



Incorporated 1927

Town of Lake Lure

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Minutes of the Regular meeting of the Board of Adjustment

Tuesday, February 28, 2012
1:00 p.m.

Chairman Webber called the meeting to order at 1:05 p.m.

ROLL CALL

Present: Stephen Webber, Chairman
Lance Johnson, Seated Alternate
John Kilby
Nancy McNary, Seated Alternate
Melvin Owensby, Alternate (Entered Late)
Vicki Smith
Bob Cameron, Council Liaison

Also Present: Sheila Spicer, Zoning Administrator, Recording Secretary

Absent: Betty Johnson
Patricia Maringer

APPROVAL OF THE AGENDA

Mr. Johnson made a motion to approve the agenda as presented. Ms. Smith seconded the motion and all were in favor.

APPROVAL OF THE MINUTES

Mr. Johnson made a motion seconded by Mr. Kilby to approve the minutes of the December 28, 2011 meeting as presented. The motion passed unanimously.

NEW BUSINESS

(A) Regular Election of Officers

Chairman Webber reminded the Board members that only regular members can be elected to serve as chair or vice-chair, but all members may vote.

Mr. Kilby nominated Chairman Webber to continue serving as chairman. There were no other nominations. The Board unanimously voted for Chairman Webber to continue serving as chairman.

Ms. Smith nominated Mr. Kilby to serve as vice-chair and Ms. McNary nominated Ms. Smith. Ms. McNary and Mr. Kilby voted for Ms. Smith to serve as vice-chair. Chairman Webber, Mr. Johnson, and Ms. Smith voted for Mr. Kilby to serve as vice-chair. Mr. Kilby was elected vice-chair by a majority vote.

(B) New Board Functions under Ordinance Numbers 12-02-14, 12-02-14A, and 12-02-14B

Chairman Webber pointed out the three proposed ordinances included in the Board's packet and mentioned that each one includes potential new functions for the Board. He also mentioned proposed amendments to the Residential Vacation Rental (RVR) provisions in the Zoning Regulations that also include additional duties for the Board. He stated Town Council would be considering adoption of the RVR amendments later in the day and the other ordinances at their regular meeting in March.

(C) Review of Bylaws

Chairman Webber asked that the members of the Board review the bylaws included in the Board's packet. He reminded the Board members that proposed amendments to the bylaws must be submitted in writing during a regular meeting and must then be considered for adoption at the following regular meeting.

HEARINGS

- (A) ZV-2012001, a request by William & Paige Massey for a variance from Section 92.040 of the Zoning Regulations for the minimum lot area of 14,000 square feet to a minimum lot area of 3,765 square feet for a variance of 10,235 square feet, and a variance from the minimum front street yard setback of 40 feet to 20 feet for a variance of 20 feet. The property (Tax PIN 1648744) is located on Marina Drive, Lake Lure, NC 28746.**

Chairman Webber stated he had several discussions with Ms. Spicer regarding the variance request and found one problem. He pointed out the property had originally consisted of two lots of record, as evidence by the Attorney's Certificate of Title submitted with the application, that have been combined. He stated one of the original lots was zoned R-2 and one was zoned R-4; the combination of the lots created a split-zoned lot. He mentioned that the rear yard setback in the R-4 district is 15 feet as opposed to a 10 foot rear yard setback in the R-2 district. Chairman Webber stated the application needed to be amended to request a 5 foot variance from the required 15 feet rear yard setback for a variance of 5 feet on the R-4 portion of the lot only.

Mr. Johnson asked about a measurement from the proposed structure to the centerline of

Marina Drive that was shown on the plans submitted with the application and included in the Board's packet. A brief discussion ensued.

Ms. Spicer and Mr. Massey were sworn in.

Other than the conversations already mentioned by Chairman Webber, all of the Board members indicated they had not had any ex parte communication regarding the case. None of the members reported any conflicts of interest. Chairman Webber asked Mr. Massey if he wished to challenge any of the Board members seated for the case. Mr. Massey stated he did not.

Chairman Webber asked Ms. Spicer if she had any additional information to add. Ms. Spicer responded that the request is fairly clear as shown in the plans provided. She distributed a copy of an email she received earlier in the day from Delilah Fisher. The Board members took a moment to read the email; Chairman Webber disallowed the email as evidence due to the fact that Ms. Fisher was not present for cross-examination, she could not speak for other citizens in the neighborhood as she indicated in the email, and the fact that the document was not signed.

