



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

**Tuesday, December 15, 2015
1:00 p.m.**

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

ROLL CALL

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

Absent: N/A

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

Mr. Lusk pointed out that on page 3 and 4 he was referred to as Ms. Lusk; change to Mr. Lusk.

Mr. Kilby made a motion seconded by Ms. Maringer to approve the minutes of the November 17, 2015 meeting as amended. All voted in favor.

HEARINGS

- (A) **CU-2015004, a request from George Wittmer and Haynes Hill Estates for an accessory residential event venue. The property (Tax PIN 1636310) is located at 492 Seton Road, Lake Lure, NC 28746**

Ms. Spicer, Mr. Wittmer, and Steve Miller, Chief Financial Officer of the 1927 Lake Lure Inn & Spa and Haynes Hill Estates, LLC, were sworn in. Mr. Owensby disclosed that he spoke with Mr. Wittmer before the meeting but did not discuss the case. Ms. Maringer disclosed she spoke to Mr. Wittmer in regards to the septic. Chairman Webber disclosed he spoke to Mr. Wittmer about the gate code. 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. Wittmer and Mr. Miller stated they did not wish to challenge the Board for cause.

Ms. Spicer presented the case. She stated that Mr. Wittmer wishes to rent the courtyard portion of his property located at 492 Seton Road for weddings and other special events. These rentals will be managed by the 1927 Lake Lure Inn and Spa. The property is primarily used as a single family dwelling. She pointed out the packet includes the application, several attachments from the applicant, copies of a few deeds including a quit claims deed and a deed to the properties, a survey and site plan. The Development Review Committee reviewed this request on November 12, 2015 and the minutes are included in the packet. No changes were proposed to the use of the structure or the premises.

Ms. Spicer stated she received a phone call from adjacent property owner, Clarence Stokes, who asked to come in and review the file. They spent several minutes earlier today reviewing the file and in discussion. She noted that the Stokes' wanted the Board to know they approve of the request. Ms. Spicer stated she spoke with Mr. Erickson yesterday in regards to septic and sewer on the property. She relayed they plan to connect to town sewer. Ms. Spicer mentioned that to her knowledge the property has not yet been connected to town sewer. They plan to run a new line to connect to town sewer. Ms. Spicer pointed out the site plan shows parking spaces but they do not anticipate having to use those spaces; their plan is to bus people on and off the property. Chairman Webber stated the road is private and stated there should be no issue with regards to parking.

Mr. Miller provided a background. He stated the request is only for ceremonies and would be in comparison with the weddings the Lake Lure Inn and Spa holds at the Town's Gazebo. He explained the benefits of the request. He stated they could do this with minimal to no change to the property. Mr. Wittmer, 492 Seton Road, mentioned he has met with the Public Works Director and with a plumber in regards to the sewer. The best they can determine is the sewer line connects to Haynes Hill Estates at Jack London Court. He provided a background on the existing sewer line connected to Jack London Court. He conveyed that more work will be done to trace the line next week and stated they plan to replace the existing line that connects to Jack London Court.

Chairman Webber explained they could not conduct any wedding activities until the sewer line is repaired and connected to town sewer. Ms. Spicer stated staff would request a condition be

added that the Certificate of Zoning Compliance not be issued until the sewer situation is resolved. Chairman Webber asked Mr. Wittmer if he would be ok with a condition applied that he must be connected to town sewer before the Certificate of Zoning Compliance be granted and Mr. Wittmer stated yes. Mr. Wittmer mentioned their preference is to be connected to town sewer instead of a septic. He felt certain that his property has been on town sewer since 1927. Chairman Webber asked if Mr. Wittmer would bear all expenses and Mr. Wittmer stated yes.

There was no further testimony. Mr. Kilby made the following motion:

With regard to application number CU-2015004 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, Mr. Kilby 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, he 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 and subject to the following condition:

The property must be connected to town sewer before the permit is issued. Ms. Maringer and Mr. Owensby seconded the motion with the condition.

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

The Board members felt that all requirements and findings had been met, with the exception of adequate town sewer, and the application was complete. The condition brings the application in line with the remaining requirements.

(B) ZV-2015008, a request from Leslie Williams for a variance from §92.040 of the Zoning Regulations for the minimum front lake yard setback. The property (Tax PIN 230663) is located at 2355 Buffalo Shoals Road, Lake Lure, NC 28746

Ms. Spicer, Leslie Williams, and Robert Fletcher, spouse and co-property owner, were sworn in. Ms. Maringer disclosed she spoke with the applicant but did not discuss the case. Chairman Webber disclosed he spoke with Mr. Fletcher on-site but did not discuss the case. There were no other ex-parte communications or conflicts of interest to disclose. The Board felt they could reach a fair and unbiased decision. Ms. Williams stated she did not wish to challenge the Board for cause.

