

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

**Tuesday, June 24, 2014
1:00 p.m.**

Chairman Webber called the meeting to order at 1:00 p.m.

ROLL CALL

Present: Stephen Webber, Chair
Michael Gray
Patricia Maringer
Melvin Owensby
David Butts, Alternate
Bob Cameron, Council Liaison

Also Present: Mike Egan, Community Development Attorney
Michelle Jolley, Recording Clerk
Sheila Spicer, Zoning Administrator

Absent: John Kilby
Mark Hoek, Alternate
Roger Jolly, Alternate

APPROVAL OF THE AGENDA

Chairman Webber stated Item 4 (C) has been withdrawn from the agenda

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

APPROVAL OF THE MINUTES

Chairman Webber proposed making the following changes:

- Page 1 under agenda item 6 (A), 2nd sentence, change 'came' to 'come'
- Page 2, sixth paragraph, second line, change 'there' to 'their'

- Page 3 in the first line, change 'giving them permission' to 'giving the Fredell's permission'
- Page 3, next to the last paragraph after 'Board Exhibit 3', add the sentence 'Chairman Webber voiced concern as to whether the law of res judicata applied to this case' Then, after the next sentence, add a new sentence which says 'Mr. Egan then confirmed to the Board the case could be heard'
- Page 5, 3rd paragraph, fourth line, change 'originally' to 'original'
- Page 5, 4th paragraph, next to the last line, change 'Chris Justus' to 'Mr. Justus'
- Change 'Ingrasol' to 'Ingersoll' in four different places
- Change 'Mr. Dunbar' to 'Dr. Dunbar' in five different places
- Page 12, change the meeting adjournment time to '4:56 p.m.'

Ms. Maringer made a motion seconded by Mr. Gray to approve the minutes of the April 22, 2014 meeting as amended. All voted in favor.

HEARINGS

(A) VROP-2014009 continued, a vacation rental operating permit request from Spencer and Fran Fredell to operate a residential vacation rental at 117 Bald Mountain Lane, Lake Lure, North Carolina (Tax PIN 224453)

Ms. Spicer and Ms. McGlohon were previously sworn in at the May meeting. Chairman Webber pointed out Mr. Butts was present at last month's meeting but was not a seated member. There were no additional conflicts of interest or ex parte communications reported. Ms. McGlohon did not wish to challenge for cause. Chairman Webber pointed out the meeting was continued due to an ownership issue.

Chairman Webber pointed out a letter was included in the packet from George and Judith Dick giving permission for Spencer and Fran Fredell to rent the property for a period of 90 days. In the letter the Dick's stated they are currently working with the Fredell's for purchase of the property through owner financing. Mr. Egan confirmed the letter would be sufficient to rent for 90 days as a vacation rental. Chairman Webber reported the 90 days would start from the date of the letter (May 26, 2014). He mentioned if the permit was granted, it would only be granted for the 90 days and would probably include a condition.

Mr. Gray asked Ms. McGlohon about size of the septic tank. Ms. McGlohon answered that, according to what she received from the Fredell's, the house was originally built with five bedrooms with a septic to support it. She stated the septic tank has been pumped by AAA Sanitation, which is included in the packet. Ms. Maringer asked Chairman Webber if the permit would grant them a permanent vacation rental once the Fredell's have bought the property. Mr. Egan stated two things could happen: 1) the Dick's could convey the property to the Fredell's, or 2) an LLC could be formed. Mr. Egan also stated he has prepared two possible conditions to the suggested motion. Chairman Webber suggested adding a line to the condition regarding the title. Mr. Egan stated the lease option agreement could be modified without having to add conditions. Chairman Webber

and Ms. Maringer mentioned they have no issues with the parking or the property. Mr. Egan read over the suggested motion with conditions he had prepared and the applicant had no concerns or issues with it. Ms. Spicer expressed concerns with continually allowing temporary permission for an extension of the deadline. She stated she would not recommend that be allowed, from an administrative standpoint, and thinks a permanent agreement should be set in place before August 23. Mr. Egan mentioned he could modify the motion to reflect this. Ms. Maringer asked when negotiations started for financing and Ms. McGlohon answered directly following the first hearing.

