



## PLANNING & ZONING COMMISSION MEETING MINUTES

September 14, 2022, 6:30pm

66 Thillen Drive, Fox Lake, IL

Also Available Virtually Through the Link Below

### I. Call To Order

Chairman Gauger opened the meeting at 6:30 pm.

### II. Pledge Of Allegiance

### III. Roll Call

Present: Commissioner LaPianna, Commissioner Bongiovanni, Commissioner Legge, Commissioner VanderWeit, Commissioner Nakanishi, and Chairman Gauger.

Absent: Commissioner Swanson

A quorum was established.

Also in attendance: Economic Development Director Donovan Day, Village Administrator Deb Waszak, Trustee Marr

### IV. Approval of Minutes From August 10, 2022

Commissioner Nakanishi made a motion to approve the meeting minutes as submitted, seconded by Commissioner Bongiovanni.

	Aye	Nay	Abstain
Commissioner: LaPianna	X		
Bongiovanni	X		
Legge	X		
VanderWeit	X		
Nakanishi	X		
Chairman: Gauger	X		

Motion passed.

A motion was made to revise the agenda, moving old business to hear first and then new business. The motion was made by Commissioner LaPianna and seconded by Commissioner Nakanishi. All were in favor, motion passed.

## V. Old Business

### 1) Continued Public Hearing for Meyers Bayview Terrace Lots 10 through 13

Chairman Gauger opened the public hearing for Meyers Bayview Terrace Lots 10 through 13 at 6:33pm.

There was no one at the meeting for this hearing. This is the 4<sup>th</sup> meeting, Chairman Gauger asked if it is time to drop this petition and Director Day agreed stating that they could come back at a later date and would not be charged an additional fee.

Commissioner LaPianna made the motion to eliminate the petition for Meyers Bay Terrace Lots 10 through 13 unless or until they return, seconded by Commissioner Legge.

	Aye	Nay	Abstain
Commissioner: LaPianna	X		
Bongiovanni	X		
Legge	X		
VanderWeit	X		
Nakanishi	X		
Chairman: Gauger	X		

Motion passed. Hearing closed at 6:34pm

### 2) Continued Public Hearing for 28-A N. Lake Ave; Petition for a Special Use Permit to Operate a Short-Term Rental

Chairman Gauger opened the public hearing for a Special Use Permit to operate a short-term rental at 28-A N. Lake Avenue at 6:35pm. Sean Stochl was sworn in.

This hearing was continued from last month because of an inspection report that showed a few things that needed to be “cleaned up”. Mr. Stochl stated that the items that were noted on the inspection have been addressed. Director Day stated that photos of the corrected items have been submitted and the property has been approved by the Village.

Commissioner Legge asked if the walkway items from the last inspection have been address and Mr. Stochl replied in the affirmative. There were no audience comments.

Commissioner VanderWeit made a motion to approve the Special Use Permit petition for the operation of a short term rental at the property commonly known as 28-A N. Lake Avenue, Fox Lake, Illinois in accordance with the Village of Fox Lake zoning ordinance 9-1-6-10 subsection C with standards 1, 2, 3, 4, 5 and 6 satisfied. Commissioner Legge seconded.

Commissioner LaPianna asked for confirmation that this is 4 bedrooms and a maximum of 8 adults and that is still the agreement. Chairman Gauger stated that this is a “hold-over” from the last meeting.

	Aye	Nay	Abstain
Commissioner: LaPianna	X		
Bongiovanni	X		
Legge	X		

	VanderWeit	X
	Nakanishi	X
Chairman:	Gauger	X

Motion passed. Hearing closed at 6:38pm

**3) Continued Public Hearing for 149 Cora Avenue; Petition for a PUD  
Subdividing a Single Lot into Two Lots to Construct a Single-family  
Residence**

Chairman Gauge opened the public hearing for a petition for a PUD, subdividing a single lot into two lots to construct a single-family residence at 149 Cora Avenue at 6:39pm. The petitioner, Walter Curran was sworn in.

Mr. Curran re-stated the background of his intentions in purchasing the property. He also presented documents showing present state of the neighborhood. Mr. Curran wants to build a home on the ridge and keep the sight lines of the lake view for the coach house. He is also working with his neighbors to avoid blocking their views. His property also includes the Frog House, which will be kept. Chairman Gauger asked about a putting in a garage with the proposed new house. Mr. Curran stated that if a garage is required, he will have that incorporated into the plans when the architect draws the plans. Mr. Curran stated that there is a house being built currently that does not have a garage. Director Day stated that the new house being built without a garage has put down a \$20,000 escrow security deposit with the Village. They are building without the garage in order to have better access for the construction activities. The garage will be added after house construction is completed, or will lose the \$20,000 deposit. A minimum of one car garage is required. Commissioner Legge asked if a detached garage could be built.

Chairman Gauge asked if the size of the lots is the same as the previous submission. Per Director Day, the lot sizes have been adjusted to make lot 2 conforming and lot 1 non-conforming. Although the lots are narrow, the side setback would be 5 feet or more. This would conform to the code. Commissioner LaPianna stated that Mr. Curran would have to appear before the Planning and Zoning Commission if any variances are needed.

