

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

**Tuesday, May 18, 2004
4:00 p.m.
Lake Lure Municipal Center**

PRESENT: Mary Ann Dotson, Vice Chairperson
Stephen Webber
Werner Maringer
Harvey Jacques, Alt.
Scott Salik, Alt.

Also present were: Terri Potts, Zoning Administrator
Monica Stofer, Recording Sec.
Blaine Cox, Liaison
Mike Sheehan
Kim Werner
Tim Dunleavy
John Bittle

Absent: Beth Rose, Chairperson
Fred Noble

Mary Ann Dotson sat in as Chairperson for Beth Rose. The alternates, Harvey Jacques and Scott Salik also sat in.

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

Mr. Maringer moved for approval agenda. The motion was seconded by Mr. Salik and then unanimously approved.

Chairperson, Mary Ann Dotson had two typo changes to the minutes of April 20, 2004. Those changes were to the first page under item number one, take out the word "to" after oppose in the second sentence. The second change was under old business, regarding the by-laws, change "there was" to "there were". With the changes the minutes were moved for approval by Mr. Maringer. The motion was seconded by Mr. Jacques and then unanimously approved.

1. ZV-04-03, a request from Mike and Diane Sheehan for two variances from section 92.040, front yard street setback and front yard lake setback.

Mr. Sheehan and his engineer were present and sworn in. Mr. Sheehan stated that they would like put an addition to the left of the house from the road side looking at the house. The dimensions of the addition will be 17 ½ feet by 20 feet. He also stated that when he purchased the property it was

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a secondary home and now it is their permanent residence

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 except one who disagreed)
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 one 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 except one who disagreed)
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 one 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 except one who disagreed)
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)

After the findings of fact, Mr. Webber moved that ZV-04-03, Sheehan be approved with the stipulations that the minimum front lake yard of 35 feet be limited to 26 feet linear and parallel to the shoreline from the north corner of the existing structure, line 4 on the survey map. The motion was seconded by Mr. Salik and approved with a 4 to 1, with one opposing.

2. ZV-04-04, a request from Tim Dunleavy from section 92.040, minimum lot width, front yard street, front yard lake, and side yard setbacks.

Mr. Dunleavy was present and sworn in. Mr. Dunleavy stated that he bought this home about a year ago and had no intention of asking for this, just wanted to make improvements. After he got into it, saw it needed to be completely replaced. The proposed house would have the same number of rooms as the existing, but would have an extra bathroom. Mr. Stephen Webber stated that building on the same footprint is impractical. Mr. Webber stated that the enlargement was to include the eaves because when Mr. Dunleavy asked for the variance he did not include the eaves and that is the reason to give him eight on sides.

After discussion, the board found that:

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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)
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)
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)

After the findings of fact, Mr. Webber moved to amend the application which states 6.5 feet on the side and should state 8 feet on both sides. The motion was seconded by Mr. Maringer and approved unanimously. After the finding of fact and the amendment, Mr. Maringer moved to accept ZV-04-04 as submitted and grant the variance with the amendment to approve the change. The motion was seconded by Mr. Salik and approved unanimously.

3. ZV-04-05, a request from John Bittle for the Clinkscapes from section 92.040, minimum front yard lake setback.

Mr. John Bittle was present and sworn in. Ms. Potts stated that last month the deck top accessory structure was approved and would remain as granted. The Clinkscapes are back today to ask to place the deck top accessory structure half on the boathouse and half on the land. Mr. Bittle stated that he would remove the existing roof and lower, then extend back with the deck top accessory structure by 10 feet. The boathouse will remain the same. The new deck would be 12 feet total from the back of the boathouse wall out over the seawall.

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 except Scott Salik and Stephen Webber who disagreed) Mr. Webber justified his no by stating that while he agrees that particular lot

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has exceptional and extraordinary conditions, they are applicable to the other lands and structures in the same district. Lots around it also have those same problems. So he does not think that they are extraordinary and exceptional to this piece of property.

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. (Mary Ann Dotson agreed and the rest 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 except Werner Maringer and Stephen Webber who disagreed)
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 Stephen Webber, Scott Salik, and Werner Maringer who disagreed)
5. The special circumstances are not the result of the actions of the applicant. (Mary Ann Dotson agreed and the rest disagreed)
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. (Mary Ann Dotson agreed and the rest disagreed)

After the findings of fact, Mr. Webber moved that ZV-04-05, Clinkscales be denied based on the finding of fact. The motion was seconded by Mr. Salik and denied with a 4 to 1 with Mary Ann Dotson opposing.

Under old business, by-laws. Regarding the by-laws, they were approved unanimously as submitted with the last few changes.

Under the open forum, the board members stated to Ms. Potts to please make sure the applicants submit directions to the property with the applications.

Since there was no further business, the meeting was adjourned at 6:10 p.m.