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

During deliberations, Ms. Maringer explained she feels the financing would be complete before the 90 days is up, since negotiations have already started. She mentioned she would like to see a permanent solution. Chairman Webber stated he feels the permit should be approved with a condition.

Mr. Gray expressed concerns with whether the VROP follows the owner of the property or the house. Mr. Egan stated the permit is for the property but there also has to be an agent or someone responsible for the property. Mr. Gray pointed out that once the 90 days is up, the VROP would revert to the property owners. Mr. Egan felt that the conditions were not needed and suggested leaving it between the lessors and the lessees to make the decisions on whether to allow rental of the property or not.

With regard to application number VROP-2014009 for a vacation rental operating permit to operate a residential vacation rental in the R-3 zoning district Mr. Gray 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. Mr. Butts seconded. Mr. Butts, Mr. Gray, Ms. Maringer, Mr. Owensby, and Chairman Webber voted in favor.

Mr. Egan stated his opinion is that the condition is not necessary.

(B) VROP-2014011 continued, a vacation rental operating permit request from Exclusive Mountain Properties, agent for Dr. John F. Dunbar, Jr., to operate a residential vacation rental at 187 Garner Drive, Lake Lure, North Carolina (Tax PIN 1609247)

Ms. Spicer, Dr. Dunbar, property owner, Butch Harris, property owner at 163 Garner Drive, Thomas McKay, and Mary Stroman, property owner at 197 Garner Drive, were sworn in.

Chairman Webber disclosed he spoke with Mr. Egan and Ms. Spicer during lunch regarding how he would handle the hearing. He asked that Ms. Spicer provide Dr. Dunbar a copy of the letter received from Andrew Johnson allowing Thomas McKay permission to speak on his behalf at the hearing. All Board members and Mr. Egan received a copy of the letter. Chairman Webber labeled the letter as 'Opposition Exhibit 1' later in the hearing. There were no other ex parte communications or conflicts of interest reported. Dr. Dunbar did not object to the Board hearing the case.

Chairman Webber pointed out the previous vacation rental operating permit for the property was revoked because the condition regarding parking had not been met. He mentioned he conveyed to Melissa Messer in 2013 that a survey showing the parking clearly defined off of the travel way of Garner Drive and located on Dr. Dunbar's property is required. He also mentioned Ms. Messer provided a survey at the meeting last month which did not clearly show parking located off of the travel way.

Ms. Spicer stated she has had several conversations since the last hearing. She stated she spoke with Susan McGowan, co-owner of Exclusive Mountain Properties on June 3, who conveyed they had already reserved a rental for the property and asked if it would be against policy to allow the renters to stay at no cost. Ms. Spicer stated she emailed her a copy of the regulations regarding residential vacation rentals. She conveyed Ms. McGowan also asked about other Town parking requirements related to zoning and they discussed the parking code. Ms. Spicer mentioned to her the police enforce parking and she should talk to them if she has questions. She pointed out Ms. McGowan stopped by her office on June 5 and mentioned a conversation she had with Ms. Stroman on site regarding white lines painted on the road for parking. Ms. McGowan stated Ms. Stroman covered the lines up saying that they were graffiti. Ms. Spicer advised her those lines should not be painted back until the Board hears the case. Ms. Spicer suggested to her that Dr. Dunbar might want to consider having an attorney present with him at the hearing and she stated he already had plans to have one. She then mentioned she received a phone call from Mary Stroman on June 5 who told her she painted over the white lines because she understood that the case was not continued. Ms. Spicer relayed to her the case was continued and she has no jurisdiction over the lines painted on the road. Ms. Spicer then noted Ms. McGowan called her on June 16 relaying that the guests are staying on the property for free. Ms. Spicer stated she received a call from Andrew Johnson on June 20 stating there were renters on the property and Ms. Spicer conveyed to him the guests were staying for free. She then pointed out she has emails from Ms. McGowan and Ms. Messer verifying the guests are staying free of charge. She stated she explained to Mr. Johnson that she cannot enforce vacation rental regulations on parking because there is no vacation rental operating permit at this time, so it is a police issue. She conveyed to him this is a continued case and notifications do not get sent out again. Chairman Webber suggested Ms. Spicer provide Dr. Dunbar a copy of all the disclosures.

