

# A Timberdale Ranch Owners Association

---

## *Board of Directors Meeting Minutes*

**Location:** ZOOM meeting via the internet

**Date:** 03/22/2021

**Time:** 6:00 PM

---

### **Directors Present**

Mark Blaskovich, Tim Block, Lucy Bryson, Dave Butler, Mike Crouchelli, Elizabeth Lutes, Brad Treadwell

### **Guests Present**

Cathy and Gary Macklin, Marion Robinson, Robin Linde, Suzy Rowley, Claudia McDaniel, Tanja Hicks, James Thomas, James and Lisa Brixey, Gary and Sherry Gurholt and Tim and Pam Nichols

Meeting was called to order at 6:05 PM by president Elizabeth Lutes. Introduction of guests.

#### 1) Roads:

- a. Brad gave the update on road repairs which will happen this year. Lucky 7 contractors will be doing the work. The total bid for the project is \$10,125
  - i. Roads to be repaired include
    - 1. Chimney up by Badger
    - 2. North Lakeview
    - 3. Pine Place
- b. Prestons total hours up to this date are 189

#### 2) Caretakers House

- a. Had to replace propane heater in living room
- b. Front porch needs to be repaired this year. Dave and Brad volunteered to help Preston with this project.
- c. The corral needs to be rebuilt. Brad will ask Preston to price out materials.
- d. Need to find out if bees are still an issue.

#### 3) Recycling program

- a. Mark gave update. We've expanded the size of one trash dumpster last year and added a recycling program. The program started with cardboard only and then we added other recyclables. Homeowners appear to be using the recyclable dumpsters.
- b. By adding this program it has put TROA significantly over budget and this will be discussed at the next annual meeting.

#### 4) ARC update

- a. Mike reported there are 4 projects on the horizon in TROA
  - i. Brixey place on Chimney is well underway
  - ii. Tim and Pam Nichols will start construction this year
  - iii. Kaminsky's have approval
  - iv. New home on Bobcat to be built

- b. New owner of McLeods place asked if TROA charged a road use fee for new construction.
  - i. The answer was no and not likely to be added.
- 5) Financial Report
  - a. Mark presented budget
    - i. All dues have been paid with exception of two undeveloped lots.
    - ii. Gas royalties are slightly higher than expected
    - iii. Tractor maintenance over budget
    - iv. Trash dumpster is \$2,500 over budget
      - 1. We did receive a break because Mark paid for the year in advance
    - v. Looks like trash and recycling will be \$12,000 for 2021-2022
  - b. Mark will take the money for snowplowing which wasn't used this year and give it to Brad for road maintenance.
  - c. Insurance is significantly over budget.
  - d. TROA has about \$50,000 between checking and saving
- 6) Elizabeth announced that a settlement was reached on the past lawsuit. State Farm covered the cost of the defense but TROA incurred costs for legal advice with regards to updating all the governing documents.
- 7) State Farm declined to renew our D&O coverage however after several months of attempting to find another insurer, Dave was successful working with a broker in Durango and we should have coverage soon with Travellers. The cost went up from approximately \$1,300/year to \$1,950/year.
- 8) Discussion on the Bryson application for a variance for their AirBnb
  - a. Discussion began with Phil and Lucy presenting their request which included the fact that they have been operating their AirBnb without any issue or complaint for five years and a listing of the three extenuating circumstances which would allow them to continue to run their AirBnb. See attached variance application.
  - b. Elizabeth reminded everyone that Lucy deferred a discussion on the AirBnb in 2020 when the new covenants were being drafted in order to support a more efficient process for getting the covenants passed. The Board had discussed grandfathering in the Bryson AirBnb at that time.
  - c. Most attendees expressed their view. The majority opinion was that even though the Bryson's did have extenuating circumstances that other homeowners would find difficult or impossible to replicate and felt comfortable that the Brysons would make it work for the subdivision, they were opposed to approving the variance because of one or more of the following: they did not think a precedence should be set; did not think it would be "fair" to others who wanted to do it; did not want short term rentals in the subdivision under any circumstances; or, thought it might open TROA to a lawsuit.
  - d. Elizabeth stated that Tracy Cross, the attorney who helped TROA update the governing documents, said that it was perceived favorably when variances were granted as long as there were clear extenuating circumstances and that this only sets a precedent for situations with the same extenuating circumstances.
  - e. After hearing from most of the attendees, Elizabeth stated that two homeowners had written emails to the Board expressing their support for the variance. (see attached.) Tim expressed his support for the variance given the County regulations on grandfathering in situations upon passing of a new regulation and short term rentals were not prohibited in the past. Elizabeth expressed her support for the variance.
  - f. Elizabeth then recommended that a vote be postponed so that the Board could consider all the feedback and allow further deliberation. Dave and Brad did not agree and stated that they would not change their minds. Without making a motion or having a second for

the vote, Dave called for a vote. Dave, Brad, Mike and Mark voted against the variance; Elizabeth and Tim voted in favor of the variance.  
The meeting was then adjourned.

**TIMBERDALE RANCH OWNERS' ASSOCIATION  
HOA VARIANCE / REQUEST FORM  
FOR SHORT-TERM RENTAL**

Name: Phil and Lucy Bryson

Address: 935 Hilltop North Drive  
Bayfield, CO 81122

Phone: (970)749-2327

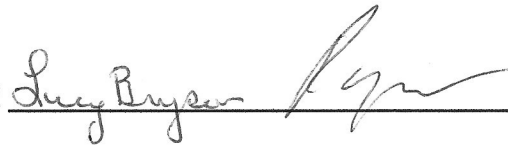
Email: lucyrbryson@gmail.com

In accordance with the Amended and Restated Declaration of Covenants, Conditions and Restrictions for Timberdale Ranch, Section F, we request approval from the Board of Directors of the Timberdale Ranch Owners Association to operate a limited, seasonal Airbnb at the above listed address. We believe the following are relevant circumstances which will prevent this short-term rental, operated on a limited basis, from having any negative impact on the TROA community.

