Harding: You may step down. Mr. Chairman I think that's the evidence for the town.

Chairman: I know procedures are like the court, I know that, so we will go on and put the evidence on for Mr. Zachary.

Zachary: Yes sir?

Powell: State your name and address.

Zachary: Frank Zachary. I live on Cross Creek Dr.

Powell: And you're an attorney here in Yadkinville?

Zachary: I am.

Powell: And sometime in the last, in the months, you've had the opportunity to meet with Samantha Welborn?

Zachary: Oh, yes. I have.

Powell: Tell the board about the occasion of your meeting her and what you did to help her.

Zachary: Well, I got contacted about handling a closing; Samantha was I think entered into an agreement to purchase the property of Mr. ?.

Powell: Turner?

Zachary: Mr. Turner right, and his wife. I did a title search on the property and prepared the seller documents, we had a closing and she purchased the property from Mr. and Mrs. Turner.

Powell: And during that time, the title search, did you have the opportunity to talk to Mr. Turner about who, if anybody had been living there, or what had been going on there?

Zachary: I'm sure I did inquire if there was anyone, you know, if he had a tenant presently at the property. And he indicated that he did not. I'm sure if he had said he did, we woulda been talking about signing the rents and some things like that.

Powell: Right. And..

Zachary: And I don't know if I inquired how long it had been vacant or anything like that. But was someone presently at the property.

Powell: Did you have the opportunity to talk to Ms. Welborn and find out about her background and what she was doing at that time, and learn a little bit about her?

Zachary: Well, I've known Samantha, I know her parents, her family. I knew she was in college, at Appalachian State.

Powell: Full-time student?

Zachary: Full-time student. Yes sir.

Powell: And did she tell you why she was buying this property?

Zachary: I think just to sorta start, you know, investing. You know she had a little money, she wanted to invest in something that had a little better return, I guess. Went to the bank, heard nothing, so her family, her father, grandfather, father, you know, they invested in the property.

Powell: And you did not discover any kind of problems with the property at all?

Zachary: No. I did not.

Powell: I believe that's all.

Harding: It's not often that a lawyer gets to cross-examine another lawyer, is it? But Frank's a good friend of mine so I won't ask him anything real forward. Do you remember what date the closing was on?

Zachary: It was in April I think. I got my file over there.

Harding: Just get it out.

Zachary: April the 12th I believe was the date that I reported the meeting, 2017.

Harding: And so you've heard the evidence that the water was turned on April the 7th?

Zachary: Ok.

Harding: That's your recollection?

Zachary: I believe that's what I heard. Right.

Harding: Ok. So the water was turned on before Ms. Welborn purchased it?

Zachary: Well I guess you could say before the deed was recorded. I think there was an agreement of some kind, for her to purchase the property.

Harding: But before the title passed, Ms. Welborn's water was turned on?

Zachary: I. I. guess that would be correct then.

Harding: And I think there's been some evidence that the power was turned on in March 2017 that is a recollection. Therefore, the power was turned on before the title passed, as well.

Harding: Now did you get the title insurance on the property?

Zachary: Umm Yes I did.

Harding: And in the application for title insurance, does the title insurance company want to know whether the property is occupied or not? Is there a block that you check about whether it's unoccupied or in occupied or occupied?

Zachary: It doesn't say.

Zachary: There is, I think they want to know the nature of the property. Is it commercial, residential, agricultural.

Harding: Now some title insurance companies ask if there's a tenant in occupancy under any form of lease. Did this title insurance company ask that?

Zachary: Ok it does say, I actually answered that question unimproved because the, there was no real structure on the property. The structure is a manufactured home and the title insurance company is not going to insure the title to that, unless the titles been retired and they can issue it out to settle endorsement.

Harding: So this mobile home had not been converted to real property?

Zachary: To my knowledge, no. I could not find, actually, the last registered owner for it. I think Mr. Turner's, it's funny there was a registration for a manufactured home at 220 Taylor Street under someone, under a..

