



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

**Tuesday, August 26, 2014
1:00 p.m.**

Chairman Webber called the meeting to order at 1:01 p.m.

ROLL CALL

Present: Stephen Webber, Chair
David Butts, Alternate
Michael Gray
Mark Hoek, Seated Alternate
John Kilby
Patricia Maringer
Bob Cameron, Council Liaison

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

Absent: Roger Jolly, Alternate
Melvin Owensby

APPROVAL OF THE AGENDA

Chairman Webber requested to add Item A under 'New Business,' *Discussion on the Dental Clinic.*

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

APPROVAL OF THE MINUTES

Chairman Webber proposed changing the meeting day from 'Tuesday' to 'Wednesday' on the first page of the minutes. He asked that the first sentence under 'New Business' be reworded reflecting that Mr. Kilby asked whether an agent authorization letter is required for a spouse who is not listed on a property deed.

Mr. Gray made a motion seconded by Ms. Maringer to approve the minutes of the July 23, 2014 meeting as amended. All voted in favor.

HEARINGS

- (A) VROP-2014025, a vacation rental operating permit request from Richard Lundy, agent for Joseph Hartzog, to operate a residential vacation rental at 154 Moffitt Road, Lake Lure, North Carolina (Tax PIN 226090)**

Ms. Spicer, Richard Lundy, agent for Joseph Hartzog, and Karen Ahern, adjoining property owner, were sworn in. There were no ex parte communications or conflicts of interest reported. Mr. Lundy did not wish to challenge for cause.

Ms. Spicer presented the case. She stated Mr. Hartzog is requesting a vacation rental operating permit to operate a 5-bedroom residential vacation rental. She pointed out the packet includes the application, agent authorization letter signed by William Hartzog, Mary Hartzog, and Joseph Hartzog authorizing Mr. Lundy to act as their agent, and a parking plan. She mentioned the property is connected to Town sewer and there is certification from Phil Humphries, a licensed plumber, certifying that the connection to the Town's sewer is operational and free of detectable leaks. Also included is a copy of Rumbling Bald Resort's standard rental agreement which also includes a copy of the Town's contract addendum and verification from Jeanette Bosgra with Rutherford County Finance that Mr. Lundy has added this to Rumbling Bald Resort's list of rentals with the Tourism Development Authority. Ms. Spicer noted all of the information was sent to the Development Review Committee (DRC) on August 8, 2014, and there were no comments or concerns from the DRC members. She also noted she has not received any response from adjacent property owners.

Chairman Webber asked if there are animal resistant trash containers on the property. Mr. Lundy replied there are still improvements to be made to the property as a requirement of the Resort managing it, and he noted trash is picked up daily at properties managed by the Resort. Ms. Maringer pointed out the handrails leading up the stairs to the entrance of the house are rotten. Mr. Lundy responded the owners will be required to make improvements to the handrails. Ms. Maringer asked if the kayaks at the property would be offered for rental, and Mr. Lundy answered no and those would be removed from the property. She then pointed out the request is for three parking spaces and felt that the area for parking would be very tight and may not accommodate three. Mr. Lundy stated parking is tight and he would change his request from three spaces down to two if need be.

Ms. Ahern, property owner on the east side of Mr. Hartzog's property, expressed concerns with renters inadvertently trespassing onto her property via a dock which was built partially onto her property. She mentioned property markers are not visible there anymore. Chairman Webber relayed to Ms. Ahern that encroachment would be a civil matter but Rumbling Bald Resort could be notified regarding renters trespassing and also the Lake Lure Police Department.

Mr. Kilby asked if the property is located inside the Rumbling Bald Resort, and Mr. Lundy answered no, but if they managed by the Resort, they would have to abide by the Resort's rental regulations.

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

During deliberations, Mr. Gray pointed out he did not feel that three vehicles would fit. Chairman Webber felt that two spaces would be reasonable. He pointed out that parking was not discussed with Mr. Lundy.