- Airbnb guests will access property only through Bryson's private back road and not use Timberdale roads, thus not adding any additional wear and tear to Timberdale roads or adding any additional traffic noise or dust.
- Guests' trash will be disposed of in town and not in the Timberdale dumpsters.
- Home-owners will be present during any guests' stay.
- Neighbors within 1,500 feet along Hilltop North Drive have given consent
- Rental nights will be limited to no more than 80/year during April – October.

We request the Board's support in holding a timely review of our proposal in accordance with the TROA requirements and hope for a decision within 30 days.

APPLICANT'S SIGNATURE



DATE 3.18.21

**From:** [Timberdale Ranch](#)  
**To:** [Anna Kuehl](#); [Brad Treadwell](#); [Dave Butler](#); [Lucy Bryson](#); [Mike Crouchelli](#); [Elizabeth Lutes](#)  
**Subject:** Fwd: Byrson Variance Request  
**Date:** Monday, March 15, 2021 8:32:41 PM

---

This was received in the Timber email. The only reply so far.

---tim

----- Forwarded message -----

**From:** **Jim Tencza** <[jtencza@hdsfreight.com](mailto:jtencza@hdsfreight.com)>  
**Date:** Fri, Mar 12, 2021 at 11:29 AM  
**Subject:** Byrson Variance Request  
**To:** Timberdale Ranch <[troabod@gmail.com](mailto:troabod@gmail.com)>

I have no objection to the variance request by the Brysons.

In particular because they avoid all the "objectionable" things that came up in our discussions about AirBnB's when the covenants were being discussed:

- 1) No additional/excess traffic on the ranch roads since they are using their own driveway.
- 2) They are isolated enough so that any noise, etc will hardly be noticed by neighbors ( including us)
- 3) They have limited the number of days for that use
- 4) They will be right there to monitor activities of the renters/users.

If you articulate those exceptions in your discussions/decision you will not set a precedent for just anyone being able to present a similar variance request.

--

Jim Tencza  
HDS Freight Services  
15 W. Mill St.  
Bayfield, CO 81122  
PH: 970-884-0885  
Fax: 970-884-4125

**From:** [geoffreymoore69](mailto:geoffreymoore69@gmail.com)  
**To:** [Tim Block](mailto:Tim.Block); [apexcontractors1@gmail.com](mailto:apexcontractors1@gmail.com); [Brad Treadwell](mailto:Brad.Treadwell); [Dave Butler](mailto:Dave.Butler); [Elizabeth Lutes](mailto:Elizabeth.Lutes); [blaskokuehl@gmail.com](mailto:blaskokuehl@gmail.com); [lucybryson@gmail.com](mailto:lucybryson@gmail.com)  
**Subject:** Fwd: Re: Bryson Variance  
**Date:** Thursday, March 18, 2021 8:45:08 PM

---

Sent from my Galaxy Tab® E

----- Original message -----

From: Geoffrey Moore <[geoffreymoore69@gmail.com](mailto:geoffreymoore69@gmail.com)>  
Date: 3/18/21 8:34 PM (GMT-07:00)  
To: Elizabeth Lutes <[eshlutes@gmail.com](mailto:eshlutes@gmail.com)>, Dave Butler <[cdavebutler@gmail.com](mailto:cdavebutler@gmail.com)>, [blaskokuehl@gmail.com](mailto:blaskokuehl@gmail.com), [lucybryson@gmail.com](mailto:lucybryson@gmail.com), Brad Treadwell <[alltread@gmail.com](mailto:alltread@gmail.com)>, Tim Block <[blocktim@hotmail.com](mailto:blocktim@hotmail.com)>, [apexcontractors1@gmail.com](mailto:apexcontractors1@gmail.com)  
Subject: Re: Bryson Variance

On Thu, Mar 18, 2021, 8:15 PM Geoffrey Moore <[geoffreymoore69@gmail.com](mailto:geoffreymoore69@gmail.com)> wrote:

Greetings TROA board members. We would like to comment on the Bryson's request for a variance to our cc&rs relating to article F4 Rentals where short term rentals is a nonpermitted (prohibited) use. Article H1 Variance requires the applicant to show what extenuating circumstance keeps them from their goal, there is none other than the fact it's prohibited.

During the drafting process of our cc&rs you stated many times that you were using La Plata County land use ordinances as a guideline. Section 66-27.1 "Variance" of the county ordinances states "A variance SHALL not be granted to allow a use not permitted, or a use expressly or by implication prohibited". The reasoning of this is because it subverts the law or in our case our cc&rs. This doesn't mean that the Bryson's shouldn't keep their AirBnb through the nonconforming aka grandfathered use (which is absolutely permitted by La Plata County codes).

A nonconforming use is generally defined as a land use or structure that was legal when it was established but does not conform to the standards of the current cc&rs. The ultimate goal of our cc&rs is to achieve uniformity of property uses within our subdivision. At the same time the Bryson's have made investments in there AirBnb, and it would be unfair-not to mention possibly illegal to require termination or removal. Rather than require the elimination of this preexisting use you could set conditions of it's use. The Bryson's listed four possible conditions in an email. I would add to those that there will be no expansion, enlargement or intensification of this nonconforming use.

One last thing and this is for Lucy. I'd ask that Lucy recuse herself from this agenda item as it's seen by the state of Colorado as a conflict of interest particularly where profit is to be gained, let Phil answer any questions during discussions, deliberations and approval.

Thanks you for your consideration on this issue Geoff & Cindy