



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

**Tuesday, January 24, 2017
1:00 p.m.**

Chairman Kilby called the meeting to order at 1:03 p.m.

ROLL CALL

Present: John Kilby, Chair
David Butts
Ronald Erickson
Mark Hoek
Lyn Weaver, Seated Alternate
Stephen Webber, Council Liaison

Absent: David Lusk, Alternate
Melvin Owensby
Rick Stockdale, Alternate

Also Present: Michelle Jolley, Recording Secretary
Brad Burton, Code Enforcement Coordinator
William Morgan, Jr., Town Attorney

APPROVAL OF THE AGENDA

Mr. Butts mentioned it was expressed at the last meeting that Mr. Baldwin would be providing the Board with a document for review concerning a checklist for VROP's. Chairman Kilby stated this could be added to the agenda for discussion under 7 (A).

Mr. Butts made a motion to approve the agenda as amended. Mr. Erickson seconded the motion. All voted in favor.

APPROVAL OF THE MINUTES

Ms. Weaver made a motion seconded by Mr. Butts to approve the minutes of the October 25, 2016 meeting as presented.

APPROVAL OF THE 2017 MEETING SCHEDULE

Mr. Butts moved that the Board accept the 2017 meeting schedule as presented. Mr. Erickson seconded and all voted in favor.

HEARINGS

- (A) VROP-2016016, a vacation rental operating permit request from Melissa Messer, agent for owner Jean Morrill, to operate a residential vacation rental at 353 Buzzard's Place, Lake Lure, North Carolina (Tax PIN 0232050)**

Mr. Burton and Ms. Messer 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. Ms. Messer did not wish to challenge the Board for cause.

Mr. Burton presented the case. He stated that Melissa Messer with Exclusive Mountain Properties is requesting a vacation rental operating permit (VROP) to operate a 4-bedroom residential vacation rental (RVR) at 353 Buzzard's Place, Lake Lure, North Carolina. The property is located in the R-1C Residential zoning district, and there is an existing single-family dwelling on the lot. Residential vacation rentals are a permitted use in the R-1C district subject to special requirements contained in §92.042 of the Zoning Regulations. Section 92.042 (A)(2)(b) of the Zoning Regulations states that VROP applications are to be deemed in the nature of and processed as a conditional use permit.

This request was sent to the Development Review Committee for review on January 3, 2017 and there were no comments or concerns received. Pursuant to §92.046(B)(2) of the Zoning Regulations, Zoning and Planning Board review was not required due to the fact that there were no proposed changes to the appearance of the building or premises.

Mr. Burton mentioned he received no calls or comments from anyone regarding this property. Mr. Butts pointed out the application lists the property as a 5-bedroom rental and the memo in the packet lists the property as a 4-bedroom. Mr. Burton explained that he asked Ms. Messer about the bedrooms and she amended her application to a 4-bedroom rental.

Ms. Messer pointed out that she does have information from the Health Department stating the home was amended from a 3-bedroom to a 4-bedroom home. Mr. Hoek noted he did not see animal resistant trash receptacles and also suggested the property owner using a tile type fire protection mat as a safety measure on the back deck for the chimney and grills that are there. Ms. Messer stated there are trash receptacles in the garage. Chairman Kilby did not feel this could be made a requirement. Mr. Erickson noted the property card lists the house as a 3-bedroom. Ms. Messer explained that Rutherford County has been notified of this change and it has not yet been updated on the property card. She pointed out she does have a Certificate of Occupancy for 4-bedrooms.

Mr. Burton mentioned that Ms. Messer is also present for hearing (F) VROP-2016021. He asked that the Board consider amending the agenda to hear that case next for a speedier meeting. Chairman Kilby stated this would not affect others and felt it would be ok to amend the agenda.

