

**Minutes of the Regular Meeting of the
Board of Adjustment**

**Tuesday, May 24, 2005
3:00 p.m.
Lake Lure Municipal Center**

Present: Beth Rose, Chairperson
Stephen Webber
Fred Noble
Mary Ann Dotson
Werner Maringer

Also present: Shannon Baldwin, Community Development Administrator
Susan Lynch, Code Enforcement Clerk, Recording Secretary
Blaine Cox, Council Liaison
Nancy McNary, Alternate
Harvey Jacques, Alternate

Chairman Rose called the meeting to order at 3:00 p.m.

Mr. Maringer moved to approve the agenda. The motion was seconded by Mr. Noble and approved unanimously.

No minutes were available for approval at this meeting.

Appeal ZA-05-01, a petition for appeal of administrative determination. Ms. McNary was present to represent herself as the petitioner. Ms. McNary stated that she is an alternate member of the Board of Adjustment but is recused of any board participation at this time. The popular consensus is the neon sign at La Strata restaurant located at 2693 Memorial Hwy. creates an image that the citizens of Lake Lure have all strived for many years not to have. The sign is not in compliance with the town's ordinance.

Chairman Rose confirmed Ms. McNary's objection is not for the sign itself but for the neon portion.

Mr. Baldwin addressed the board. Randy Ulery of Comco Signs, acting as the agent for La Strada restaurant, submitted a sign permit application to staff in April, 2005. The screening process is as such that Ms. Lynch reviews the permits and if she sees any red flags, she lets Mr. Baldwin know. Mr. Baldwin then reviews the permits and if everything is in order, he signs them off. The simple fact is that neon tubing was an element that was missed on this permit; staff does not have any defense in this matter. Since then, Mr. Baldwin has had dialogue with Comco

Signs as to how this matter can be resolved; that resolution would be between Comco Signs and the owner of La Strada.

Mr. Webber addressed Mr. Baldwin. Based on the definition of sign and neon types of signs, Mr. Webber queried are the letters shaped by the neon, or are the letters made out of metal with the neon tubes inside illuminating it. Mr. Baldwin answered the neon tubes are set back in the sign and there is a clear covering over it. Mr. Webber asked if a translucent cover were put over the neon letter, would that make the sign okay; Mr. Baldwin answered in his opinion, yes.

Mr. Stanley Mazur, owner of La Strada restaurant was sworn in. Mr. Mazur assured the board that when he started this project, representatives of his company approached staff for zoning regulations so the project would be done right. A copy of 2002 zoning regulations were given to Mr. Mazur, the same year the process for his restaurant started; the 2002 copy did not reference neon. Mr. Mazur then stated that Mr. Baldwin should be talking to him and not Comco. Mr. Mazur spent \$8000 on the sign. He feels that no one is at fault; this is a sign that is lit by encased neon, set back in the letters which covers on them. Mr. Mazur feels that someone from staff should of contacted him with the change in the regulations. Mr. Mazur is absolving himself and his company from any fault here or of breaking any laws.

Mr. Webber stated the onus is not upon the town to tell Mr. Mazur that the town changed the rules. The builder has the responsibility to build by the current rules. Mr. Mazur's reply was that when you build, you plan the building two or three years in advance, you don't do it the day before. Mr. Weber's reply was you constantly update the plans and make sure they comply with current zoning regulations. Mr. Webber and Mr. Maringer both stated they were not here to argue with Mr. Mazur. Mr. Maringer stated ignorance of the law does not take you off the hook.

Mr. Mazur brought to the board's attention that neon is on the application. Mr. Webber stated the board knows he had neon on the application and the community development administrator made a mistake in approving the permit; now that decision has been appealed by Ms. McNary. Ms. Rose felt that to bring this to a quick conclusion, a translucent cover over the neon would resolve the issue. Mr. Webber agreed and felt that was the easiest solution. Mr. Mazur inquired as to who was going to pay for it. Ms. Rose stated it is not up to the board to make that decision, it is between Mr. Mazur and the town. Ms. Rose also stated the board can issue the permit for the sign, under the condition Mr. Mazur uses a translucent covering to make the sign compliant.

Mr. Mazur replied that he does not know how this sign in doing harm to anybody. Ms. Rose replied that harm is being done; a citizen has made a complaint about it, the brightness. The permit was issued in error. All Mr. Mazur has to do is put a cover over the sign. Mr. Mazur still feels no harm is being done with this sign; he has had multiple complements on it, the sign is in good taste, and since he reduced the size of the sign that is allowed by the sign regulations, he *still* cannot see the harm. Ms. Rose replied that board understands his point of view; the town has rules and regulations that need to be followed.

The board discussed the definition of neon and various solutions for Mr. Mazur's sign. Who would pay for the cost of replacing the sign was brought up by Ms. Dotson. Both Mr. Webber and Mr. Baldwin reiterated that it is not the position of the board to determine who absorbs the

cost of the repair. Mr. Baldwin's recommendation to the board was the permit be revoked and Mr. Baldwin would follow through with a letter stating the permit was issued in error, the sign is not in compliance with the ordinance and then discussion would take place on how to rectify the problem so it is in compliance with the sign regulations. Mr. Baldwin assured the board that staff *will work* with the property owner

Mr. Noble moved that Appeal 05-01 be approved as it was submitted to the board based on the facts the board found appropriate at this meeting. Mr. Webber seconded; all were in favor.

OLD BUSINESS:

Mr. Webber brought to the board's attention that elections have not been held for the Board of Adjustment. The consensus of the board was to hold the elections at the June 28, 2005 meeting.

NEW BUSINESS:

Ms. Dotson requested the meeting time be changed to an earlier time in the day. Ms. Rose suggested the meeting be held at 2 p.m.

Mr. Webber made the motion that the Board of Adjustment meet every fourth Tuesday of the month at 2 p.m. Mr. Maringer seconded, all were in favor.

ADJOURNMENT: MR. MARINGER MOVED TO ADJOURN THE MEETING; MS. DOTSON SECONDED, ALL IN FAVOR.