

MINUTES OF THE BOARD OF ADJUSTMENT
Foxfire Village, North Carolina
February 20, 2023

Petition #1: Applications for Reasonable Accommodations

Vincent Grady, Applicant: 2 Cardinal Dr. Jackson Springs, NC

Members Present

Connie Korner, Chairperson
Tom Walburgh
George Hedrick
Mary Kragel, Alternate

Members Absent

Neil Tighe, ETJ
Ellen Samuels, Secretary

Others Present

Brady Herman, Village Attorney
Lisa Kivett, Zoning Administrator

Board Chairperson, Korner called the meeting to order at 1:00pm. Roll call was taken with 4 members present. Connie, read script prepared by village attorney Brady Herman explaining Quasi-Judicial process.

Board-Chair Connie Korner, introduced the request by Vincent Grady who is requesting reasonable accommodations to keep fowl on his property. The applicant's property is located at 2 Cardinal Dr. Applicant was sent a Notice of Violation on November 3, 2022.

Board-Chair Korner, asked for those who wished to testify to please come forward and be sworn in.

The following were sworn in:

Lisa Kivett	Foxfire Village Hall
Christopher Lobb	6 Eagle Dr.
Vincent Grady	2 Cardinal Dr.
Brandon Mahurin	32 Forest Lake Dr.
Mary Jo Miller	5 Quail Ct.
Shirley Kirschner	4 Cardinal Dr.

Board-Chair Korner asked that board members reveal any possible conflicts and withdraw from proceedings if necessary. **There were no conflicts from Board Members**

Board-Chair Korner, provided explanation of proceedings. We will hear first from the Village Zoning Administrator then from the applicant and its witnesses. Parties may cross-examine a witness after witness testifies when questions are called for. You will be corrected if you do not follow the proper procedures. Before you begin your testimony, please identify yourself and your address for the record. There are no time limits as to how long you may speak. Please be considerate of others time and comments.

Board-Chair Korner opened the public Evidentiary hearing for Vincent Grady at 1:10pm.

Village Zoning Administrator, Lisa Kivett began her testimony. She stated that the keeping of fowl (chickens) is not permitted within the RS30 zoning district. On or about November 1, 2022, she received a phone call that a resident at 2 Cardinal Drive was keeping chickens in the rear yard. Upon her investigation of 2 Cardinal Drive, she found that chickens and a chicken coop were in the rear yard

of the property. Both chickens and the chicken coop could be seen from the roadside. An ordinance violation was sent to Mr. Grady on November 3, 2022, stating that Article III, Section 21-3-4 of the Foxfire UDO was in violation prohibiting keeping fowl in RS30 zoning district. At the November 8, 2022 Village Council meeting, Mr. Grady spoke during the public comment section to ask the Village to consider allowing the keeping of fowl in the residential district. Mr. Grady did not say he needed chickens for emotional support. On November 9, 2022, Mr. Grady delivered a letter from his medical provider saying he needed to keep chickens as emotional support animals. Exhibits G-03 and G-04. Other Exhibits, G-01--G-09 were presented.

Appellant, Vince Grady began his testimony. Stated he is providing a corrected letter from his medical provider, as the date was changed from Nov. 8 2022 to Nov 8. 2021. Mr. Grady said he was deployed in 2018 and received a diagnosis of a TBI that year. He provided letters from neighbors, and studies of chickens used as therapy animals. All documents are entered as evidence. He stated his chickens did not affect the surrounding neighbors and were not a burden to the village. When asked how chickens comforted him, he stated the clucking sound was calming to him as they are a non-energetic animal. When asked about having a service dog instead of chickens, he stated they are too high energy. When asked what time he spent with the chickens, he fed them in the morning and spent time with them in the afternoon. A question was asked about the health and disease of chickens (avian flu) and he stated it wasn't a problem.

Proponents were then asked to provide evidence in support of Mr. Grady's request.

Brandon Mahrin, Mary Jo Miller, Shirley Kirschner all spoke as character witness, not providing any real evidence.

Board-Chair Korner asked for any further questions. No further questions were noted. Public hearing was closed at 1:39pm

During the Board discussion, Members Walburgh and Hedrick, both retired military members thought it was reasonable for Mr. Grady to keep chickens. Questions arose about the Village setting precedent by allowing Mr. Grady to keep chickens as this was the first challenge to the Village ordinance prohibiting chickens. Board member Walburgh disagreed that we would set precedent. No further discussion by board.

Board-Chair Korner began reading the 3 motions for the Board's consideration to either approve or deny the Applicants reasonable accommodation request.

Board Chair Korner made a motion (#2) that the applicant's requested accommodation is not reasonable because it would undermine the UDO, alter the ordinances of the Village, and impose financial and administrative burden on the Village.

The vote was called as follows:

Walburgh - nay

Hedrick - nay

Kragel - aye

Korner - aye

The motion failed but the request from Vincent Grady for a reasonable accommodation was denied by not receiving a majority vote for approval.

A copy of the Boards Order and decision with this request will be prepared by the Village Attorney and presented to the applicant and any aggrieved parties requesting it.

Board-Chair Korner made a motion to adjourn, seconded by Board member Kragel. The vote was called and carried unanimously.


Mary Kragel, Secretary


Connie Korner, Board Chair