Mr. Gray made a motion to reopen the hearing. Ms. Maringer seconded. Mr. Gray, Mr. Hoek, Mr. Kilby, Ms. Maringer, and Chairman Webber voted in favor.

Chairman Webber explained that Mr. Gray felt three parking spaces is excessive for this location and asked Mr. Lundy if he felt that two parking spaces would be reasonable. Mr. Lundy asked if parking plans could be modified if an improvement is made to the property to allow additional room for extra parking in the future. Ms. Spicer read from Section 92.042 (F)(4) of the Zoning Regulations regarding requirements for parking at vacation rentals. Chairman Webber pointed out that part of the parking shown on the parking plan is located on the neighbor's property. Mr. Lundy asked to adjust his parking plan in his application to allow up to two parking spaces.

Mr. Gray moved the Board to approve Mr. Lundy's request to change the application to allow up to two parking spaces. Ms. Maringer seconded. Mr. Gray, Mr. Hoek, Ms. Maringer, and Chairman Webber voted in favor. Mr. Kilby voted no, stating he has not visited the property and has not personally seen the parking area and stated he felt he could not assume that parking is too tight for three vehicles.

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

With regard to amended application number VROP-2014025 for a vacation rental operating permit to operate a residential vacation rental in the R-1 zoning district Mr. Hoek 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, Mr. Hoek, Mr. Kilby, Ms. Maringer, and Chairman Webber voted in favor.

- (B) VROP-2014026, a vacation rental operating permit request from Richard Lundy, agent for Michael Eddy and Sharane Sherman, to operate a residential vacation rental at 290 Shumont Estates Drive, Lake Lure, North Carolina (Tax PIN 1611899)**

Ms. Spicer, Richard Lundy, Katherine Rudel, adjoining property owner, and Raymond Moylan, property owner at 120 Flynn Court were sworn in.

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

Ms. Spicer presented the case to the Board. She stated Michael Eddy and Sharane Sherman area requesting a vacation rental operating permit to operate a 3-bedroom residential vacation rental. She pointed out the packet includes a completed application, a letter from Mr. Eddy and Ms. Sherman authorizing Mr. Lundy to act as their agent, a copy of a survey of the property with the parking outlined on the property shown on the survey, a copy of a septic improvement permit and the property card showing the property is listed as a 3-bedroom home, and verification from Jeanette Bosgra with Rutherford County Finance verifying that Mr. Lundy has added this to his list of rentals with the TDA. Ms. Spicer noted all of the information was sent to the Development Review Committee (DRC) on August 8, 2014 and there were no comments or concerns from the DRC members. She stated she received an email yesterday from Ms. Rudel, adjoining property owner, asking if she would be able to identify how many rentals are already permitted in Shumont Estates. Ms. Spicer responded that the Town's permitting software does allow for generating a report based on a particular subdivision; however, Shumont Estates is part of Rumbling Bald Resort, which is the subdivision delineator used in the permitting software; therefore, she does not have a number of rentals specific to Shumont Estates. She then stated she counted ten different properties on an old map located at the Police Department. Mr. Lundy pointed out this would be the third property in Shumont Estates that Rumbling Bald Resort manages. He stated there may be other rentals in Shumont Estates, but they are not managed by the Resort.

Chairman Webber noted there was a typo on page two of the application under 'Public Safety' where the word three is written out with the number four in parenthesis. Mr. Lundy stated it should state four instead of three. Mr. Kilby noted it is also a gravel parking area, not paved.

Ms. Maringer relayed to Mr. Lundy that the outdoor light in the corner of the back side of the house should be moved to be directed away from neighboring properties.