Chairman Gauge asked if Mr. Curran should be required to redraw his plans in order to make things more clear. Commissioner Legge felt that the drawings that were presented show all the detail that is needed at this time. It was requested to add a copy of the plan as a part of these minutes.

Commissioner VanderWeit suggested that most of the neighbors have more than one building on their lots and are legal non-conforming. Chairman Gauger stated that the original petition could be amended with the updated information for the proposed lots. Proposed lot 1 is now larger and proposed lot 2 is smaller. Proposed lot 1 is 7,370 sq ft. and proposed lot 2 is 9,750 sq ft.

Commissioner Nakanishi suggested that the paperwork needs to be amended. She said, whether or not this petition is approved, the commission needs to consider that if we want to see new development we have to accept that, in this

area, it is what it is, 2 buildings on each lot.

There were no audience comments.

Commissioner VanderWeit made the motion approving the petition for 149 Cora Avenue, Fox Lake, for a Special Use Permit for Planned Unit Development subdividing a single lot into two lots to construct a single-family residence, updating the square footage as was presented this evening with the plat attached to these minutes, according to the Village of Fox Lake zoning ordinance 9-1-6-11 the Planned Unit Development Amendment of January 2016. Seconded by Commissioner Legge.

Commissioner Nakanishi requested that the motion state the square footage. Lot 1 - 7,370 square feet, Lot 2 - 9,750 square feet. Commissioner Legge also asked to verify that this is a PUD and not a variance. This was confirmed.

	Aye	Nay	Abstain
Commissioner: LaPianna	X		
Bongiovanni	X		
Legge	X		
VanderWeit	X		
Nakanishi	X		
Chairman: Gauger	X		

Motion passed. Hearing closed at 7:03pm

**4) Continued Public Hearing for 1 Lakeside Lane; Petition for a Special Use Permit to Operate a Short Term Rental**

Chairman Gauger opened the public hearing for 1 Lakeside Lane petition for a special use permit to operate a short term rental at 7:04 pm. Nathan Brown, the petitioner, was sworn in.

Chairman Gauger stated that we received this petition last month but Mr. Brown was not able to attend the hearing that evening so the matter was passed to this evening.

Mr. Brown stated that he this is a rental property, the previous owner was living in one unit and renting out the others. Mr. Brown's plan is to do a combination of traditional long term rentals and some short term rentals. He is petitioning for short term permit for all 5 units so that he will have the option of renting short term for all of the units, if needed. Mr. Brown stated that he spends a lot of time at this property but it is not his primary residence. Mr. Brown stated that there are 3 units in the main house and 2 cottages closer to the water.

Commissioner LaPianna asked and Mr. Brown confirmed that there are separate entrances for each of the 3 units in the main house. It was also verified that there are no internal access points from one unit to the others. Mr. Brown also stated that there are separate driveways and parking areas for the cottages down by the lake.

Mr. Brown stated that the 2 lower units of the main house currently house long term rentals. Mr. Brown is currently using the upper floor of the main building when he is at the property. The main building has units number 3, 4 and 5 – units 1 and 2 are the cottages and there are apartment number signs on the

property. Mr. Brown also stated that an inspection has been completed on each unit.

Commissioner VanderWeit asked Director Day what the status is of the inspections. Director Day stated that the inspections were partially passed. Mr. Brown said that he had added the drip pan and smoke detector. Director Day said that the unit subsequently passed.

Commissioner LaPianna asked if 5 rental units on one property was the most we have in the Village. It was discussed that the Roxanna property has more than 5 but that property was a hotel and is on resort property so it isn't comparable.

Commissioners Legge and LaPianna asked about how the main building is broken into 3 apartments and which unit number corresponds to which building. Mr. Brown explained that it is 2 levels, the top level is one unit (unit 5) and the lower level (basement) has two units (units 3 and 4). Each has a separate entrance. Unit 5 has a spiral staircase that goes to a partially finished attic. Each cottage has an unfinished basement. Each unit has its' own kitchen and bath. Mr. Brown stated that he does not intend to run short term rentals in all 5 units at once but wants to have the option to have short term rentals in any unit at any given time. The building has not been altered to accommodate 3 units; it was purchased as a legal non-conforming.

Commissioner VanderWeit said that there were complaints last time about the management of the property. She asked, what are you (Mr. Brown) doing with the short term rentals that are currently going on that are unapproved? What are you doing to take care of the neighbors and not have animals and other things going on to be a nuisance to the neighborhood? I don't see any rules or regulations for the short term rentals. Mr. Brown feels it is important to be a good neighbor; he is working with the Village to give some of the road back so it can be made wider to allow emergency vehicles to come through. He is happy to give his personal cell phone; he has a local contact that helps keep an eye on the property. Mr. Brown owns and operates a property management company that deals with traditional, long term leases. One challenge is that regulations concerning rentals are usually favorable to the resident. If there is a problem, it is often very hard to get that person out. The short term is very strict and in favor of the owner. He can write the rules such that he can solve it and get the person out immediately. The fear with short term rentals is that it will be a "party house", Air B&B has rankings and he can see what is going on and who is going in there. Also, he is hoping to make this his home one day and does not want the property damaged or destroyed.

Commissioner Bongiovanni asked where Mr. Brown currently lives: Glencoe, about 45 minutes away.