Ms. Spicer also reported she had conversations with other citizens about the requested variance. She stated Jim Edwards called her on February 14, 2012 after noticing the sign posted on the property advertising the hearing. Ms. Spicer stated she described the details of the request to Mr. Edwards and told him he could view the plans in her office and attend the hearing. Ms. Spicer reported a telephone conversation she had with Tommy Owens on February 16, 2012 in which Mr. Owens stated his brother received a mailed notice of the hearing as an adjacent property owner. Ms. Spicer mentioned he expressed concern that the proposed construction may potentially cause erosion problems at the rear portion of the property. Ms. Spicer stated she emailed him scanned images of the plans submitted with the application but had not heard back from him. She then reported a telephone call she received that same day from Nancy Owens who stated her husband had received a mailed notice of the hearing. Ms. Spicer stated she described details of the request and asked Ms. Owens if she would like a copy of the email sent to Mr. Owens, to which Ms. Owens responded she did not and had no objections to Mr. and Ms. Massey building a house. Ms. Spicer finally reported that she met with Charles Fisher in her office on February 27, 2012 who stated he had purchased multiple lots on Marina Drive in order to combine them so as to meet the minimum lot size requirements of the Zoning Regulations. Ms. Spicer mentioned that Mr. Fisher stated he was not in favor of a variance being granted in this instance for such a small lot. Ms. Spicer testified that she advised Mr. Fisher he could attend the hearing and, if the Board found that he had standing, he could testify and voice his objections to the Board.

There was a brief discussion concerning lots of record, after which Ms. McNary asked if the site plan included with the application showed the R-4 portion of the lot. Chairman Webber showed each of the Board members a drawing of his calculations on the approximate location of the zoning district line.

Mr. Kilby mentioned he had noticed stakes on the property and asked if these stakes represented the property corners or the house corners. Mr. Massey stated they represent the property corners and mentioned that the house location had not yet been staked out. Mr. Kilby then asked if the property line goes all the way to the neighboring house. Mr. Massey responded that the property line is approximately 15 feet from the adjacent house.

Mr. Massey testified that he and Ms. Massey had recently retired from their positions as school teachers and were looking to move to Lake Lure permanently. Chairman Webber asked if he owned any contiguous property that could be combined with the lot in question to bring it closer to the minimum lot size required. Mr. Massey responded that he did not. Chairman Webber then asked Mr. Massey if he had any objections to the application being amended as discussed earlier in the hearing. Mr. Massey again responded that he did not.

Mr. Johnson moved to amend the application to also request a 5 foot rear yard setback variance for the R-4 zoned portion of the property only. Mr. Kilby seconded the motion and all were in favor.

There was no further testimony, so Chairman Webber closed the public hearing.

Mr. Johnson moved with regard to case number ZV-2012001 for a variance from Section 92.040 of the Zoning Regulations that the Board finds (a) owing to special conditions, a literal enforcement of the provisions of the regulations will result in practical difficulty or unnecessary hardship, (b) in the granting of the variance the spirit of the Zoning Regulations shall be observed, the public safety and welfare secured, and substantial justice done, and (c) the conditions specified in §92.085(C)(1) exist. Accordingly, he further moved for the Board to grant the requested variance in accordance with and only to the extent represented in the application. Chairman Webber moved to amend the motion to include a condition that appropriate erosion control plans are included and approved by the appropriate parties. Ms. Smith seconded Chairman Webber's motion and all were in favor. Ms. Smith seconded Mr. Johnson's motion as amended and all were in favor.

OLD BUSINESS

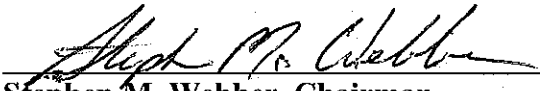
None

ADJOURNMENT

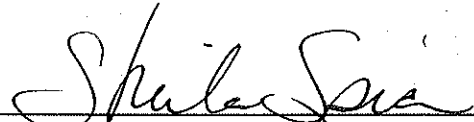
Mr. Johnson made a motion seconded by Ms. Smith to adjourn the meeting. All were in favor.

The meeting was adjourned at 1:35 p.m. The next regular meeting is scheduled for Tuesday, March 27, 2012 at 1:00 p.m.

ATTEST:



Stephen M. Webber, Chairman



Sheila Spicer, Recording Secretary