Ms. Rudel, adjacent property owner at 300 Shumont Estates Drive, stated she has concerns with her property values being lowered due to vacation rentals adjoining her

property. She mentioned she currently has a vacation rental on one side of her property and stated if this property were granted a VROP she's concerned it would disturb the peace and quiet she enjoys now. Chairman Webber explained that the Zoning Regulations do not restrict the number of vacation rentals allowed inside a subdivision; however the POA could control the number of vacation rentals inside a subdivision if those restrictions are in their covenants. He asked Ms. Rudel if she had any facts justifying her concern that a vacation rental neighboring her home would cause her property values to decrease, and Ms. Rudel stated she did not. Chairman Webber explained to her if there are problems with noise, she should call Rumbling Bald Resort's security or the Lake Lure Police Department. He relayed that she could ask for standing in the case since she is an adjoining property owner, which would give her the right to appeal the Board's decision to Rutherford County Superior Court within 30 days from the date she receives a copy of the Board's decision. Ms. Rudel requested standing in the case.

Ms. Maringer made a motion to grant party status to Ms. Rudel. Mr. Gray seconded. Mr. Gray, Mr. Hoek, Ms. Maringer, and Chairman Webber voted in favor. Mr. Kilby voted no and stated, in his opinion, there were no facts in the record at that point to grant party status.

Ms. Spicer asked Ms. Rudel if she had seen the application, and Ms. Rudel stated no but she would like to see it. Ms. Spicer allowed Ms. Rudel to look over the application.

Mr. Moylan, property owner at 120 Flynn Court, addressed the Board with his concerns. He mentioned he has concerns with safety due to experience he has had with another vacation rental in the community in the past. He was also concerned that he would not have a way of contacting the property owner if problems arise and that the property owner would not be in the area. Chairman Webber stated he could contact the agent. Mr. Moylan stated he feels it is important that this information be provided for property owners before attending the meeting. Chairman Webber pointed out the notification letter states that if there are any questions to contact Town Hall. He mentioned another sentence could be added to that letter stating that any information pertinent to the case can be viewed at Town Hall.

Ms. Spicer noted when preparing packets, she did not include Rumbling Bald Resort's Rental Contract Addendum on the second case because it was the same as was included on the first case.

Mr. Moylan mentioned there are rental properties in Shumont Estates that have not come before the BOA for a VROP. Chairman Webber pointed out he should bring those properties to Ms. Spicer and make her aware they are renting without a permit so those properties can be investigated. Mr. Moylan stated one property to be investigated is lot 95. Ms. Rudel added that it is located beside 300 Shumont Estates Drive. Mr. Lundy affirmed if there are any problems with any of the rentals, the Rumbling Bald Security Department should be contacted who would in turn call the agent. Mr. Lundy pointed out this would be a short term rental.

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

During deliberations, Ms. Maringer pointed out there was no evidence to support the property values being lowered due to a vacation rental neighboring a property. Chairman Webber mentioned there were no substantial facts or evidence brought forth from the testimony of either party. He stated if there are any problems, the Lake Lure Police Department, Rumbling Bald Security Department, or the agent could be contacted and a complaint could be filed. He noted there is a process to revoke a VROP, if there is factual evidence to back a complaint.

With regard to application number VROP-2014016 for a vacation rental operating permit to operate a residential vacation rental in the R-1C 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. Kilby seconded. Mr. Gray, Mr. Hoek, Mr. Kilby, Ms. Maringer, and Chairman Webber voted in favor.

NEW BUSINESS

None

OLD BUSINESS

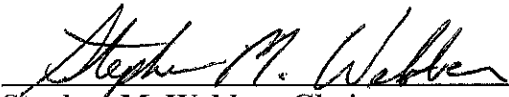
Ms. Spicer pointed out that Dr. Adams is planning to appoint Tim Turner to act as his agent regarding the dental office, and a letter will be submitted for revised construction.

ADJOURNMENT

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

The meeting was adjourned at 2:33 p.m. The next regular meeting is scheduled for Tuesday, September 23, 2014 at 1:00 p.m.

ATTEST:



Stephen M. Webber, Chair



Michelle Jolley, Recording Clerk