Harding: Your mother's name is Iva right?

Zachary: There was a registration under an Ola Marie Turner. I think it could have been a typographical error, but.

Harding: Well in any event this was not converted to real property.

Zachary: Not to my knowledge. No. Not that I can find.

Harding: Do you know the tax value of the mobile home?

Zachary: No.

Harding: Do you have any tax?

Zachary: Uh. Let's see. Probably got a print out of the tax card. Ok. Tax value of the property assessed, well by Yadkin county, in the Town of Yadkinville was \$11,600.

Harding: And how about the mobile home itself?

Zachary: Uh. \$500.

Harding: I think that's all the questions I have.

Zachary: According to the print outs I have from the tax office.

Harding: Thank you.

Zachary: Would you like to see those?

Harding: No. I'm fine.

Powell: You say that Mr. Turner and Ms. Welborn had a contract that they had done sometime before you did this?

Zachary: Well, I'm not sure I have a copy of it, but there had been some discussion about that, at least to my knowledge.

Powell: I believe that's all.

Harding: I think we don't have any more evidence, oh, I'm sorry.

Powell: State your name please.

Welborn: Samantha Welborn

Powell: And where do you live Ms. Welborn?

Welborn: I live in Booneville.

Powell: Ok. And where are you employed?

Welborn: I'm a fulltime student at Appalachian State and I'm an athlete there.

Powell: What year are you in class?

Welborn: Senior.

Powell: You're a senior this Fall?

Welborn: Yes.

Powell: And you say you're also on one of the athletic teams?

Welborn: Yes.

Powell: What, what do you play there?

Welborn: My major is Health Productions with a minor in Public Health, and I'm going to go on and get my Masters in the next couple years and I am on the track team.

Powell: And with regards to this property on Taylor Street, tell the gentlemen, the board, why you bought that and what you want to do with that. Where's your mind on that?

Welborn: I bought this trailer to give someone a home, which I did not know all the mess that would be behind it, hopefully to get them in a home to make things better for them. To build a better place on that land or to do something better with that property. That was kinda my..

Powell: And did you write up an appeal to this board about?

Welborn: I did.

Powell: Would you tell the board more about what this appeal says and what reasoning you had behind it?

Welborn: I hereby give notice of appeal of the determination made by the zoning administrator that a violation of the...”The reason for my appeal is that I called Duke Energy and they informed me that the electric power was turned on at this address on July 9, 2016, which certainly indicated to me that is the date that the previous occupancy ceased. I had previously contacted Duke to put the electric power in my name on March 10, 2017, and have it turned on, which this was in the time frame of 242 days passing since the electric power was disconnected. For those reason, I believe that the nonconforming use is still valid and legally available under the Town of Yadkinville’s ordinances, Section 9-3-24(5), which provides that if a nonconforming use is discontinued for a continuous period of more than two hundred seventy-five days, any future use of the land or building shall be in conformity with the provisions of Chapter 3 of the Ordinances of the Town of Yadkinville, under which Chapter, 1 also am applying to the Town of Yadkinville Board of Adjustment to grant or continue the nonconforming use under all pertinent provisions of the Town of Yadkinville Board of Adjustment powers and Town of Yadkinville ordinances to grant a conditional use permit as this is my residence. A strict application of the Town of Yadkinville’s Ordinances will work an extreme hardship on me. I had worked hard, obtained a loan on the property with a Deed of Trust, and rented it to a tenant. I am a full-time student at Appalachian State University and I use the rental income to help me live and pay my tuition and expenses. My tenant moved to this location with both our sincere beliefs that there were no problems with the use of the property by a mobile home as I had been informed that such use had been there for a long period of time under legal authority of the Town of Yadkinville.

I respectfully ask under the provisions of Section 9-3-100 of the Town of Yadkinville Ordinance to allow me a conditional use permit to continue to use a mobile home at 220 Taylor Street, Yadkinville, N.C.”

