Board members present: Arrington Cox

Mark Spence

Martha Chastain

David Neel, Alternate Member

Danny Sharpe, Alternate Member

Robert Sulaski

Bill Solomon

Board members absent: Eleanor James

Town staff present: Ben Blackburn, Interim Town Administrator

 Angie Murphy, Town Clerk

 Scott Adams, Zoning Administrator

Others present: Board of Adjustment represented by Attorney Brian Gulden

 Town of Montreat represented by Attorney Cindy Rice

 Applicant represented by Attorneys T.C. Morphis & Bob Oast

 Opposition represented by Attorneys John Noor & Jamie Whitlock

Several members of the public were present and were watching on Zoom Software. Mr. Spence, as Chair, called the meeting to order at 4:00 p.m., and Bill Solomon led the group in a moment of prayer. Mark Spence certified that a quorum was present. The members of the Board of Adjustment took a moment to introduce themselves and to disclose any ex parte communications.

The meeting was recorded and posted to the Town website on the YouTube Channel which can be found at the following link: <https://www.youtube.com/channel/UCT2qK4hnOdlFcGadGE5GlRQ>.

**Agenda Adoption**

Robert Sulaski moved to approve the agenda as presented. Arrington Cox seconded and the motion carried 7/0.

**Order of Approval: Special Use Permit for Mountain Retreat Association (MRA) on property located at 309 Collegiate Circle, Montreat, NC.**

Danny Sharpe moved to approve the Order of Approval with Conditions as presented. Robert Sulaski seconded and the motion carried 7/0.

**Review, Consider, and Hear Arguments and Take Actions Regarding Preliminary Matters and Motions Related to Appeals from Zoning Administrator’s Determination**

There were two appeals filed by Attorneys John Noor and Jamie Whitlock representing their respective parties. The Town of Montreat and the Mountain Retreat Association filed motions to dismiss in response to the original appeals.

Town Attorney Cindy Rice presented her arguments with regards to the motion to dismiss. Her arguments were centered around the following: the testimony of Zoning Administrator Scott Adams on December 13th was not a final determination, the appeals were not timely filed, the doctrine of collateral estoppel, and the appeals were premature and interlocutory. Ms. Rice went on to present her arguments in greater detail.

Mountain Retreat Association’s Attorney T.C. Morphis expressed his agreement with Ms. Rice’s argument. Mr. Morphis went on to say that the opposing counsel’s appeals were now moot.

The Opposition’s Attorney Jamie Whitlock contends that Mr. Adams made a final administrative determination on December 13th. Mr. Whitlock advised that Mr. Adams’ decision was sworn testimony offered in a public hearing and recorded in writing by the Court Reporter. Mr. Whitlock advised that the appeal was filed in a timely manner on January 11th with December 13th being the day of the original determination. Mr. Whitlock also stated that they have right to appeal to the Board of Adjustment.

Mr. Noor contends that 160d states that the administration determination does not have to be written. Mr. Noor states that Mr. Adams decision was binding and under oath on December 13th and they are exercising their right to appeal.

Robert Sulaski moved that Board of Adjustment dismiss both appeals. Danny Sharpe seconded and the motion carried 6/1 with Bill Solomon voting against the motion.

**Adjournment**

Robert Sulaski moved to adjourn the meeting. Martha Chastain seconded and the motion carried 7/0.

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| Mark Spence, Chair  |  | Angie Murphy, Town Clerk |