Chairman Gauger confirmed that Mr. Brown has local help and asked if this is a property manager. Mr. Brown said yes, his name is Dave and is a Fox Lake resident. Dave is the one who can be at the property immediately if something happens. Mr. Brown is happy to share with the neighbors to be sure that if there is a problem, it gets addressed. Commissioner Legge asked if Dave has experience managing properties. Mr. Brown state that Dave has extensive experience operating short term rentals in Ohio as well as locally which is why

Mr. Brown chose to partner with him. Commissioner Legge asked which Fox Lake properties Dave is working at but Mr. Brown does not know the answer to that.

Commissioner Bongiovanni pointed out that one of the cottages has only one bedroom and so it can only accommodate 2 persons. Chairman Gauger stressed that the rule says two persons per bedroom. Director Day asked if there have been changes to the rules packet that was previously submitted. Mr. Brown said there have been slight changes, there continue to be amendments to it but they are, for all intent and purposes, the same.

Commissioner Legge returned to the subject of rentals going on after the time Mr. Brown was made aware of the need to have a special use permit for short term rentals. He asked if there were rentals going on after Mr. Brown was made aware of the regulation that an approval is required to operate a rental? Mr. Brown said that upon being made aware, he shut everything down, marked everything as "unavailable". He can't remember if there was anything shortly thereafter. Commissioner Legge pointed out that he should know the dates he rented, he had tenants in. Commissioner VanderWeit said that the dates should show on his renters' roles, Mr. Brown agreed. Mr. Brown stated that he took no new reservations, but he is sure there were a few that were shortly thereafter. Director Day stated that he had emailed Mr. Brown on August 16<sup>th</sup> stating that he did not have a permit for short term rentals and told him in a phone conversation that he could allow renters that had reservations for the coming weekend (August 26, 27, 28) could stay but nothing after that. Mr. Brown said that he had friends staying on the property and after he was told that he did not have the permit, he shut down everything that he could which was any and all new reservations. Commissioner Legge asked about current reservations that he had at that time, did he honor those? Mr. Brown said that he would have to check, there were some reservations that were honored.

Mr. Brown said that prior to purchasing this property, he sat down with Director Day. He went through the zoning, the rules; he went through everything that was needed to run this. Mr. Brown said that he understood that he had to go through this process but also incorrectly understood that these permits were routinely approved and he would just turn everything in and it would just continue to go through. So, with that in mind, he just went ahead and ran with it.

#### **AUDIENCE COMMENTS**

Mr. Gary Eggert, 7 Lakeside Lane, was sworn in.

Mr. Eggert stated that the primary reason he is here this is the safety, welfare and ability of his neighbor Donna Kolian to enjoy her property at 3 Lakeside Lane, which has been in her family for over 80 years. Mr. Eggert has 4 points to make.

- 1) Since early July, at least 3 of the units at 1 Lakeside Lane have been advertised on Air B&B and have been consistently rented. Mr. Eggert brought this to the attention of this committee at the last meeting. He brought it to the attention of the Mayor less than a week later at a meeting along with filing a written protest letter, per the ordinance. The ordinance only requires signatures of 20 % of the adjacent property

owners; this protest letter had 100%. The letter also addressed the fact that the property was currently being rented. This was also brought to the attention of the police department. The rentals have continued, unabated. There has been no stopping. Chairman Gauger asked if these rentals have occurred after August 20th and not being long term but being short term, Mr. Eggert said that is correct for at least 3 of the units. There appears to be a lack of interest or ability on the part of the Village to get this to stop. This property is already very non-conforming to the residential area surrounding it. It has always been owned by an individual who has been an owner/occupant. They have done a good job of maintaining peace, quiet and harmony although there have been some issues. Now it is owned by a company and is being run as a business; a five-minute hotel/motel.

2) There was a construction loan taken out on the property (a matter of public record) for 150% of the purchase price of the property. Purchase price was \$780,000 and there was an additional \$390,000 taken for a total of \$1.7 million. This brings up the question of what was the banks' understanding of what is going to happen with this property and what are the owners' development plans. Commissioner Legge asked if Mr. Eggert is suggesting that there was \$390,000 worth of improvements done to the property. Mr. Eggert does not know what the additional funds are for and would like to know the answer to that question. Commissioner Legge said that it is not the commissions' place to worry about or question where the money goes, but thanked Mr. Eggert for the information.

3) Regarding the petition and inspection. In the petition, item number 3, talks about adverse effects on property values on adjacent properties as well as the sale-ability of homes in the future. There are studies done that show that short term rentals are positive for a neighborhood, Mr. Eggert can show plenty that say just the opposite. Mr. Eggert believes that when talking about the positive effects on residential properties, they are referring to single family homes, not a 5-unit hotel/motel.