Ms. Spicer presented the case. She stated that Ms. Williams wants to reconstruct the lower deck on the lake side of her house. The existing lower deck is smaller than the upper deck; the proposed lower deck will extend from the house in the same configuration as the existing upper deck with the exception of a small new projection for a hot tub. She has also requested to construct a new deck on the north side of the house. The proposed lower lakeside deck and side deck encroach into the front lake yard setback, so a variance is required before the Certificate of Zoning Compliance permit can be approved. As pointed out in the Memo in the packet, the front lake yard setback qualifies for a front yard setback exception as specified in the regulations. She pointed out that the packet includes a copy of the application, plans with photos, and a copy of the survey.

Ms. Spicer mentioned she received a voicemail from Chris Carlson, contractor out of Rutherfordton, asking for details on the request. Ms. Spicer stated she called and left him a voicemail with details and has not had any further calls from him. She stated she received an email from Chairman Webber in regards to the front yard setback exception. She mentioned she received an email on December 9, 2015 from Robert Crais asking for details on the request. Ms. Spicer stated she emailed him back with details. She mentioned she also received an email from Bill Ashman, adjacent property owner, who conveyed that he and his wife could not attend the meeting but wanted to give their approval of the request.

Chairman Webber asked Ms. Spicer if there was a variance in the past regarding the upper deck. Ms. Spicer stated she did not do any research on previous variances, if there are any. Chairman Webber felt this would be important to know and may make his opinion of the request much easier. He stated he assumes the decks were built at the same time.

Ms. Williams noted that they are part of Rumbling Bald Resort. She stated they are not utilizing their property to the fullest extent. She relayed that the existing lower deck has some safety issues and felt this would be the hardship. She mentioned they have limited room on the lower deck and would like to extend a new projection out for a hot tub. Ms. Maringer stated their land is no different than other land around. Mr. Kilby agreed and felt the space there is not usable without extending the deck. Mr. Fletcher added that extending the lower deck would not project it to go any further than the deck above it and would allow more usable space. Chairman Webber did not feel the request could meet all of the following findings; however, he felt there were aspects that could justify the requirements. He pointed out that all of the properties along the area have decks. Also, they are not covering any more ground with new construction, with the exception of the hot tub. He stated the requested variance would not be injurious to the neighborhood or the general welfare. He mentioned that the special circumstances are not a result of the applicant. He stated that Finding #6 is not applicable in this case. The Board felt the hardship was due to the topography and was not a result of the actions of the applicant.

Ms. Maringer felt that the new decks would give the property owners enjoyment of their property. Mr. Butts stated he would vote no; he did not feel that a hardship was met for the extension of the decks that encroach into the front lake yard setback. Mr. Kilby and Mr. Owensby were in favor of the request. The Board engaged in discussion on the findings.

Ms. Williams noted that there is a sliding glass door on the side of the property where the proposed deck is that opens up to the ground (no deck area), creating a safety issue. Ms. Spicer explained that the property owners felt the variance would create less of an impact than changing landscape of the land. She pointed out their existing lower deck does not meet current code, making it unsafe. Chairman Webber conveyed that this would be justification for the lower deck variance.

Chairman Webber reviewed the survey and stated the variance is for about 3 feet only. Ms. Spicer stated instead of having to worry about staying within 30 inches from the finished grade, the property owners preferred to not impact the land as much. Chairman Webber referred to the photo on the last page, stating the front edge of the smaller deck appears to come to the adjusted setback line. Ms. Spicer noted the photo on the same page shows the door that goes to nowhere. Discussion ensued on justification for the requested variance. Mr. Fletcher requested to proceed with the request including the variance for the extension for the hot tub.

Mr. Owensby made the following motion:

With regard to Case Number ZV-2015008, Mr. Owensby moved the Board to find that the applicants have demonstrated that unnecessary hardship would result from carrying out the strict letter of §92.040 of the Zoning Regulations and, further, have demonstrated compliance with the standards for granting a variance contained in §92.088 of such regulations. Accordingly, he moved the Board to grant the requested variance in accordance with and only to the extent represented by the application.

Ms. Maringer seconded the motion. Mr. Kilby, Ms. Maringer, Mr. Owensby, and Chairman Webber voted in favor. Mr. Butts voted no.

Mr. Butts did not feel that an adequate hardship was demonstrated. Mr. Kilby, Ms. Maringer, Mr. Owensby, and Chairman Webber felt that a hardship was met and this would be an improvement to the property's safety concerns.

NEW BUSINESS

(A) Adoption of the 2016 Meeting Schedule

The Board discussed the proposed meeting schedule.

Ms. Maringer made a motion to approve the 2016 meeting schedule as presented. Mr. Butts seconded. Mr. Butts, Mr. Kilby, Ms. Maringer, Mr. Owensby, and Chairman Webber voted in favor.

OLD BUSINESS

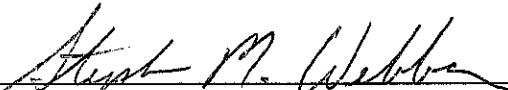
None

ADJOURNMENT

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

The meeting was adjourned at 2:31 p.m. The next regular meeting is scheduled for Tuesday, January 26, 2016 at 1:00 p.m.

ATTEST:



Stephen M. Webber, Chair



Michelle Jolley, Recording Secretary