Powell: And what do you ask the board to do here?

Welborn: Respectfully ask them to give provision to section 93-100 of the Town of Yadkinville Ordinance for allowing me conditional use, to continue the use of my home at 220 Taylor Street in Yadkinville, NC.

Powell: And how much is your Deed of Trust that you have on your property?

Welborn: Umm.

Powell: How much do you owe?

Welborn: Nothing.

Powell: You paid it off then?

Welborn: Yeah.

Powell: Ok. And where did you get the money to do that?

Welborn: I saved up and I got help from my family.

Powell: And a lot of that money was earned by you?

Welborn: Yes.

Powell: And you were able to pay for the loan with that money you had earned on your own?

Welborn: Yes.

Powell: Your witness.

Harding: Thank you. Ms. Welborn, what date did the Deed of Trust come to you? What date did the title pass, do you know?

Harding: Was it the April 19th, Mr. Zachary I think that's the..

Welborn: I do. Yeah think it was April 19th.

Harding: Or April the 12th I mean.

Welborn: Yeah.

Harding: On that day, was this mobile home occupied?

Welborn: No.

Harding: When did it first get occupied by?

Welborn: Um my dad worked in there and that around..

Harding: I'm sorry, I'm getting old and I can't hear very well.

Welborn: I'm not good with a date, umm I don't know.

Harding: You don't know when it was occupied?

Welborn: No.

Harding: You've bought it that month, but your dad's taken care of it? Is that right?

Welborn: Right.

Harding: What was the condition of the mobile home when you bought it, on the inside?

Welborn: The water one needed to be fixed and they were fixed whenever he moved in.

Harding: Your gonna have to speak up, Im sorry.

Welborn: There was a water problem, with the pipes, and that was fixed whenever Jerry moved in.

Harding: So there was a leak under the trailer, waterline?

Welborn: Right.

Harding: Was there any furniture in it?

Welborn: No.

Harding: Were there any air conditioning units in the windows?

Welborn: No. There were holes in the windows.

Harding: Were there any appliances? Refrigerator, stove?

Welborn: No.

Harding: And it was not occupied at that time? And you can't tell us when it was permanently occupied?

Welborn: No.

Harding: Ok. Well thank you very much.

Powell: That's it.

Chairman Steve Brown: Attorney Brown you're acting as an advisor, did we make final evidence this evening?

Attorney Andrew Brown: I assume Mr. Chairman we did. Would the Board like to hear from each of the attorneys regarding their position on this matter.

Chairman Steve Brown: Yes please.

Chairman Steve Brown: And would Mr. Powell go first since has with the plaintiff I guess and uh that's an interesting question.

Attorney Andrew Brown: Generally speaking, in a court procedure, the party with the burden of proof has the opportunity to make the last statement to the finder of facts. Therefore in this case the Town has that burden of proof first, and the defendant has presented evidence, therefore, Mr. Powell will make his argument first and Mr. Harding will make his argument last.

Chairman Steve Brown: Ok. Mr. Powell.