4) Parking: In the petition background, it says that there is a paved driveway with parking for 12 cars. The rules state that they are lined, they are not. Nor is the parking plan submitted showing any kind of diagrams of parking spaces or the access to that parking area. Mr. Eggert said that he doubts that 12 cars could park there, probably 8 at the most and have the ability to turn around and back out, without having to move other cars. There is no street parking allowed but the petitioners' own photo show cars parked on the street by the cottages. This happens all the time. There is a driveway off of Lakeside Lane, into this property which is blocked off by vegetation as well as an abandoned vehicle that has been there for years. This causes people to mistakenly use Ms. Koliens' driveway at 3 Lakeside Lane. There are other rules and regulations that were provided by the petitioner one being that there are no pets allowed, except service animals. That has totally not been the case for the last two months, while this has been going on without a permit; dogs loose, no leash, people on her (Ms. Koliens') property next door. There is an area to access the water on Ms. Koliens' property and dogs, people, everybody, that's where they are going.

Commissioner Nakanishi asked Mr. Eggert where he lives. Mr. Eggert stated that he lives 2 doors down at 7 Lakeside Lane. In response to a question from Chairman Gauger, Mr. Eggert stated that the Barrs live a couple of houses down.

Commissioner LaPianna asked if the street that the cars are parked on in the picture shown are actually on Glenview, not Lakeside. That was confirmed and it was mentioned that there is also a pumping station show in the picture.

Mr. Steve Ligeza was sworn in.

Mr. Ligeza stated that he lives at 134 E Grand Avenue which is the adjacent property directly across Glenview Place. He has lived here with his wife and 2 teen children for 3 years. He owns a couple properties in Fox Lake, supports economic development locally and “new blood” in the neighborhood. He stated that he does not object to a family monetizing an extra unit of a 2 flat, but that is not what is going on here. It is an entirely different thing to run what amounts to a vacation resort business within a residential neighborhood. Mr. Ligeza has seen a notable increase in traffic and strangers walking around by his house. Sometimes, they are quite nice but what raised his eyebrow was when one of the groups asked him if he knew where to get drugs.

Mr. Ligeza said, in light of my own observation of continuing to do business after he understands that the order to stop was issued; he is concerned what the scenario will look like if permitting is no longer a factor and the owner is not on site most of the time. He said he has nothing against the gentleman who owns the property, he has always been very cordial but Mr. Ligeza is not comfortable having his kids living next to what is likely to be a party scene cycling a large new cast of strangers through their block every week with 5 short term rental units.

Mr. Ligeza and family moved here from a popular Chicago area and he has seen first-hand what happens to a neighborhood when a majority of residents are transient and not rooted there. His position is that he does not object to one or two of these units being short term rentals. He definitely objects to living across the street from a resort hotel with clients that see our quiet little street like a spring-break hotel room.

Commissioner LaPianna asked if Mr. Ligeza recalled if there were short term rentals the weekend of August 26<sup>th</sup>. Mr. Ligeza has not tracked this and does not recall the dates of the short term rentals.

Steve and Lori Donato were sworn in.

The Donato's bought their property in Fox Lake 7 years ago. They have invested hundreds and hundreds of thousands of dollars in their home with the intent of having this as their retirement home. They have nothing against the 2 gentlemen concerning the 1 Lakeside property but Mr. Donato said that they are not there as often as he thinks they should

be. Mr. Donato thinks this property should be owner occupied. He also stated that there was a short term rental there last night, someone came in around 9:00pm and left this morning around 4:30am.

Mr. Donato stated that there have not been a lot of problems from his perspective except for the amount of traffic. It is a one-lane road, it's not 45 mph.

The Donato's have a fenced-in yard to keep their dogs in but the neighbors are walking their dogs and the dogs do their business and the people don't have the appropriate stuff to pick it up, so that has been accommodated. The Donato's get asked all kinds of things from the people in the rental units because they are outside a lot working on their house. People are always pleasant and not disruptive, except for 2 occasions.

Mr. Donato has spoken with Dave several times and finds him to be a super host for Air B&B; very knowledgeable about the business of it, Dave says he does a great background check and Mr. Donato believes that, he and his wife have rented Air B&B's while on vacation.

The Donato's are not opposed to Air B&B's but they are opposed to a hotel. It's in-and-out, and that's great but not for the people who live here. This is a neighborhood, this is not the reason I moved here. The people he rented to - the circumstance doesn't matter, it was great, it wasn't horrible, nobody died. There are all kinds of things that you can read, some are positive, some are negative about Air B&B's, it's all on the internet.

Mr. Donato stated that he is concerned that he and his wife have talked about selling. He doesn't want to be in Fox Lake anymore, it has changed the dynamics of this neighborhood. With long term tenants, Mr. Donato understands that it is not pleasant to deal with evicting somebody and they often have the "upper-hand". But in a neighborhood, you make do with their habits, what time they go to work, when their kids are coming home, you know all of those things. With short term rentals, you don't know who is coming in; there have been a bunch of people taking pictures of their house which make the Donato's feel uncomfortable. They have already had a break-in. A resident was drunk and tried to open the door to the house.

Mr. Donato does not want pictures of his house on the internet unless he puts it there, he doesn't want to be an ambassador for Fox Lake, unless he's getting paid. They are not happy with what is going on, the property owners are doing the best that they can, except that no one is there most of the time. If someone lived onsite, maybe that would be different, it could be controlled better. Mr. Donato says "no".

