



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

**Tuesday, December 16, 2014
1:00 p.m.**

Chairman Webber called the meeting to order at 1:02 p.m.

ROLL CALL

Present: Stephen Webber, Chair
David Butts, Seated Alternate
Mark Hoek, Alternate
Roger Jolly, Alternate
John Kilby
Patricia Maringer
Melvin Owensby
Bob Cameron, Council Liaison

Also Present: Michelle Jolley, Recording Clerk
Sheila Spicer, Zoning Administrator

Absent: Michael Gray

Chairman Webber pointed out that Mr. Gray has decided not to be re-appointed and Mr. Butts will be taking his place as a regular member. He added that Norman McGlohon was voted on as an alternate member. These changes will take affect in January, 2015.

APPROVAL OF THE AGENDA

Chairman Webber proposed adding an agenda item under 'New Business' to discuss the end of year report.

Ms. Maringer made a motion to approve the agenda as amended. Mr. Owensby seconded the motion. All voted in favor.

APPROVAL OF THE MINUTES

Ms. Maringer stated the word "of" should be changed to "if" in the second paragraph on page four of the minutes.

Mr. Owensby made a motion seconded by Mr. Butts to approve the minutes of the November 18, 2014 meeting as amended. All voted in favor.

HEARINGS

(A) VROP-2014029, a vacation rental operating permit request from Michele Mittelbronn to operate a residential vacation rental at 333 Tryon Bay Circle, Lake Lure, North Carolina (Tax PIN 223813)

Ms. Spicer, Bryant McCarthy, Mary Ann Silvey, and Barbara Searcy were sworn in. Ms. Spicer passed out copies of the agent authorization letter she received from Dr. Mittelbronn authorizing Barbara Searcy and Patricia Cummings to act as her agent. She also wanted to appoint Mary Ann Silvey, which was sent in a separate letter and handed out to the Board members.

Ms. Searcy, 201 Havnaers Point Circle, approached the Board and stated she would speak on behalf of Dr. Mittelbronn. There were no ex parte communications or conflicts of interest reported. Mr. McCarthy, 325 Tryon Bay Circle, approached the Board and stated he is an adjacent property owner and has concerns with a vacation rental property adjoining his property. He stated he feels rental of this property would negatively impact his property financially.

Chairman Webber and Mr. Kilby explained requesting party status to Mr. McCarthy. Chairman Webber read from the regulations regarding party status. Mr. McCarthy requested that he be granted standing in the case.

Ms. Maringer made the motion to grant Mr. McCarthy standing in this matter. Mr. Butts seconded. Mr. Butts, Mr. Kilby, Ms. Maringer, Mr. Owensby, and Chairman Webber voted in favor.

Mr. McCarthy did not wish to challenge any of the Board members for cause.

Ms. Spicer presented the case. She stated that Dr. Mittelbronn is requesting a 3-bedroom vacation rental. She pointed out the Board's packet includes an application and a parking plan. She explained that the area shown on the neighboring property of the parking plan is her legend and is not part of her parking area. She stated there is also certification from C&L Plumbing that the connection to the Town's sewer is operational and free of detectable leaks, the standard rental agreement with a copy of the Town's contract addendum, and verification from Jeanette Bosgra with the Rutherford County Finance that this property has been registered with the Tourism Development Authority. She

stated the request was sent to the Development Review Committee on November 2, 2014 and there have been no responses.

Mr. and Ms. McCarthy provided Ms. Spicer a letter of opposition, in the event they could not attend the meeting, which she distributed to the Board. Chairman Webber labeled the letter as 'Opposition Exhibit 1.' Ms. Spicer stated she had conversations with Ms. McCarthy on December 8th and 9th when she came into her office with concerns about how the rental could impact her property and the enjoyment of her property. She also mentioned she spoke with Horace and Juanita Holt on December 15th, adjacent property owners, who also expressed the same concerns. She stated they expressed opposition to the request due to the close proximity to their house, noise, and pets being allowed. She mentioned they had prior doctor's appointments and could not attend the hearing and she made them aware of what their options were since they could not attend the hearing. Ms. Spicer then mentioned she spoke with Dr. Mittelbronn on December 15th who stated she could not attend the meeting. She pointed out she had a conversation with Ms. Searcy and Ms. Silvey on that same day discussing the agent authorization letter from Dr. Mittelbronn. Chairman Webber accepted the agent authorization letters and labeled them 'Applicant Exhibit 1' and 'Applicant Exhibit 2.'