Powell: I think we've heard some very honest testimony here tonight from all these witnesses in all these examinations and cross-examinations. And I think the board has been well advised by what the factors are here. And the facts are these, that, in summary, that an innocent young lady here, a rising senior in college, tried to be a better citizen, saving her money, going out and trying to get some advancement in her life, doing pretty well I might add. And she has done the best she can. And the ordinance says 275 days and did you look back at the evidence and all the certain evidence we've given. Mr. Turner said that he didn't know anything about the electric power but yes, it could have been turned on, on March the 10th, of 2017. That then would make it only 242 days of unoccupied, which would be well within the 275 days required by the ordinance in order to continue the use under the use it was prior to the night of the ordinance. So, that's what we're here for, to show you that there has been a movement in this proceeding. From not 286 days, I believe they said that it had been since July of 2016, but really 242 days to March 10, when she came in, negotiated with Mr. Turner, and started improving this property, such so she could have a tenant there. You heard it's in bad shape and all that, so she did all of that in good faith. That she spent a lot of good money on this and tried her best, she's got a good tenant there now. You heard the next-door neighbor testify that the property had been cleaned up, mowed, and that kinda thing. Much better shape than it was there for the period of time in between. I think we would all agree to that, so there's been a great improvement there as a result of what Ms. Welborn has done. And Mr. Williams said that, he admitted that the electric power had turned on in the 275 days, far less than that date Mr. Williams had then found out, admitted that the power was turned on well within 275 days, as required by the town ordinance. Mr. Cox said the same thing. Mr. King said the electric power had been turned on on March 10 of 17. Mrs. Cox said that she called Duke Power, Duke Energy, I'm old fashioned, I still call it Duke Power, Duke Energy. And that they verified the power was turned back on to her, an employee of the town, on March 10 of 17, 242 days of occupancy if you will. Well in order to occupy something you have to have presented such that it can be occupied, and the phases you start on are putting water, power, and all that too, to get it to work. And we contend ladies and gentleman, that Ms. Welborn has done everything she could to make this happen. Mr. Zachary has certainly checked the public records and returned all these facts are true. And this is where she finds herself that she has made a substantial investment and she's asking that you give her the benefit of the doubt about this ordinance being within 275 days. That you have the authority to grant a variance, and allow her to continue to improve this property and have some property that is there, that is worth something and an increasing the value of the town, and providing a home for one of our citizens. So we would ask that you take all these facts in consideration and understand that she was doing everything within the tone of the ordinance, within 242 days, which we think is fair. Thank you.

Harding: Thank you. Well I agree with a lot of what Mr. Powell says. Ms. Welborn certainly a nice lady, she certainly is working hard, she's certainly gone to school, but there's a saying in law that says you cannot let hard facts make a bad case. So we gotta look at the facts here, ok. You all understand about this non-conforming usage, if you don't, let me spout off a little bit and discuss it. In a lot of instances, a town can go a long time and not have any zoning ordinances. And then they decide that the town addresses better and does better if they have mobile homes and parks, and not only individual lots, and if they have businesses here and residences here and all that. So, enact an ordinance that says were going to segregate uses from uses, but there's always situations where somethings already there and that becomes what they call a non-conforming use. In other words, it's there but it's not zoned to be there, and to be fair the law says, a non-conforming use can stay there, but if anything occurs if the phones down, if you move the mobile home out, if its discontinued for use as a residence for 275 days, then you lose being grandfathered in. All right? Now lawyers like to quote a lot of laws, so I'm going to read