Commissioner Legge asked Mr. Donato to point out his house on a map that was being projected on the screen on the wall. Commissioner LaPianna commented that the Donato property has direct exposure to the whole property. Mr. Donato said it's about 80% which is significant. Then he spoke about the parking at the bottom being very steep, when

people back out, they back into the fence. Commissioner LaPianna agreed and stated that there is a no-parking sign there. The commissioner stated that he was there today and there is plenty of room for parking but there is a bump going up and agreed that it is very steep. When residents lived there they did park in that area. It is a hassle on Tuesdays and Thursdays when the Fox Lake Water Department comes to check the system. Also, they have to run the generator twice a month. It was also mentioned that the Village needs to access the pumping station weekly which would make parking there a problem as the Village trucks need access.

Commissioner LaPianna asked if there have been any safety issues with the pumping station that Mr. Donato is aware of. Not to his knowledge.

Mrs. Donato added in summary, that they bought a house in Fox Lake to enjoy the lake on weekends and they fell in love with the area. They subsequently sold their property in Racine and moved here and built what they thought would be their retirement house. A lot of this was because they were in a great neighborhood. The 1 Lakeside property had long term rental units but the owners lived on the property and took care of any issues that arose. They were neighbors that helped each other. She would never have built this home across the street from a hotel, but that is where they live now. This property has been, for the most part, fully rented. She takes offense to what the owner has stated, that he ceased renting. There wasn't a couple of "stragglers" after the date that Director Day said that there was no permit and Mr. Brown must stop renting, this property has been, for the most part, fully rented. She said that she can see from her deck exactly who is coming and going and there has been a steady stream of people in and people out. A lot of them are there for one night and almost all of them have a dog and many do not have their dogs on a leash. Many of the dogs end up in her yard.

The main issue for Mrs. Donato is that she doesn't know any of these people. She now locks her doors, she puts the garage door down, the boat key is no longer in their boat, and if her husband isn't home, she does not feel comfortable. On "Country Thunder" weekend, mom and dad and the BMW SUV brought the kids there and the kids had lots of friends, everyone wandering around with red solo cups. Whoever rented a unit that had the 2 bedrooms, there were far more people. It is a far different situation if you have a hotel because you have management and staff on-site to take care of those issues. This owner is not on-site, he has not spent much time at all on this property but there have been an unending stream of strangers. We haven't had any big problems here but there have been a few issues. There have been weekends when this property was fully rented and there are probably 20 people there. Glenview Place is barely wide enough for one car to go down, let alone people barreling down it. There have been close calls when pulling out of her driveway going to work.

Mrs. Donato asked the Commission, do you want 5 short term rentals? Do you want to live next door to a hotel for your primary residence? She would ask you to think about that before recommending 5 short term leases. What concerns her further is, she read Director Day's email to

the owner made it quite clear that they were not to operate and they clearly have continued to operate despite what has been represented tonight. Her concern is, if Mr. Brown does not follow the recommendations of this board, what recourse does she have as a home owner when things go wrong. Mr. Brown has no one on-site and that is a safety concern, especially for women living alone.

Commissioner LaPianna asked if Mrs. Donato is sure that the units were rented as opposed to possibly having friends or family stay overnight. Some of the renters volunteered to her in conversation that they were renting, mostly for one or two nights, some said that they found the place on Air B&B. Also, there were people renting during the week, not just on weekends. She did not speak to anyone who said they were friends or family.

Mr. Donato suggested that “Dave” also rents those units. Dave would know even if Nathan did not. Commissioner LaPianna asked how Mr. Donato knows that Dave rents the units. Mr. Donato stated that Dave is there 3 or 4 times a week and Mr. Donato talks to Dave pretty regularly. Dave lists the properties on Air B&B, it’s not hidden. Also, Mr. Donato emailed Director Day late one night concerning the noise. Commissioner VanderWeit asked what date that was; Director Day located the email in question, dated 8/19/22 at 12:56 am.

Donna Kolian was sworn in.

Ms. Kolian lives at 3 Lakeside Lane, directly next door to the two small cottages that have been rented, short term, on a regular basis since July. Her concern is mainly the safety of herself and her dog. Her husband passed away a year ago. This home has been in her family for generations. Many of her family members have enjoyed this beautiful lake front property and secure neighborhood community. This has changed recently, she no longer feels safe due to the constant turn-over of short term rentals just feet from her home. Renters from these two cottages continually come into her yard to access her beach area, and allow their dogs to roam freely. Some are on leash but they are walked into her yard. She will walk out onto her deck in the morning and find strange people in her yard. If sitting on her deck at night, she will have strangers or strange dogs in her yard. Her dog is always leashed, even in her yard. Ms. Kolian stated that she feels unsafe having all of these strangers right outside her bedroom window and entering her yard.

In the past, with the previous owners, there were only long-time renters and the people in the cottages were respectful of her property (which is unfenced) but this has changed with the short term rentals. She does not feel safe in her own home anymore.

Nathan Brown again came forward. Mr. Brown said that he feels “awful” about the things he has heard tonight and he would be happy to address any questions.

Commissioner LaPianna asked, with so many units and the neighbors so close, how do you control the renters? Mr. Brown suggested extending a

partial fence down to the lake. He also stated that the google map that was being shown is from a time prior to his ownership of the property. Commissioner LaPianna stated that he is struggling with what is going on with this property. The set-up is more like a resort than an Air B&B and what the intentions are for our community. The smaller cottage will hold only 2 people, the parking situation for the cottages is a problem, and it is really set-up as a resort.

