

**Minutes of the Regular Meeting of the  
BOARD OF ADJUSTMENTS**

**Tuesday, July 20, 2004  
4:00 p.m.  
Lake Lure Municipal Center**

PRESENT:           Beth Rose, Chairperson  
                  Mary Ann Dotson  
                  Fred Noble  
                  Stephen Webber  
                  Werner Maringer  
                  Nancy McNary, Alternate

Also present were:   Chuck Place, Town Manager and Acting Zoning Administrator  
                          Monica Stofer, Recording Sec.  
                          Blaine Cox, Council Liaison

Absent:             Harvey Jacques, Alternate

Chairperson Rose called the meeting to order at 4:00 p.m.

Chairperson Rose announced the new alternate, Nancy McNary. She took Scott Salik's place. Everyone welcomed her.

Mr. Webber moved for approval agenda with two additions. The additions were under old business add Dunleavy variance order and under new business add meeting date. With the additions, the motion was seconded by Mr. Noble and then unanimously approved.

Stephen Webber had a few typo/ corrections to the minutes of May 18, 2004. Those typo/corrections were: the first page under item number one, add "to" in the second sentence. The second page under item number two change the spelling of "eves" to "eaves" in both places. With the typo/corrections the minutes were moved for approval by Mr. Webber. The motion was seconded by Mr. Noble and then unanimously approved.

**1.       ZV-04-06, a request from Michael and Marie Williams to reduce the, minimum lot area required by Section 92.040 from 2 acres to 1acre.**

Mr. and Mrs. Williams were present and sworn in. Chairperson Rose read the memo into the record giving the history of the property and how it was subdivided. Mrs. Williams stated that he appeared before this board when Jesse Brannen applied for a variance. They purchased this lot from Jesse Brannen two years ago. They just recently learned that the lot is non-conforming. They are trying to sell this property and the variance is needed to sell the property. She also stated that they did have a buyer/seller real estate agent, but were not told of this illegal subdividing. Mr. Pat Mitchell, a neighbor, was also present and sworn in. He stated that, although this is not their fault and

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everything they have submitted is correct, he opposed to Mr. Brannen's request so he has to oppose to the William's request too.

After discussion, the board found that:

1. There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape or topography that are not applicable to other lands or structures in the same district. ( All agreed)
2. Granting the variance requested will not confer upon the applicant any special privileges that are denied to other residents of the district in which the property is located. ( All agreed except Stephen Webber and Chairperson Beth Rose who disagreed)
3. A literal interpretation of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other residents of the district in which the property is located. ( All agreed)
4. The requested variance will be in harmony with the purpose and intent of this chapter and will not be injurious to the neighborhood or to the general welfare. ( All agreed except Mary Ann Dotson and Chairperson Beth Rose who disagreed)
5. The special circumstances are not the result of the actions of the applicant. (All agreed)
6. The variance requested is the minimum variance that will make possible the legal use of the land, building or structure. ( All agreed)
7. The variance is not a request to permit a use of land, building or structure which is not permitted by right or by conditional use in the district involved. (All agreed that this does not apply)

**Mr. Maringer moved that ZV-04-06, Williams be approved based on the findings of fact and that the property was sold illegally to them. The motion was seconded by Mr. Noble and approved unanimously.**

2. **ZV-04-07, a request from Tom McKay from Premier Properties for Thomas Neuman to reduce the, minimum lot area required by Section 92.040 from 2 acres to 1.08 acres.**

Tom McKay was present and sworn in as agent for Mr. Neuman. Mr. McKay stated that his client wants to build a single family dwelling and even with the recombination of lots, they still do not meet the setback requirements. Mr. McKay also stated that on their deed it states that they own both of the pathways.

After discussion, the board found that this is an undersize lot of record based on Section 92.101 (A)(2) and is more than 20 percent below the minimum specified in this chapter.

**Mr. Webber moved to approve ZV-04-07 as submitted based on the finding of fact. The motion**

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was seconded by Mr. Noble and approved unanimously.

**3. Old Business. Dunleavy Variance Order.** Mr. Webber noted that Mr. Dunleavy was granted a variance at the May meeting. The order prepared was correct, but the amount of variance requested was incorrect. This was brought to the board for them to review and correct. The amount should read: 1) 10,000 sq. ft. to 3,723 sq. ft. 2) 100 ft to 44.92 ft. 3) 35 ft. to 6.5 ft. 4) 12 ft to 4 ft on the north side 5) 12 ft to 4 ft on the south side.

**Mr. Webber moved to amend the order as discussed. The motion was seconded by Mr. Maringer and approved unanimously.**

There was general discussion about training. Mr. Webber was appointed by Chairperson Rose to coordinate next months training session to start at 3:00 p.m.

**4. New Business. Report from Town Manager on Zoning Administrator position and meeting date.** Mr. Place stated that they were looking for someone to fill the position and will not be posting it. There was general discussion on the duties and responsibilities.

Regarding the meeting date, Mr. Place stated the Board of Adjustment, Lake Structure Appeals Board and Zoning and Planning Board all meet on the same day. It is difficult for the staff to prepare packages for three boards at the same time. He would like to move the Board of Adjustment and Lake Structure Appeal Board meeting day to the fourth Tuesday, if that is not a problem with the members.

**Mr. Webber moved to hold the meetings on fourth Tuesday instead of the third Tuesday. The next meeting will be August 24<sup>th</sup> at 3:00 p.m. It was approved unanimously.**

Since there was no further business, the meeting was adjourned at 6:05 p.m.