



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

**Tuesday, October 27, 2015
1:00 p.m.**

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

ROLL CALL

Present: **Stephen Webber, Chair**
 David Butts
 Ronald Erickson, Alternate
 Mark Hoek, Alternate
 John Kilby
 Patricia Maringer
 Melvin Owensby
 Bob Cameron, Council Liaison

Absent: **David Lusk, Alternate**

Also Present: **Sheila Spicer, Zoning Administrator**
 Michelle Jolley, Recording Secretary

APPROVAL OF THE AGENDA

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

APPROVAL OF THE MINUTES

Chairman Webber proposed the following changes:

- Page 2 under 'Hearings' – Clarify that Ms. Maringer was not seated for the rehearing due to her recusal from the original hearing.
- Page 3 at the bottom – change "was" to "were" in the second sentence. He would like to make this a uniform correction throughout all the minutes on all the cases from here on out. Change "was" to "were" also on page 3, 5, and 6.

- Page 4 - 3rd paragraph from the bottom, 3rd line from the end, Chairman Webber mentioned that he would be making an assumption, not the Board.
- Page 7 - last paragraph in bold, third line, change to say, "Technically, this case does not meet the requirements."
- Page 7 - last paragraph, first sentence, change the sentence to, "the Board members should remain professional".

Mr. Butts made a motion seconded by Ms. Maringer to approve the minutes of the September 22, 2015 meeting as amended. All voted in favor.

HEARINGS

- (A) CU-2015003, a request from Vic Knight, agent for John and Linda Herring, to change the use of an existing single-family dwelling to a garage apartment to allow for construction of a new single-family dwelling on the same lot. The property (Tax PIN 1641007) is located at 139 Fisher Court, Lake Lure, NC 28746**

Ms. Spicer, Mr. Herring and Mr. Knight were sworn in. Chairman Webber reported that he and Ms. Spicer spoke briefly before the meeting on the case. He stated he asked for opinions from Ms. Spicer on what the Board is seeking in the case and that is that the Conditional Use Permit (CUP) is only for the garage apartment that is currently existing; it does not include the new house that is proposed to be built. There were no other ex-parte communications or conflicts of interest to disclose. The Board felt they could reach a fair and unbiased decision. Mr. Herring did not wish to challenge the Board for cause.

Ms. Spicer presented the case. She stated that John and Linda Herring are applying for a CUP to convert the use of the existing single-family dwelling to a garage apartment so that another single-family dwelling can be constructed on the same lot. She pointed out the packet includes the CUP application and the plans showing the new development as proposed, a copy of the original plans submitted for permitting at the time the existing structure was built, and additional comments from the Herrings pertinent to the request.

Ms. Spicer stated that as part of the project, Mr. and Ms. Herring have purchased the property to the south of them, and have demolished the existing structure on that property. They plan to reconfigure the property boundary between the two parcels in order to increase the distance between the new house and the existing house to the north. She noted that Suzy Smoyer, Subdivision Administrator, has reviewed the preliminary plat for the recombination and has stated in an email that it meets the requirements of the Town. She stated with removal of the house, it would be able to get a recombination plat.

Ms. Spicer pointed out that the Development Review Committee reviewed this request on August 13, 2015 and the minutes were included in the packet. She also mentioned that the Zoning and Planning Board also reviewed this request on September 15, 2015 and the minutes from that meeting were also included in the packet.

Ms. Spicer stated she received two phone calls. The first call was from someone who received a letter notifying him of the hearing. Once he realized where the property was located, he stated it would not affect him in any way. The other caller was not a neighboring property owner but saw the posted sign and wanted information on the case, and she provided them with details on the case.

Chairman Webber asked if the original structure was built with a variance and Ms. Spicer stated not that she was aware of. She stated the survey on file shows the existing structure met the requirements in place at the time it was constructed. She pointed out that the property owners are doing a lot of work to the sewer line to this property as well as several other adjoining properties. She mentioned the work being done on the sewer lines would not affect the garage apartment.

Mr. Knight explained that the intent for the recombination is to allow for more separation and landscape buffer space between the existing structures and the proposed structure. He stated that by recombining and putting the existing structure further to the south, it would give a better fit and scale from an architectural density standpoint. He mentioned the work on the sewer would not impact the current sewer of the garage apartment.

There was no further discussion, so Ms. Maringer made the following motion:

With regard to application number CU-2015003 for a conditional use permit to operate a convenience store with accessory sale of motor vehicle fuels and lubricants in the CN-Commercial Neighborhood zoning district, Ms. Maringer moved the Board to find that the application is complete and that the proposed use, if located and developed 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 conditional use permit in accordance with and only to the extent represented in the application and plans. Mr. Butts seconded the motion. Mr. Butts, Mr. Kilby, Ms. Maringer, Mr. Owensby, and Chairman Webber voted in favor.