Commissioner VanderWeit stated that although rules are written on paper, there is no enforcement. How do you propose to enforce the rules so that there is no encroachment on the neighbors? Mr. Brown said that this is the first time he is hearing about some of this stuff. He is happy to provide his personal phone number so that the neighbors can call him if there is an issue and he or Dave will be there. He has already given that number to some of the neighbors. Mr. Brown said that he does not want to be a nuisance and stated again that he feels awful about this situation. He is willing to do whatever it takes, putting in a fence, meeting renters and walking through the property, giving better directions.

Unfortunately, you find things out by trial and error. That's the QC. What makes a difference is, he wants to know about a problem and then he will do whatever it takes to fix it.

Commissioner Legge said that his problem with this situation is; had he brought a petition to this board before he started renting, the board would have had a lot of helpful suggestions and might have been able to alleviate some of the issues. Not saying that the petition would have been approved or disapproved but Mr. Brown would have had neighborhood input, would have had an opportunity to talk to the neighbors, would have been able to get more guidance from the neighbors as well as this board and the Village to say, "how can I make this a success". But Mr. Brown just went out and did it. Even with the advice of the Village and the request from the Village to stop, he clearly has continued to rent.

Also, Commissioner Legge said, if we have rules established to manage the way in which an ordinance is supposed to take place, and you turn your back on the guidance and requests of the Village before you get approval, I don't feel comfortable giving approval if I already believe that you are not going to abide by it. Commissioner Legge stated that he is very pro-Air B&B and short term rental and could see doing part of this property as that and having a live-in person to manage it, but you are not showing any good faith here.

Commissioner Nakanishi agreed with Commissioner Legge and stated that if Mr. Brown had tread more lightly and done a little research with the neighbors, this might have had a better outcome. But after hearing tonight the testimony of Mr. Donato, who has invested not a small fortune but a big fortune in building their retirement home on that property and from Ms. Kolian whose family has lived next door for decades and enjoyed that property and now suddenly is faced with this nightmare.

Mr. Brown stated that was 100% a mistake. He had met a few neighbors and had a few conversations with them; he gave them his cell phone

number and wishes he had been contacted about these issues. He again said that he feels “awful” about any issues. He stated that he had several conversations and emails with Director Day trying to understand how to do this the correct way. Now it’s a mess. He is willing to do whatever it takes to fix this. Commissioner Nakanishi suggested that he might want to sell to someone who wants to build a retirement home there since he has invested so much money in the property, with that kind of a loan, etc.

Mr. Brown said that what was said about the loan is fundamentally false. He doesn’t know where that information came from. The property is owned by an LLC, as all of his properties are as a real estate investor. He does not have a construction loan of \$390,000 or any construction loan on the property. Commissioner Nakanishi stated that she would not approve this petition.

Commissioner LaPianna stated that he is having some real difficulties as well. The phrase “mini-resort” has been mentioned a couple of times and that is exactly the note he wrote down. It seems like that is Mr. Browns’ intent, to have 5 short term rentals and make money from a kind of mini-resort. There are also 2 long term rentals on the property. It is easier to do short term rentals, but then we will be taking 2 long term rentals out of our community and replacing them with short term rentals. And, the disregard for the cease and desist really bothers the Commissioner. Mr. Brown says that he didn’t know but based on what he is telling the Board, he has some misleading answers. Mr. Brown is not sure if there were people there but it is going to be inferred and it could be suspected that there are people there. Commissioner LaPianna said that he is a business owner too and if he came into a meeting like this, he would know whether or not there are people on the property on the days that it couldn’t be occupied.

Mr. Brown responded: the moment I had, I shut it down, we honored reservations that we had. That was a mistake. It was immediately marked off and taken off the market upon receiving that email from Donovan. Commissioner LaPianna asked if rentals still continued. Also, refunds weren’t given to people beyond that date, correct? Mr. Brown said yes, it is challenging to do (and Commissioner LaPianna agreed that this would be challenging). Mr. Brown said that this is probably what should have happened. Commissioner Legge said that this is his business and he should be conducting business, “you had a rental last night”. Commissioner LaPianna questioned how Mr. Brown (who is in this business) did not know the rules and regulations before he started doing this. You are in the business of property management and you must know that there are rules (state, county, village rules and ordinances). It seems that you blatantly disregarded our ordinances.

Mr. Brown said that he manages long-term rentals; this is the first short-term rental for him. He thought he was taking the appropriate steps and, clearly, he did not.

Director Day stated that we are having a federal official come in and the federal agency is leasing the cabins for 30 plus days (a long term rental). We were recently notified by his agency that they have to move from one

unit to the next after 2 weeks. Why do they have to move after 2 weeks?

David DeFazio was sworn in.