you a couple little blurbs from what our appellate court said; One of them says, this is Huntington Properties Vs. Currituck county down east, zoning ordinances are construed, that is interpreted, against indefinite continuation of non-conforming uses, this is the court speaking, and it says look at the ordinance and they're supposed to be construed to phasing out non-conforming uses. Ordinances in general are construed to give affect on all of their parts; moreover, non-conforming uses are not favored by the law. Non-conforming uses are not favored by the law. Most zoning ordinance schemes foresee, look forward to, elimination of non-conforming uses either by amortization, that means you got so many years to get rid of them, and we done that in the town with these mobile home parks, well say you got 5 years to go and phase out. Elimination by amortization, attrition, which means something burning down, or other means. In accordance with this policy, zoning ordinance are strictly construed against indefinite continuation of non-conforming uses. Second case, GGT 4 vs. Board of Adjustment, Board of Adjustment was the defendant here. Non-conforming uses are not favored by the law. Most zoning schemes foresee elimination of non-conforming uses. In accordance with this policy zoning, ordinances are strictly construed against indefinite continuation of non-conforming uses. And they go on to say this, we find petitioner GG&T'S attempt to resume operations irrelevant in determining whether the property use has been discontinued. So, it's not what they intended to do, it's what they actually did or didn't do during this 275 day period, and I can read you 4 or 5 other ones that say they're not favored and the zoning ordinance is strictly construed. So our evidence to you all is this, Mr. Turner is a really nice man and feels really bad about this situation, but he came to testify tonight and he said in late July, he didn't go down there much, let these people live there for free. He went down there in late July, and they were gone and the furniture was gone and the air conditioners were gone out of the windows, and the refrigerator was gone, and he boarded it up. And while he was doing it, he fell and hurt himself, and then he went to the doctor so he sorta knows that very time and he made no attempt to rent it or put anybody else in there, until he sold it. Then you had, if I can remember, Mr. Cox's said he turned this water off on July the 7th, 2016. And then we have all these other witnesses from the town, that verify the water is turned off on that day. We had then all the witnesses of the town verify that the water wasn't turned on for 286 days later. And I don't think anybody argues with that. And that the meter reading, when it was turned off and the meter reading when it was turned on, were the same. So, I think you all can logically and fairly, make a conclusion that from July the 7th, 2016 til April the 19th, 2017, there weren't nobody in that house. There was no electric, there was no water. Electricity was turned on a little earlier, no water, no furniture, no air conditioning, no, nobody, all these witnesses testified, including the man that lives right next to it, that no cars, no people, no kids, no toys in the yard and the yard wasn't mowed. So I think it's just logical that there wasn't anybody living there. Now, we will argue that that is a discontinuance; Mr. Turner said that he made no effort to rent it again and he made no effort to put furniture in it, and made no effort to get anybody in it. And if that's not a discontinuance of use, what is? What could it possibly be? All right. Now as I say, Ms. Welborn is a nice lady, I know her grandmother and grandfather, I know her father, I know her brother, all super nice people, but that's not the issue. You all can't decide this case on who's nice and who's naughty. You have to decide this case on the law. And the law is, our ordinance, which is law, and our ordinance says in your package, if a non-conforming use is discontinued for a continuous period of more than 275 days, any future use of the land or the building shall be in conformity with provisions of this chapter. Ok, that's the law. And so I think all the evidence is that it was discontinued. Power was turned on, sure, but Ms. Welborn said that when they bought it in April, there wasn't anybody living there, and there wasn't any furniture and there wasn't anything else in there even though the power may have been on. The law says it's not the intent of the party, maybe she intended to occupy it, but it was not occupied for the 275 days. Now I don't want to

say anything bad about this mobile home but if the tax office put a tax value on it of only \$500, I don't think it's worth a penny more. So if Ms. Welborn has to tear it down and move a, build a stable house in there, she still has land. And while the mobile home is gone, the land is still there and the mobile home by the tax office only had a value of \$500. So, I think you got to take the law into effect, which says 275 days of discontinuance, and you also gotta take what the appeals have said over and over and over, "Non-conforming uses are not favored in the law, and the zoning ordinances are construed strictly against them and it's the policy of the zoning ordinance that if these things lose their grandfathering, then they ought to be replaced by something that's appropriate for the district they're in." So the town asks you to uphold the notice of violation of the zoning administrator, and find that this piece of property has lost its grandfathered in status. Thank you very much.

Chairman Steve Brown: Mr. Harding, Mr. Powell, if that concludes the testimony, at this time we'll close the hearing.

Board Member Dale Wilhelm: I'd like to ask a question.

Chairman Steve Brown: Ok.

Board Member Dale Wilhelm: Perry I'd like to ask a question, how many non-conforming mobile homes do we have here that someone lives in, in Yadkinville? Do you have any idea?

Williams: Right now? Not right off hand that what's left. Probably six or eight maybe.

Board Member Dale Wilhelm: Ok. Six or eight. I used to work for the City of Winston-Salem inspections department and we had a flag on every lot on the Northern Belt way. If somebody come in to get a permit to do anything, they had to go to the DOT. I think what would solve this problem, if you flagged every lot that's a non-conforming lot, it would take care of this in the future. So that you know, I'm not saying they issued it, to rehook the water back up but they did what they're supposed to do. But if you had it flagged, we wouldn't be here right now. And you got a mess with the house numbers down there too. I'd hate for something to catch on fire at Barry Childress's house, his is 20220 and this house is 220. And isn't your house 205?