Chairman Webber asked about the noise concern the Holt's had. Ms. Spicer answered they were concerned because there is a swimming pool between the house and the lake that is very close to the Holt's house and their outdoor area that they felt would create more noise than normal.

Ms. Searcy stated she is very familiar with rentals and has been familiarizing herself with the Town's regulations. She mentioned she plans to educate the renters about the Town's regulations. She stated if there are any problems, she lives close by and could be contacted to handle the problem. She also mentioned that Ms. Cummings lives close by and could be contacted as well. Ms. Maringer asked how long the pool has been on the property, and Mr. Kilby answered about five years. Ms. Searcy mentioned they are requesting to allow pets. Ms. Spicer pointed out there is a pet addendum and it was included in the packet.

Mr. McCarthy stated he understood the noise ordinance goes into effect at 11 p.m. and Ms. Spicer verified this is correct. He had no further questions. Mr. Kilby asked Mr. McCarthy if he has had issues in the past with vacation rentals, and Mr. McCarthy responded no. Mr. Butts explained to Mr. McCarthy how to deal with noise issues from a vacation rental. Based on the application, Chairman Webber explained there is a maximum of eight people allowed to occupy the property overnight. He also explained that if any issues arise, the police and the property manager could be contacted.

Ms. Searcy understood the neighbors' concerns and stated she would leave her phone number to be contacted if any problems arise.

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

Ms. Maringer felt that the pool would not bring additional noise in comparison to the lake. Chairman Webber felt that all requirements had been met.

With regard to application number VROP-2014029 for a vacation rental operating permit to operate a residential vacation rental in the R-1 zoning district Ms. Maringer moved the Board to find that the application is complete and that the proposed use, if operated according to the application and any conditions attached hereto, meets the following standards: (1) it will not materially endanger the public health or safety; (2) it will not substantially injure the value of adjoining or abutting property; (3) it will meet all standards and requirements specified in the regulations of the Town; (4) it will be in harmony with the neighborhood character and in general conformity with applicable elements of the Comprehensive Plan; and (5) satisfactory provision and arrangement has been made for those matters specified in §92.046(D) of the Zoning Regulations of the Town of Lake Lure.

Accordingly, she further moved the Board to grant the requested vacation rental operating permit in accordance with and only to the extent represented in the application and plans. Mr. Owensby seconded. Mr. Butts, Mr. Kilby, Ms. Maringer, Mr. Owensby, and Chairman Webber voted in favor.

The Board felt that all requirements had been met. The permit was approved. Chairman Webber asked that Ms. Searcy provide extra care and consideration when pets are present and also to educate the renters so as not to disturb the neighbors. Chairman Webber explained the process to appeal the Board's decision to Mr. McCarthy.

(B) VROP-2014030, a vacation rental operating permit request from Dutch Beukema, agent for Angelo & Patricia Grillo, to operate a residential vacation rental at 224 Cardinal Road, Lake Lure, North Carolina (Tax PIN 230384)

Ms. Spicer and Mr. Beukema were sworn in.

There were no ex parte communications or conflicts of interest reported. Mr. Beukema did not wish to challenge any seated members for cause.

Ms. Spicer presented the case. She stated Mr. Beukema is requesting a vacation rental operating permit to operate a 3-bedroom residential vacation rental. She pointed out that the packet includes an application, an agent authorization letter authorizing Mr. Beukema to act as their agent, a parking plan, a copy of the Septic Improvement Permit for the property that was located with a Certificate of Zoning Compliance file for the house authorizing a three bedroom facility, a copy of Mr. Beukema's Standard Rental Agreement, the Town's Contract Addendum, and verification from Jeanette Bosgra with Rutherford County Finance that Mr. Beukema has added this property to his list of rentals. She mentioned the request was sent to the Development Review Committee on December 2, 2014, and there has been no response from the members. She also stated that there has been no response from neighboring property owners.