Mr. Butts made a motion to amend the agenda for item (F) VROP-2016021 to be heard after agenda item (A). Mr. Hoek seconded. Mr. Butts, Mr. Erickson, Mr. Hoek, Ms. Weaver, and Chairman Kilby voted in favor

There was no further testimony, so Mr. Hoek made the following motion:

With regard to application number VROP-2016016 for a vacation rental operating permit to operate a residential vacation rental in the R1-C 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 as amended. Ms. Weaver seconded the motion. Mr. Butts, Mr. Erickson, Mr. Hoek, Ms. Weaver, and Chairman Kilby voted in favor

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

(F) VROP-2016021, a vacation rental operating request from Melissa Messer agent, for owners Michael P. Kent and Elizabeth S. Martin, owner/operators, to operate a residential vacation rental at 395 Tryon Bay Circle, Lake Lure, North Carolina (Tax PIN 1620325)

Mr. Burton, Ms. Messer, and Mary Ann Silvey 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. Ms. Silvey requested to have standing in the case. She stated she is an immediate neighbor and noted the home in question was at one time on a combined lot with a lot her home is on. She explained her father had the lots divided and now she is an immediate neighbor. The Board voted in favor of granting Ms. Silvey standing.

Mr. Burton presented the case. He stated that Michael P. Kent and Elizabeth S. Martin, Owners and Melissa Messer, agent, are requesting a VROP to operate a 3-bedroom RVR at 395 Tryon Bay Circle, Lake Lure, North Carolina. The property is located in the R-1 Residential zoning district, and there is an existing single-family dwelling on the lot. Residential vacation rentals are a permitted use in the R-1 district subject to special requirements contained in §92.042 of the

Zoning Regulations. Section 92.042 (A)(2)(b) of the Zoning Regulations states that VROP applications are to be deemed in the nature of and processed as a conditional use permit.

This request was sent to the Development Review Committee for review on January 3, 2017 and no comments or concerns were received. Pursuant to §92.046(B)(2) of the Zoning Regulations, Zoning and Planning Board review was not required due to the fact that there were no proposed changes to the appearance of the building or premises.

Mr. Burton noted he received a call from Ms. Silvey with concerns and he provided her with an email of the applicant's application but did not discuss the case with her.

Ms. Messer stated that Charlie Sims, certified plumber, inspected the connection to the Town's sewer confirming the connection was free of detectable leaks. A copy of Mr. Sims' inspection was included in the packet. She noted that Rutherford County has been contacted in regards to taxes. Mr. Butts expressed concerns with sufficient off-street parking. Chairman Kilby explained that sufficient parking must be provided off-street and shown on the parking plan. He noted that Ms. Messer's parking plan was included in the packet. Ms. Weaver expressed concerns with sufficient off-street parking as well, as it is a one-way street. Mr. Butts stated he did not feel comfortable approving a permit without adequate off-street parking and asked that Mr. Burton read the regulations regarding parking off-street. Mr. Burton read from Section 92.042(5)(d):

"Parking. Occupants or guests of any residential vacation rental property shall not park vehicles on the property other than within parking area(s) designated on the application for the residential vacation rental. Vehicles parked in undesignated areas, or in the street so as to violate the town's street ordinances, shall be subject to towing at the vehicle owner's expense."

Chairman Kilby asked if the Town has a specific ordinance that a vehicle could be towed if it were parked in the street in a residential area. Mr. Burton felt this would be a police matter and was unsure if there was a specific ordinance regarding this issue. Mr. Morgan noted he was also unsure if there was an ordinance on parking in the street as he has not yet had a chance to study that section of the ordinances but felt there may be a town ordinance on partially obstructing the street. Mr. Burton stated the ordinance describes a parking space as:

"An area for parking a vehicle plus the necessary access space located outside the dedicated street right-of-way and providing vehicular access to a street or alley."

Mr. Burton pointed out that a parking diagram with a scale was provided by the applicant and included in the packet, but did not appear to be certified by a NC design professional. Chairman Kilby mentioned that the parking area may need to be surveyed to provide proper documentation to the Board. Mr. Burton pointed out that the parking plan included in the packet appeared to have been reduced down in size and a determination on sufficient off-street parking could not be determined from that document.