Nettles: 205, it's next door to 220.

Chairman Steve Brown: Ok as I said, the public hearing portion of this meeting is closed so we're need to discuss this case and make a decision. Anybody got a point of interest, or point of discussion they want to bring out at this time?

Board Member Chip Thomas: I want to make one, having the electricity on is one-step, but that's not a step to getting somebody to actually live there. It's a step in the process, but I don't know if anybody can live without water or without electricity. Seems like when renting a property its gotta be ready to go. It was not, I don't think it was maybe ready to go until sometime after April 12, 2017.

Chairman Steve Brown: Any comment?

Board Member Mary Reavis: Is the power still on?

Board Member Chip Thomas: The power is still on and someone is living there.

Chairman Steve Brown: Well I'm not sure what our code says, the exact words, but I think of being occupied.

Board Member Perry Snow: That was my question. What does the ordinance say about what determines occupancy? I mean is the power on, water on, or do you gotta have somebody living there? Is there any determination?

Chairman Steve Brown: The ordinance don't give a definition. That's our decision here tonight.

Board Member Perry Snow: Yes sir. I agree, I agree.

Chairman Steve Brown: Any thoughts, discussions?

Board Member Chip Thomas: Yea back to the water idea, there's a statement in here that structures within this district will have both public water and sewage available in the R-10 zoning. That is part of the law and that's, you have to have that. Unless you have the water turned on, you don't have that. I'm assuming it does not have, now you have to tell me, does it have a statement about electricity or?

That's a second thing that needs to be available.

Chairman Steve Brown: My opinion is the intent of the ordinance is based on occupancy. If it's not occupied then the days are counted. That's my opinion. And it has been testimony that no one has lived in that house within that 275 days.

Chairman Steve Brown: Well if there's no other discussion, then we'll entertain a motion that we take a vote.

Board Member Chip Thomas: I make motion that the Board of Adjustment take a vote on this issue.

Chairman Steve Brown: Do I hear a second?

Board Member Mary Reavis: Second

Chairman Steve Brown: All in favor of upholding Mr. Williams's decision raise your right hand.

Note: Four (4) members of the Board voted in favor, two (2) were in opposition.

Chairman Steve Brown: All in favor of modifying his decision raise your right hand.

Note: Two (2) members of the Board voted to modify.

Chairman Steve Brown: Well that covers everybody, so there's no use in voting on reverting his decision. So, we got a vote of four (4) upholding his decision, and two (2) for modifying his decision. In this particular case, four (4) makes a majority of the Board of Adjustment, so Mr. Williams's decision is upheld.

Vote: 4/2 (Opposed was Dale Wilhelm and Perry Snow)

Harding: Thank you very much Mr. Chairman.

Chairman Steve Brown: Do I hear a motion to adjourn?

Board Member Dale Wilhelm: I make a motion to adjourn.

Board Member Chip Thomas: Second

Chairman Steve Brown: All in favor

I...I...I

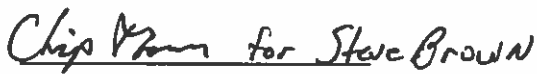
4. OTHER BUSINESS

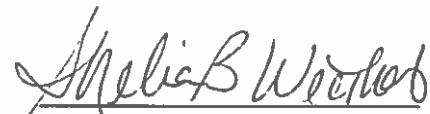
No other business was discussed.

5. ADJOURNMENT

With no further business, Mr. Dale Wilhelm made a motion to adjourn. The motion was seconded by Mr. Chip Thomas and the motion approved unanimously. The Board adjourned at approximately 7:26 p.m.

Vote: 6/0


Steve Brown
Chair


Shelia B. Weathers
Town Clerk