Mr. Beukema conveyed to the Board that the marketing name is 'Lure Away.'

Ms. Maringer pointed out there were no hand railings along the steps outside, which were very steep. She stated this is a suggestion she is making in regards to public safety and it would not impact her decision on the case.

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

Chairman Webber mentioned that there is no requirement for railings unless the steps are 24 inches or higher from the ground.

With regard to application number VROP-2014030 for a vacation rental operating permit to operate a residential vacation rental in the R-3 zoning district, Mr. Kilby moved the Board to find that the application is complete and that the proposed use, if operated according to the application and any conditions attached hereto, meets the following standards: (1) it will not materially endanger the public health or safety; (2) it will not substantially injure the value of adjoining or abutting property; (3) it will meet all standards and requirements specified in the regulations of the Town; (4) it will be in harmony with the neighborhood character and in general conformity with applicable elements of the Comprehensive Plan; and (5) satisfactory provision and arrangement has been made for those matters specified in §92.046(D) of the Zoning Regulations of the Town of Lake Lure.

Accordingly, he further moved the Board to grant the requested vacation rental operating permit in accordance with and only to the extent represented in the application and plans. Ms. Maringer seconded. Mr. Butts, Mr. Kilby, Ms. Maringer, Mr. Owensby, and Chairman Webber voted in favor.

The Board felt that all requirements had been met. The permit was approved.

NEW BUSINESS

(A) Review and approve 2015 Meeting Schedule

Ms. Spicer pointed out the November and December dates were changed to the third Tuesday of the month due to holidays during these months.

At last month's meeting, Chairman Webber had asked Ms. Spicer if adding an additional week's time between the submittal deadline and the hearing date would assist staff in preparing cases to be heard by the Board and asked that she research the regulations to determine if this would create any conflicts. Ms. Spicer read from Section 92.087(G) of the Zoning Regulations which requires the Board to hear appeals within 45 days of the date it is filed. She expressed concern that increasing the amount of time between the filing deadline and the hearing date could conflict with the regulations in some cases.

Mr. Owensby made a motion to approve the schedule as presented. Ms. Maringer seconded and all seated members and alternates voted in favor.

(B) End of Year Report Discussion

Chairman Webber asked if staff would be willing to draft the end of year report. Ms. Spicer responded that she would draft the report and send it to him for review. Chairman Webber stated this would go to Town Council next month.

At the end of every meeting, Chairman Webber suggested allowing a brief critique of the meeting. He also mentioned that next month the Board will elect the Chair and Vice Chair which the alternates will also be voting on. He pointed out that Mr. Butts will be a regular member at the next meeting and only regular members can be elected Chair or Vice Chair.

In regards to today's meeting, Mr. Kilby stated the sound system needs to be worked on by a professional because it is dysfunctional and embarrassing. He also suggested somehow educating applicants and adjoining property owners on what is a valid concern for vacation rental requests. Ms. Spicer stated she explains the hearing process in detail to each applicant and also gives them a copy of the quasi-judicial process handout drafted by Attorney Mike Egan. Ms. Spicer mentioned that Shannon Baldwin, Community Development Director, has suggested that a quasi-judicial handout geared towards the adjacent property owners be created and provided to adjoining property owners.

OLD BUSINESS

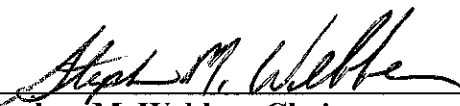
None

ADJOURNMENT

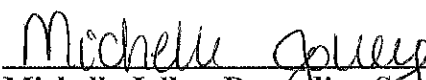
Mr. Kilby made a motion seconded by Ms. Maringer to adjourn the meeting. All voted in favor.

The meeting was adjourned at 2:14 p.m. The next regular meeting is scheduled for Tuesday, January 27, 2015 at 1:00 p.m.

ATTEST:



Stephen M. Webber, Chair



Michelle Jolley, Recording Secretary