The board members felt that all requirements and findings had been met and the application was complete.

(B) VROP-2015012, a vacation rental operating permit request from Dutch Beukema, agent for Allen Trefry, to operate a residential vacation rental at 247 Yates Lane, Lake Lure, North Carolina (Tax PIN 1630755)

Ms. Spicer and Mr. Beukema were sworn in. Chairman Webber reported he and Mr. Kilby visited the property at the same time and while there he stated to Mr. Kilby that he did not see

any problems. Ms. Maringer reported she visited the property and spoke with the property owner while there but stated the case was not discussed. There were no other ex-parte communications or conflicts of interest to disclose. The Board felt they could reach a fair and unbiased decision. Mr. Beukema did not wish to challenge the Board for cause.

Ms. Spicer presented the case. She stated that Dutch Beukema, agent for Allen Trefry, is requesting a Vacation Rental Operating Permit (VROP) to operate a 4-bedroom residential vacation rental. She pointed out that the packet includes a copy of the application, the agent authorization letter, a parking plan, a septic permit, standard rental agreement, and verification from Jeanette Bosgra with Rutherford County Finance that Mr. Beukema has added this property to his list of properties registered with the TDA. She mentioned this request was sent to the DRC for review on September 30, 2015 and no comments were received. She stated she did not receive any comments from neighboring property owners.

Mr. Butts asked if the address sign stuck in the ground was temporary, and Mr. Beukema stated it was a permanent sign. Ms. Spicer added that the regulations require that numbers be of a contrasting color and plainly visible. Mr. Butts asked if the homeowners plan to allow renters to use the chimney fireplace on the bottom porch with the wood structure above it and Mr. Beukema stated not to his knowledge. Mr. Butts and Ms. Maringer asked about trash receptacles, and Mr. Beukema stated they are kept inside the garage and the housekeeper removes the garbage.

Chairman Webber mentioned that as he was leaving the property, a gentleman approached him stating that there is an erosion problem from the hill right beside the driveway of this property. He stated he did not know what kind of impact this may have on the ingress and egress of this property. Mr. Beukema stated the property owner is still in the process of landscaping the property, and the erosion on the hillside will be addressed.

Mr. Kilby made the following motion:

With regard to application number VROP-2015012 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. Mr. Owensby seconded the motion. Mr. Butts, Mr. Kilby, Ms. Maringer, Mr. Owensby, and Chairman Webber voted in favor.

The Board felt that the application was complete and all requirements were met.

(C) VROP-2015013, a vacation rental operating permit request from Philip Gregorie to operate a residential vacation rental at 117 neighborly Drive, Lake Lure, North Carolina (Tax PIN 222101)

Ms. Spicer and Mr. Okler, agent for the property owner, were sworn in. There were no ex-parte communications or conflicts of interest to disclose. The Board felt they could reach a fair and unbiased decision. Mr. Okler did not wish to challenge the Board for cause.

Ms. Spicer presented the case. She stated that Philip Gregorie with Four Angels LLC is requesting a vacation rental operating permit to operate a 1-bedroom vacation rental. She pointed out that the packet includes a copy of the application, a parking plan, an agent authorization letter authorizing William Okler of Okler & Son to act as agent for Four Angels, LLC, a standard rental agreement with the Town's contract addendum, and verification from Jeanette Bosgra with Rutherford County Finance that this property is registered with the TDA. She mentioned this request was sent to the DRC for review on October 14, 2015 and no comments were received. Ms. Spicer mentioned this property is on Town sewer and the application requirement is for certification that the system is operational and free of detectable leaks. She stated this is a newly remodeled property. There is not something in the packet but a copy of the sewer bill was included. She stated that she received a call from a neighbor asking where the property was and she gave them directions.

Mr. Okler reported he had a licensed plumber, James Elliott with Elliott Plumbing, come out and look at the connections to the sewer. He also mentioned that a Rutherford County inspector came out and looked at the connections as well. Ms. Spicer stated the regulations state that a certificate from a qualified professional must be provided. The Board recessed while Ms. Spicer attempted to locate the plumber's certificate. After a brief recess, Ms. Spicer noted she did not have the certificate on email; however, she had a copy of an email from Mr. Gregorie but did not have anything since that day. Mr. Okler stated he does have a copy of a letter but it is not a signed copy. Chairman Webber mentioned it could be a condition, if approved, that this signed document be provided.