Chairman Webber stated the condition regarding parking would still stand and a parking plan is required showing off-street parking, which has never been provided. He noted the neighbors keep bringing this issue up and by the Town's regulations parking in the road is not allowed. Ms. Spicer noted, since there is no VROP, parking would be a police matter. Dr. Dunbar stated he and his family and friends have been parking the same way for the past 25 years. He reported that years ago there were several property owners (who he later stated was himself, Butch Harris, Buck Cashion, and Buddy Dire) who went in together and paid to have Garner Drive paved, which he stated was approved by NCDOT and the Town of Lake Lure. He stated the Town maintained portion of the road goes to the end of his drive and a parking plan was approved by the Town as well. Chairman Webber disagreed that the entire road is maintained by the Town and stated there are different requirements with parking regarding a vacation rental operating permit. Chairman Webber stressed that parking is required to be off-street according to the VROP regulations. Dr. Dunbar felt that he should be grandfathered in since they have been parking on-street before the VROP regulations were set. Mr. Egan conveyed that vesting would only apply to properties being used as a vacation rental before the ordinance. Ms. Spicer read from 92.024 (C) of the zoning regulations regarding vested status. She mentioned it does not change the fact they need a vacation rental operating permit from the Town.

Mr. Gray asked Dr. Dunbar when the Town took over maintaining the road and Dr. Dunbar and Mr. Harris both answered in the early 90's. Chairman Webber stated Dr. Dunbar would have to provide proof that the Town agreed to let Dr. Dunbar park in the road, which Dr. Dunbar did not have. Ms. Maringer asked Dr. Dunbar if he has ever had a complaint on the parking and Dr. Dunbar answered no, not until he had applied for a VROP. He stated the house was built by Bittle Construction in 2003 and Ms. Spicer mentioned he received his permits to build in 2002. She asked if the contractor recommended off-street parking and Dr. Dunbar stated no. Ms. Maringer then asked if Mr. Garner has ever offered to allow him parking and Dr. Dunbar stated no. She asked Dr. Dunbar if he has considered clearing the shrubbery and debris that covers about three feet of the paved roadway. Dr. Dunbar stated he has not considered this. Dr. Dunbar asked if the biggest concern with his parking is with the ingress and egress going to the lower property and Chairman Webber stated yes.

Chairman Webber mentioned a condition could be added only allowing Dr. Dunbar to obtain his VROP from Ms. Spicer once she has received a parking plan from him showing parking off-street.

Ms. Spicer pointed out she has a copy of the original Garner Cove subdivision plat, printed from the Rutherford County Register of Deeds website, from August 19, 1985 which shows the 40' right-of-way. She noted she also has Phase 2 of Garner Cove subdivision recorded May 21, 1990, which also shows the 40' of right-of-way. She also noted she has a copy of a recorded plat which shows the continued 40' right-of-way and Dr. Dunbar's survey recorded with ZP-02-99 which shows the 40' right-of-way. She noted all surveys show the right-of-way in the same location. Chairman Webber accepted three of the documents as 'Staff Exhibit 1.' He asked that Ms. Spicer provide copies of

the documents to Dr. Dunbar. Chairman Webber recessed the meeting for five minutes allowing Dr. Dunbar time to review the documents.

After the recess, Mr. Harris approached the Board stating he is in favor of the VROP. He stated the deeds show the property owners own to the center of the road. Chairman Webber noted that does not mean they can park in the center of the road. He again conveyed that parking is not allowed in the travel way and must be off-street.

Chairman Webber mentioned that Andrew Johnson submitted a letter which he labeled as 'Opposition Exhibit 1.' The letter referenced Mr. Johnson's viewpoint on the parking at Dr. Dunbar's property and also authorized Mr. McKay to act on his behalf at the hearing.

Mr. McKay, owner of Lake Country Vacation Rentals, approached the Board stating he has managed the Johnson property for many years and can handle situations that come before him. He stated he is concerned with the ingress and egress at the Dunbar property. Chairman Webber asked how many times the police have been called out to Dr. Dunbar's property for blocking of travel on the road and Mr. McKay answered they have always handled the situation without the police being notified.