Mr. DeFazio is a real estate broker and works for Mr. Browns' company. This is a part-time thing for Mr. DeFazio; he also does Air B&B's and has been doing them for the last 7 years. Mr. Brown is the property owner and Mr. DeFazio is the on-site manager. He apologized for some of these issues which can be categorized as a break down in communications and, he said, maybe a miscommunication between he and Mr. Brown. He would not hold Mr. Brown 100% responsible for that, he is also responsible. In regard to the question by Director Day; after a reservation has been accepted you cannot reject it. That is one of the issues that they ran into, they had accepted reservations and they cannot be cancelled. The way that Air B&B works, after a reservation is accepted you can't reject it, as a host you are not allowed to do that. Commissioner Legge stated that you can cancel a reservation, but there is a penalty. Mr. DeFazio agreed saying that there is a huge penalty. But you can cancel a reservation. Mr. DeFazio also stated that you get docked by Air B&B if you do that, so it would not even allow them to do short-term rentals if that happened. It was kind of a "doom if you do and doomed if you don't" situation. Since you can't cancel a reservation, the agency did have a 2 week stay and then there was someone who reserved the unit for a Saturday or Sunday (something like that) so, since they had another reservation that they had to honor, the agent had to move. Commissioner VanderWeit reminded that none of these units have been approved for short-term rental. They are moving a long-term rental around to accommodate a short-term rental which makes both of these situations short-term, which has not been approved. Mr. DeFazio said no, because it was also booked on Air B&B. The booking was 2 or 3 weeks ago. Commissioner Legge pointed out that the booking was taken after Mr. Brown was told not to rent anymore which means that the property was still listed on Air B&B after Mr. Brown stated that all listings were removed. Mr. DeFazio said that this was his error and Commissioner Legge responded that Mr. DeFazio's error becomes Mr. Browns' error because he is the responsible property owner and it is up to him to have proper management, which obviously there was a breakdown here.

Commissioner LaPianna stated that Mr. Brown testified that he had taken the property off of Air B&B; that appears to be a lie. Several of the commissioners agreed with this statement. There have been a lot of misleading statements made tonight.

Chairman Gauger asked how the neighbors get ahold of Mr. DeFazio when there is a problem. Mr. DeFazio stated that he has given his cell phone number to Mark. He has not been in touch with any of the other neighbors. His cell phone can be used at any time. As the manager, he has not heard of any complaints. He lives at 75 Mineola, so is just down the street, and he would have been happy to come over and address any issues with the neighbors. As for as rules and regs, they do have rules: no parties, no illicit drugs, all of that is stated, but it is hard to enforce. Air B&B does background checks so there are no criminals allowed to

book Air B&B. Commissioner Legge stated that this is not true; any criminal can rent on Air B&B if you want to rent to them. It is a matter of your management of who you rent to. You have rules and stuff but you have rules about dogs but there are still plenty of dogs running around the property. Commissioner VanderWeit reminded that there is a Village ordinance that says dogs must be leashed.

Chairman Gauger asked Mr. DeFazio, where do we go from here? You've listened for the last hour, what is our recourse? Mr. DeFazio stated that the decision of what is in the best interest of the city is up to the Board. He understands some of the issues that have happened and the concerns of some of the people here. They are happy to make any changes, recommendations, all those things they have been asked to do they are happy to do in order to make this not a resort-like property. They are trying to get people who are coming in with families that are trying to enjoy the lake; people who are stopping in for 2 weeks and want a place to stay that is comfortable. They try to avoid others as much as possible. He is trying to do a better job at getting the right guests. There have been some mistakes made and some breakdowns in communication and Mr. DeFazio takes responsibility for that. He will do whatever it takes to make this a functioning property.

Chairman Gauger asked, what if we give you one for a year, to see how you do? Mr. DeFazio finds this idea acceptable.

Commissioner VanderWeit said that even for 1 unit, she would want to see the rules re-written, would want to know how those rules would be enforced, and then come back for re-consideration. At this point she finds a credibility issue and that's a huge challenge for her. When you come before us and basically lie to the commission, she does not trust responsibility for even one.

Commissioner VanderWeit asked if one unit were allowed, how quickly could it be shut down if there is a problem. She also asked, how many times have the police already been called. Chairman Gauger said it can be shut down immediately. Mr. Eggert said that he has made a police report. Director Day said that the police would not have notified the Building Department because it is not an approved short-term rental.

Mr. Eggert said that 2 days after meeting with the Mayor and submitting the written protest and making the Mayor and the Village Board of Trustees aware that there were still rentals going on, nothing had changed. He went to the Police Department and explained the situation to see if there was anything the police could do, because the Village wasn't. The officer very politely said that he would look into the matter to see if there was anything they could do, but short of someone committing a crime. They could not respond to the fact that the short term rentals were going on. Mr. Eggert still questioned, even if this short-term rental petition gets turned down, how is this going to be stopped.

Commissioner Bongiovanni asked if this petition were to be denied, could Mr. Brown come back with a petition for one of the properties and go through the application process again? Or, are they prohibited from

doing that if the current petition is denied? Chairman Gauger said that the Planning and Zoning Commission recommendation goes to the Village Board; the Board will make the final decision from our recommendation. We are the “boots on the ground” at these hearings, we make our recommendations and the Board has the final say. Commissioner LaPianna stated that he does not believe there is anything in the ordinance that would prevent someone from re-petitioning by putting in another application. However, currently, there is a moratorium on short-term rentals.