Mr. Butts asked if there was a house number by the street and Mr. Okler stated he did not believe so but he would make sure that it would be provided. He then asked about trash receptacles. Mr. Okler stated the trash is kept inside the house and the housekeeper, Debbie York, removes the trash after the renters leave. Mr. Butts pointed out that the ramp is very slick when wet and Mr. Okler stated that once the wood dries out the homeowner plans to apply paint with sand in it to the wood. Mr. Butts mentioned that egress and ingress was tight with a larger vehicle. Mr. Okler stated the property owner has spoken with a contractor about getting the driveway and parking area paved in the spring. Ms. Maringer mentioned the only lighting she saw was on the boathouse. She also mentioned the driveway did not have lighting and was very steep. Mr. Okler stated that once the driveway and parking area is paved, lighting would be placed at the top of the parking area and stairs and railing would be put up at the bottom of the parking area.

Chairman Webber conveyed that identification of the property is a requirement. He mentioned that the steps are level; however, the surface of the ramps are very slick creating a safety concern. He also mentioned that the canopy does prevent sunlight from the steps which can create mildew making the steps even more slippery. If a condition is imposed, he stated he would recommend non-skid treads, or sealer/paint mixed with sand and asked Mr. Okler if that would be acceptable to him and Mr. Okler stated yes. Chairman Webber also noted that he did not notice any lighting on the steps. Mr. Okler stated as soon as the driveway is completed, lights would be placed at the steps all the way to the top. He stated this house would not be rented until the first of next year and lights would be put in for safety before renting. Ms. Spicer pointed out that an address sign at the road is required under a different set of regulations but does not necessarily have to be a condition as part of this case.

Mr. Kilby conveyed he did not feel it should be the Board's responsibility to impose conditions on safety concerns the Board has. Chairman Webber disagreed stating that the Board has been tasked with the responsibility to make sure that all public safety issues are met. Discussion ensued.

Ms. Spicer received the signed sewer certification by email and provided a copy to the Board. Chairman Webber accepted the letter as 'Applicant Exhibit 1'. Chairman Webber asked Mr. Okler if he would be opposed if the Board imposed a condition that a non-skid surface be added to the ramps and low level lighting be required at the steps and Mr. Okler stated no. Mr. Okler assured the Board that an address sign would be placed by the street. Ms. Spicer stated she would provide Mr. Okler with the regulations and what is required.

Mr. Okler mentioned that he is proposing four 5-foot decorative light posts that will probably use 13 watt CL lights. Ms. Spicer pointed out that Section 92.058 of the zoning regulations is the lighting standards for conditional uses. She explained that 92.058 (g) of the regulations exempts anything under 160 watts.

Ms. Maringer made the following motion:

With regard to application number VROP-2015013 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, 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 the motion. Ms. Maringer made a motion to amend the original motion and proposed the following conditions:

The ramps on the stairs be coated with a non-skid surface and lighting be provided for the stairs that conforms to Section 92.058 (g) of the zoning regulations.

Mr. Butts seconded the amended motion with the proposed conditions. Mr. Butts, Ms. Maringer, Mr. Owensby, and Chairman Webber voted in favor of the condition. Mr. Kilby voted no.

Mr. Butts, Mr. Kilby, Ms. Maringer, Mr. Owensby, and Chairman Webber voted in favor of the main motion.

The Board members felt that the application was complete and felt the standards are met with the conditions imposed. Chairman Webber conveyed that the property must not be rented until the conditions are complied with and the VROP is issued.

NEW BUSINESS

Mr. Kilby conveyed that most homeowner policies have adequate coverage in case of an accident and did not feel that conditions needed to be made for public safety concerns. He felt the insurance policy would provide protection for the homeowner. Chairman Webber explained that the Board's responsibility is to uphold the requirements of the regulations and public safety is included in the standards for the findings the Board is required to make.

OLD BUSINESS

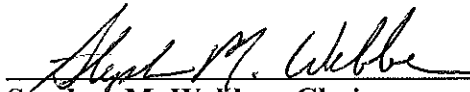
None

ADJOURNMENT

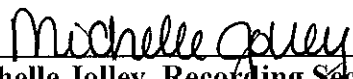
Mr. Kilby made a motion seconded by Mr. Owensby to adjourn the meeting. All voted in favor.

The meeting was adjourned at 2:20 p.m. The next regular meeting is scheduled for Tuesday, November 17, 2015 at 1:00 p.m.

ATTEST:



Stephen M. Webber, Chair



Michelle Jolley, Recording Secretary