Ms. Stroman approached the Board stating she does not agree with the Dunbar's parking in the street and stated she has been blocked in but has chose not to call the police. Instead, she mentioned she knocked on doors at neighboring homes and asked that the vehicles be moved to allow her to get by. She pointed out her only issue is with the parking. There was a brief discussion on right-of-ways.

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

During deliberations the Board members looked over the survey and discussed the right-of-way. Chairman Webber reopened the hearing.

Dr. Dunbar conveyed to the Board that he paid a portion to have the road paved. Mr. Egan stated the burden of proof is on the applicant to show where the travel way is, not the Board. Chairman Webber read the regulations on vacation rental operating permits and off-street parking. According to the regulations, he stated the street is the right-of-way.

Chairman Webber closed the hearing.

Mr. Gray suggested keeping the condition to allow approval of the permit once a parking plan has been submitted to Ms. Spicer showing parking off of the travel way of Garner Drive. Mr. Owensby stated he would not vote in favor of the permit because the Board has continually heard the case and the condition regarding parking has never been met. Chairman Webber explained the condition would only allow approval of the permit once a parking plan has been submitted to Ms. Spicer showing parking off of the travel way.

With regard to application number VROP-2014011 for a vacation rental operating permit to operate a residential vacation rental in the R-1 zoning district Mr. Gray 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. Gray proposed a condition that Dr. Dunbar bring forth a parking plan for two vehicles showing vehicles parked off of travel way before application can be granted.

Chairman Webber asked why he added two vehicles with the condition because his application is for three. Mr. Gray stated he would amend his proposed condition to three vehicles. Chairman Webber suggested not specifying the number of parking spaces. He stated they should focus on the safety of ingress and egress. Mr. Gray amended his proposed condition as follows:

Mr. Gray proposed a condition that Dr. Dunbar submit an adequate parking plan showing parking is outside the current travel way as determined by staff. Ms. Maringer seconded. Mr. Butts, Mr. Gray, and Ms. Maringer, voted in favor. Mr. Owensby and Chairman Webber voted no.

Condition passes.

Chairman Webber felt the condition should be amended to delete, "as determined by staff." Brief discussion held. Chairman Webber amended the proposed condition and Mr. Egan read the condition as follows:

Chairman Webber proposed condition that prior to the issuance of a vacation rental operating permit, the applicant will submit a parking plan demonstrating adequate parking as per the regulations showing all parking off the travel way of Garner Drive.

Chairman Webber pointed out the amendment passed. Mr. Butts, Mr. Gray, Ms. Maringer, and Chairman Webber voted in favor. Mr. Owensby voted no.

Vote on the main motion:

Mr. Butts, Mr. Gray, Ms. Maringer, and Chairman Webber voted in favor. Mr. Owensby voted no.

Mr. Butts, Mr. Gray, and Ms. Maringer stated they voted yes because they feel the standards have been met with the one condition. Mr. Owensby stated he voted no because he does not feel the application is complete without an adequate parking plan. Chairman Webber voted yes for the permit with the amended condition that an adequate parking plan be submitted to Ms. Spicer. He pointed out that Dr. Dunbar needs to update paperwork with Ms. Spicer if Exclusive Mountain Properties will still represent him.

Permit approved with one condition.

(D) VROP-2014013, a vacation rental operating permit request from Vickie Guthmann to operate a residential vacation rental at 204 Bee Tree Point, Lake Lure, North Carolina (Tax PIN 1648362)

Ms. Spicer and Ms. Guthmann were sworn in.

Mr. Butts pointed out Ms. Guthmann's husband is a Camp Lurecrest Board member for which Mr. Butts works. He mentioned Mr. Guthmann spoke with him, only stating his wife had applied for a vacation rental operating permit. There were no other ex parte communications or conflicts of interest reported. Ms. Guthmann did not wish to challenge the Board for cause.

Ms. Spicer presented the staff portion of the case. She stated that Ms. Guthmann is requesting a vacation rental operating permit to operate a 5-bedroom residential vacation rental. She stated the property is located in the R-3 Resort Residential zoning district, and there is an existing single-family dwelling on the lot. She pointed out the packet includes a completed application, a certificate of occupancy from Rutherford County, a copy of the full survey with the parking plan, an improvement permit from the Health Department. She stated the septic system was enlarged during the time an addition was added on for two additional bedrooms, giving the house five bedrooms. She also pointed out a vacation rental agreement is included in the packet, and verification from Jeanette Bosgra with Rutherford County Finance that the house has been registered with the Tourism Development Authority. She mentioned she had no response from neighboring property owners.