Mr. Brown said he plans to be here often, plans to communicate with his neighbors, plans on working on a solution to be a good neighbor. If that means this is part short-term, managing long-term tenants, he wants to be there, he wants to make sure that he is working and doing everything that they can. These are rental units, he is not currently living on-site and he does have someone close by but this is a rental property. He asked for an opportunity to make good with his neighbors, he is happy to keep that on a short time frame (1 year) and would figure out and demonstrate what he can do moving forward. Mistakes were made and he owns up to them. He asks for an opportunity to fix them.

Commissioner LaPianna stated that there is “nothing in me” that says these two gentlemen can’t run this place properly. He is not sure that any of the issues that the neighbors have will change if these are short-term rentals or long-term rentals. The management will not be on-site, they will have month long rentals and none of the potential problems that have been brought up tonight will go away. Bottom line, this was completely mishandled from the beginning and there is a lack of trust right now. You should have been able to do this correctly and you didn’t. There was discussion among the commission members as to how to word a motion on the petition. Conditions were suggested: put a fence on the west side of the property to create a barrier to Mrs. Koliants’ property, and have an on-site manager.

Commissioner LaPianna made a motion approving the recommendation for 1 Lakeside Lane for the petitioners request to operate 5 units as short-term rentals with condition 1: fence extension between Lakeside 1 and Lakeside 3 to the lake. Seconded by Commissioner Legge.

Commissioner Legge stated that this could have been so much different. The opportunity for a short-term rental was something that he had looked at. Mr. Brown and Mr. DeFazio have really stumbled; they could have done so much better.

	Aye	Nay	Abstain
Commissioner: LaPianna		X	
Bongiovanni		X	
Legge		X	
VanderWeit		X	
Nakanishi		X	
Chairman: Gauger		X	

Motion FAILED. Hearing closed at 8:30pm

## VI. New Business

### 1) Short-term Rental Discussion

Much discussion ensued. Chairman Gauger passed out a form with ideas regarding future ordinance changes for short-term rentals. Trustee Marr mentioned that having the public meeting should be first, before the PZC suggestions are made. Director Day suggested that the Village Board of Trustees would like to have thoughts and ideas and recommendations from the Planning Commission as quickly as possible. It was also decided that short-term rental owners should be invited to the October meeting and results will be discussed at the regular PZC November meeting. Presentation to the Village Board of Trustees would be made by January, 2023.

The Village Board of Trustees has several different opinions regarding short term rentals, but does not have strong direction to offer to the Planning Commission. One suggestion is to have a license with a \$100 fee. Chairman Gauger passed out some information for the Committee members to take home and work with to help develop ideas. There is room to write down thoughts and this will be the genesis of what we talk about next month.

#### Public Comment

Gary Eggert stated that he had sent an email to Director Day on September 8<sup>th</sup> advising him that the short term rentals, without permit and in violation of the city ordinances, have continued unabated at 1 Lakeside Lane. The second part of that email was advising Director Day, and copied to Mayor Schmit and Administrator Waszak, that there are now (and for the last several weeks) short term rentals occurring at 11 Lakeside Lane. There are many strange cars and occupants. Mr. Eggert looked on Air B&B for a listing for the 11 Lakeside Lane property and he found a listing where the photos and description of the property match perfectly. This is also without a permit and in violation of city ordinance. This property has recently been purchased by a new owner.

Director Day stated that the 11 Lakeside Lane property has been sited and was given Notice of Violation to cease and desist. Commissioner LaPianna pointed out that there are no fines in the current ordinances. Director Day stated that, as a non-home-rule community, we cannot just impose a fine. We have to take the owner to adjudication and prove that the property is being rented. He also stated that when sending out a notice to appear for adjudication, by law it can be no less than 30 days before the appearance date and no more than 40 days. We have a 10 day window in which to send a notice. Chairman Gauger explained that we are a home-rule community because we are not large enough to be otherwise.

Mr. Eggert returned to the subject of 1 Lakeside Lane saying that, since Ms. Kolian, Mr. and Mrs. Donato left the meeting and had gotten home tonight, Mr. Eggert has received 3 emails and a photograph showing another tenant moving into the large short-term rental unit. Mr. Brown said that he is currently in the large rental unit. It was pointed out by Commissioner Legge that there are three units in that building and asked if someone could be moving into one of the other units. Mr. Brown was advised by Chairman Gauger that having more problems occur between now and the Village Board meeting would not bode well for his petition.

Mr. Eggert reminded that this is clearly a business operation. There has to be records and receipts that can prove that these units are being rented. If there is income coming in, the information is available. He then asked, if this petition gets turned down by the Village Board, what is to stop Mr. Brown from continuing to rent these units on a short term basis? Director Day said that there would be a notice to appear at adjudication. Chairman Gauger also pointed out that this will not become a police matter if the petition for short-term rental is turned down. The administrative judge can issue a fine of up to \$750.00 per day of violation. Police cannot seal these units because they are private property but the police could be called if there are problems such as noise or someone trespassing on your property, or unleashed pets, etc.

## VII. Adjournment

Commissioner Legge made a motion to adjourn, seconded by Commissioner VanderWeit. The Commission voted unanimously to adjourn the meeting at 9:04pm.

Respectfully submitted by,

Patricia Russell

Patricia Russell  
Interim Secretary