Ms. Spicer mentioned this request was sent to the Development Review Committee (DRC) for review on June 9, 2014 and there were no comments or concerns. She pointed out that the DRC is not required to hold a meeting, according to the regulations. She stated she now scans the applications and emails to the entire DRC with a deadline for any comments or concerns back to her.

There were no questions and no further discussion, so Chairman Webber closed the hearing.

With regard to application number VROP-2014013 for a vacation rental operating permit to operate a residential vacation rental in the R-3 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. Gray seconded. Mr. Butts, Mr. Gray, Ms. Maringer, Mr. Owensby, and Chairman Webber voted in favor.

(E) VROP-2014014, a vacation rental operating permit request from Ken Jordan, agent for Michelle Buice, to operate a residential vacation rental at 168 Village Boulevard, Lake Lure, North Carolina (Tax PIN 1639996)

Ms. Spicer and Ken Jordan were sworn in.

Mr. Owensby reported he spoke with Mr. Jordan during the break but did not discuss the case. Chairman Webber reported he visited the property on Saturday and spoke with the renters, who were already renting the property. There were no further ex parte communications or conflicts of interest reported. Mr. Jordan did not wish to challenge the Board for cause.

Ms. Spicer presented the staff portion of the case. She stated that Mr. Jordan is requesting a vacation rental operating permit to operate a 3-bedroom residential vacation rental. She pointed out the packet includes an application, parking plan, standard rental agreement, verification from Jeanette Bosgra with Rutherford County Finance that it's registered with the Tourism Development Authority, a copy of the Improvement Permit issued when the house was built, an agent authorization letter authorizing Ken Jordan to act as her agent, and an email from Janet Lovelace with Rutherford County showing the ancestor properties to show that the septic permit is for this property. She stated she had no response from neighboring property owners. She mentioned this request was sent to the Development Review Committee for review on June 9, 2014 and there were no comments or concerns.

Chairman Webber mentioned there is sufficient parking on the property for ten vehicles.

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

With regard to application number VROP-2014014 for a vacation rental operating permit to operate a residential vacation rental in the R-3 zoning district Mr. Butts 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. Mr. Gray seconded. Mr. Butts, Mr. Gray, Ms. Maringer, Mr. Owensby, and Chairman Webber voted in favor.

(F) VROP-2014015, a vacation rental operating permit request from Cliff Carden to operate a residential vacation rental at 222 Ridge Road, Lake Lure, North Carolina 28746 (Tax PIN 1649957)

Ms. Spicer, Mr. Carden, Jimmy Lindsay, joint property owner, and Carole McKay, representative, were sworn in.

Chairman Webber reported he met Mr. Carden Saturday while he visited the property but the case was not discussed. Ms. Maringer reported she met with Mr. Carden and suggested he put up caution signs outside at the steps. There were no further ex parte communications or conflicts of interest reported. Mr. Carden, Mr. Lindsay, and Ms. McKay did not wish to challenge the Board for cause.

Ms. Spicer presented the staff portion of the case. She stated Mr. Carden is requesting a vacation rental operating permit to operate a 4-bedroom residential vacation rental. She pointed out the packet includes an application, an agent authorization letter authorizing Ms. McKay to act as their agent, a parking plan, verification that the property is connected to Town sewer, certification from a plumber that the connection to Town sewer is operational and free of detectable leaks, standard rental agreement, and verification from the Rutherford County Tourism Development Authority that this has been added to Ms. McKay's list of rentals. She mentioned there was no response from neighboring property owners. She stated this request was sent to the Development Review Committee for review on June 9, 2014 and there were no comments or concerns.

Ms. Spicer pointed out a variance was granted for the rebuilding of the structure from the Board of Adjustment and a Certificate of Zoning Compliance was granted and a CO has been issued for that construction. Mr. Butts expressed concern with whether parking was located off-street. Chairman Webber and Ms. Maringer both stated parking is not off the street according to the parking plan. Mr. Gray stated three vehicles would be ok, but not

five. According to the parking plan included in the packet, Mr. Gray pointed out that 1, 2, and 4 in the diagram would be adequate, but 3 and 5 are too close to the centerline. Mr. Carden asked to amend his application to allow parking of three vehicles instead of five.

Chairman Webber made a motion to amend the original application to allow parking for three vehicles. Ms. Maringer seconded. Mr. Butts, Mr. Gray, Ms. Maringer, Mr. Owensby, and Chairman Webber voted in favor.

Chairman Webber stated the designated areas for parking according to the parking plan would be 1, 2, and 4.

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

With regard to application number VROP-2014015 for a vacation rental operating permit to operate a residential vacation rental in the R-1 zoning district Mr. Owensby 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. Mr. Butts seconded. Mr. Butts, Mr. Gray, Ms. Maringer, Mr. Owensby, and Chairman Webber voted in favor.

(G) VROP-2014016, a vacation rental operating permit request from Thomas and Carole McKay to operate a residential vacation rental at 193 Gateway Drive, Lake Lure, North Carolina (Tax PIN 231338)

Ms. Spicer, Ms. and Mr. McKay were sworn in.

Mr. Owensby reported he spoke with Mr. McKay during the break but the case was not discussed. There was no further ex parte communications or conflicts of interest reported. Mr. and Ms. McKay did not wish to challenge the Board for cause.

Ms. Spicer presented the staff portion of the case. She stated Mr. and Ms. McKay are requesting a vacation rental operating permit to operate a 5-bedroom residential vacation rental. She pointed out the packet includes an application, parking plan, a receipt showing that they have had the septic tank pumped, a standard rental agreement, and verification from the Tourism Development Authority that this has been added to their list of rentals. She mentioned there was no response from neighboring property owners. She stated this

request was sent to the Development Review Committee for review on June 9, 2014 and there were no comments or concerns.

Chairman Webber stated he noticed that parking space number three on the parking plan was partially shown in the right-of-way. However, he stated he observed during his site visit that there is adequate parking for three vehicles in the parking area without blocking the right-of-way.

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

With regard to application number VROP-2014016 for a vacation rental operating permit to operate a residential vacation rental in the R-3 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. Gray, Ms. Maringer, Mr. Owensby, and Chairman Webber voted in favor.

Commissioner Cameron had to leave the meeting to attend a Town Council meeting in Forest City.

(H) VROP-2014017, a vacation rental operating permit request from Rumbling Bald Resort, agent for Thomas Coleman, to operate a residential vacation rental at 195 White Pine Drive, Lake Lure, North Carolina (Tax PIN 217317)

Ms. Spicer and Richard Lundy, agent for Thomas and Kimberly Coleman, were sworn in.

There were no ex parte communications or conflicts of interest reported and Mr. Lundy did not wish to challenge the Board for cause.

Ms. Spicer presented the staff portion of the case. She stated that Mr. Lundy is requesting a vacation rental operating permit to operate a 4-bedroom residential vacation rental. She pointed out the packet includes an application, an agent authorization letter from Mr. Coleman authorizing Mr. Lundy to act as his agent, a parking plan, standard rental agreement, verification from Jeanette Bosgra with Rutherford County Finance that this has been added to Rumbling Bald Resort's list of rentals. She mentioned there was no response from neighboring property owners. She stated this request was sent to the

Development Review Committee for review on June 9, 2014 and there were no comments or concerns.

Mr. Lundy requested amending his application to reflect a 3-bedroom residential vacation rental, not a 4-bedroom. He also requested to amend the parking plan he submitted because it did not show the additional parking. He presented the new parking plan which shows the driveway to Chairman Webber, who made it, 'Applicant Exhibit 1.' The application was amended.

Ms. Maringer noted that there were no septic permits or sewer documents included in the packet for any of the Rumbling Bald Resort hearings. Ms. Spicer relayed to her there is no requirement for the applicant to provide those documents for properties with on site septic permits. She mentioned, however, that the Board has a requirement to make the decision of whether or not they feel the sewer is adequate. Mr. Lundy testified that he asked and was told the sewer was recently pumped and he feels the septic is adequate.

Chairman Webber strongly recommended the parking space in front of the house which was originally marked not be used as a parking space. He mentioned there is adequate parking in the driveway for parking all vehicles. Ms. Maringer suggested cutting the shrubbery back some to have a clear viewing of the house address. Chairman Webber asked if the property meets all the Resort's regulations and Mr. Lundy stated yes and they've given the property owners a few recommendations for improvements.

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

With regard to application number VROP-2014017 for a vacation rental operating permit to operate a residential vacation rental in the R-3 zoning district Mr. Gray 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. Mr. Owensby seconded. Mr. Butts, Mr. Gray, Ms. Maringer, Mr. Owensby, and Chairman Webber voted in favor.

- (I) VROP-2014018, a vacation rental operating permit request from Rumbling Bald Resort, agent for Scott Walker, to operate a residential vacation rental at 147 Watergate, Lake Lure, North Carolina (Tax PIN 1649447)**

Ms. Spicer and Richard Lundy, agent for Scott Walker, were sworn in.

There were no ex parte communications or conflicts of interest reported and Mr. Lundy did not wish to challenge the Board for cause.

Ms. Spicer presented the staff portion of the case. She stated that Mr. Lundy is requesting a vacation rental operating permit to operate a 4-bedroom residential vacation rental. She pointed out the packet includes an application, and an agent authorization letter, which she pointed out had an error on it. She also pointed out there is a parking plan, standard rental agreement, and verification from Jeanette Bosgra with Rutherford County Finance that this has been added to Rumbling Bald Resort's list of rentals. She mentioned she received a call on June 18 from Sharon Huber who asked about the posted sign for the hearing to which Ms. Spicer explained to her. She had no further response from neighboring property owners. She stated this request was sent to the Development Review Committee for review on June 9, 2014 and there were no comments or concerns.

Chairman Webber pointed out there is a mistake on the agent authorization letter showing the wrong address. However, he stated he would accept the letter because it does list the correct address underneath Mr. Walker's signature. He suggested Mr. Lundy obtain a proper letter from Mr. Walker.

Ms. Maringer stated the tax records show a three bedroom instead of four and asked about the septic. Mr. Lundy replied he has been inside the house and can verify the house has four bedrooms. Mr. Gray mentioned the septic was built for a 3-bedroom home. Mr. Lundy pointed out there was a bedroom added on downstairs. Chairman Webber stated it is possible the septic was updated when the bedroom was added on. Mr. Lundy stated he had the sewer system inspected after meeting with Ms. Spicer and was given documentation that the sewer system was inspected and certified. Ms. Spicer noted the property is on CWS which is a private sewer. She stated she called and verified this on June 3.

Mr. Butts pointed out there is proposed parking showing in the road and noted parking should be contained within the property boundaries. Mr. Gray stated there is adequate room for parking on the property.

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

With regard to application number VROP-2014018 for a vacation rental operating permit to operate a residential vacation rental in the R-1 zoning district Mr. Owensby 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. Mr. Butts seconded. Mr. Butts, Mr. Gray, Ms. Maringer, Mr. Owensby, and Chairman Webber voted in favor.

(J) VROP-2014019, a vacation rental operating permit request from Rumbling Bald Resort, agent for Charles McGahee, to operate a residential vacation rental at 294 Ridgeway Road, Lake Lure, North Carolina (Tax PIN 1604861)

Ms. Spicer and Richard Lundy, agent for Charles McGahee, were sworn in.

There were no ex parte communications or conflicts of interest reported and Mr. Lundy did not wish to challenge the Board for cause.

Ms. Spicer presented the staff portion of the case. She stated that Mr. Lundy is requesting a vacation rental operating permit to operate a 3-bedroom residential vacation rental. She pointed out the packet includes an application, agent authorization letter, standard rental agreement, and verification from Jeanette Bosgra with Rutherford County Finance that this has been added to Rumbling Bald Resort's list of rentals. She mentioned she received a call on June 18 from Sharon Huber and asked about the posted sign for the hearing to which Ms. Spicer explained to her. She had no further response from neighboring property owners. She stated this request was sent to the Development Review Committee for review on June 9, 2014 and there were no comments or concerns.

Mr. Lundy requested amending his parking plan and presented a parking plan showing additional parking to the Board, which Chairman Webber labeled as 'Applicant Exhibit 1.' Chairman Webber stated there is adequate parking for two vehicles but stated he would only approve parking for vehicles in the driveway only. The application was amended.

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

With regard to application number VROP-2014019 for a vacation rental operating permit to operate a residential vacation rental in the R-3 zoning district Mr. Butts 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. Mr. Gray seconded. Mr. Butts, Mr. Gray, Ms. Maringer, Mr. Owensby, and Chairman Webber voted in favor.

(K) VROP-2014020, a vacation rental operating permit request from Rumbling Bald Resort, agent for Derek Smith, to operate a residential vacation rental at 127 Cattail Road, Lake Lure, North Carolina (Tax PIN 1634671)

Ms. Spicer and Richard Lundy, agent for Derek Smith, were sworn in.

There were no ex parte communications or conflicts of interest reported and Mr. Lundy did not wish to challenge the Board for cause.

Ms. Spicer presented the staff portion of the case. She stated that Mr. Lundy is requesting a vacation rental operating permit to operate a 4-bedroom residential vacation rental. She pointed out the packet includes an application, agent authorization letter, a copy of a survey of the property, a parking plan with the designated parking area, a standard rental agreement, and verification from Jeanette Bosgra with Rutherford County Finance that this has been added to Rumbling Bald Resort's list of rentals. She mentioned a neighboring property owner, Jeffrey Kristjansen, was at the meeting earlier and she gave him a meeting packet. He later left her a note stating he did not understand the meeting according to the letter he received but after attending the meeting for a short time he had no concerns. She had no further response from neighboring property owners. She stated this request was sent to the Development Review Committee for review on June 9, 2014 and there were no comments or concerns.

Mr. Lundy pointed out an unfinished bedroom has been added on downstairs and clarified that it is a 4-bedroom home. He asked to amend his application to ask for a 3-bedroom vacation rental instead of a 4-bedroom. He also proposed changing the occupancy to allow ten and wanted to leave the parking to three vehicles. Ms. Maringer pointed out there were already renters and Mr. Lundy confirmed. Ms. Spicer pointed out, according to the regulations, he is allowed two vacation rentals per year as long as they do not exceed two weeks total without a permit. Chairman Webber stated the application has been amended.

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

With regard to application number VROP-2014020 for a vacation rental operating permit to operate a residential vacation rental in the R-3 zoning district Mr. Owensby 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. Mr. Gray seconded. Mr. Butts, Mr. Gray, Ms. Maringer, Mr. Owensby, and Chairman Webber voted in favor.

NEW BUSINESS

(A) Amendment to 2014 Meeting Schedule

Ms. Spicer reported the North Carolina Association of Zoning Officials is holding an annual conference in Asheville July 20-23. She mentioned that she would like to attend this conference, along with Ms. Jolley, on July 21 and 22. She stated the next BOA meeting is scheduled for July 22 and she would like the Board to consider changing the date to Wednesday, July 23. She pointed out there is a case that was continued to the July 22 date for the Lake Structures Appeals Board. She stated she would contact Clint Calhoun and inform him of the change and to let the applicant know.

Mr. Gray made a motion to amend the July 22 BOA meeting date to Wednesday, July 23. Ms. Maringer seconded. Mr. Butts, Mr. Gray, Ms. Maringer, Mr. Owensby, and Chairman Webber voted in favor.

OLD BUSINESS

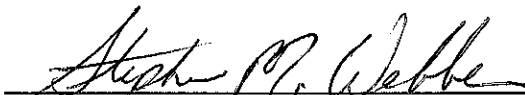
None

ADJOURNMENT

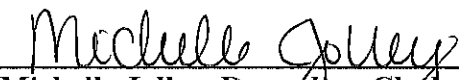
Mr. Owensby made a motion seconded by Mr. Gray to adjourn the meeting. All voted in favor.

The meeting was adjourned at 4:42 p.m. The next regular meeting is scheduled for Wednesday, July 23, 2014 at 1:00 p.m.

ATTEST:



Stephen M. Webber, Chair



Michelle Jolley, Recording Clerk