Ms. Silvey explained that she could answer questions about parking and possibly offer a solution. She stated her main concern is parking and safety and pointed out that other vacation renters with similar circumstances have constructed parking areas. She explained that the road is

very narrow and steep with shrubs and bushes. She mentioned she took pictures showing the shoulder of the road and stated she also took measurements. She stated she took pictures of other vacation rental properties in the neighborhood, which showed they had all put in safety rails. She pointed out that the neighboring property owner has created a parking deck. Her recommendation to the Board was to add a condition that a parking deck be constructed, similar to others in the neighborhood, prior to issuance of a vacation rental operating permit.

Chairman Kilby conveyed that a condition could be applied that adequate off-street parking be provided via a legal parking deck before the vacation rental could be operated. He also felt that a certified survey was necessary for construction of a parking deck. He stated that the condition could allow staff to make the determination as to whether a legal parking deck was constructed to provide adequate parking and therefore issue the permit without having to appear before the Board. Mr. Erickson felt that an accurate survey was needed as well. The Board agreed there was not adequate parking at the property. Mr. Burton pointed out that there may also be permits needed from Clint Calhoun as well regarding land disturbance and erosion control.

Ms. Silvey explained that this property was rented as a vacation rental in the past, before permits were required, under a former property owner. She stated there were problems at the time with sewage leaking from the cleanout. She mentioned she called Roto Rooter and they came and cleaned out the lines. She noted the previous owners had extensive repairs made to the sewer lines. She mentioned that more recent long term renters have complained of smelling sewage on the property. She felt there were more issues with the sewer lines that the Town needs to address.

Mr. Butts felt comfortable approving the permit with the condition that town staff approve the permit once adequate parking is provided. Mr. Burton asked if the Board had any particular specifications they would require for the parking deck. Chairman Kilby answered that as long as the parking deck coincided with town standards it would be fine. Mr. Erickson pointed out he noticed a loose railing at the stone steps leading down from the roadway attached to the bark of a deteriorating tree stump and felt this was a safety issue. Ms. Messer conveyed the property owners plan to fix that railing and make a few other repairs at the property. She noted they would be providing new trash receptacles as well. Mr. Erickson also mentioned the steps going down were lighted with solar panels and Ms. Messer stated she was unsure if they were operable but would make a note to check.

Mr. Butts asked Ms. Silvey if she felt her concerns would be address once parking is addressed with town staff and she stated yes and felt Ms. Messer is a great property manager.

There was no further testimony, so Mr. Butts made the following motion:

With regard to application number VROP-2016021 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 with a condition that the applicant demonstrate to town staff that the proposed parking area demonstrated in the application comply with zoning regulations as stated in Section 92.042. Ms. Weaver seconded the motion.

Mr. Butts, Mr. Erickson, Mr. Hoek, Ms. Weaver, and Chairman Kilby voted in favor of the condition.

Mr. Erickson made a motion that the Board approve the main motion with the condition attached. Mr. Hoek seconded. Mr. Butts, Mr. Erickson, Mr. Hoek, Ms. Weaver, and Chairman Kilby voted in favor of the main motion with the condition.

The Board felt that the application was complete and all requirements were met with the condition in place. Chairman Kilby explained to Ms. Messer that she would need to work with Mr. Burton and comply with the conditions before her permit would be issued.

(B) VROP-2016017, a vacation rental operating permit request from Valerie M. Wrobel, agent for the owners, Jeffrey and Elizabeth Foster, to operate a residential vacation rental at 187 W. Wilderness Road, Lake Lure, North Carolina (Tax PIN 0218624)

Mr. Burton and Ms. Wrobel 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. Ms. Wrobel did not wish to challenge the Board for cause.

Mr. Burton presented the case. He noted that Ms. Wrobel was not included in the agenda but was included in his memo in the packet. He stated that Elizabeth Foster, owner and Valerie M. Wrobel, agent with Carolina Properties is requesting a VROP to operate a 3-bedroom RVR at 187 W. Wilderness, Lake Lure, North Carolina. The property is located in the R-3 Resort Residential zoning district, and there is an existing single-family dwelling on the lot. Residential vacation rentals are a permitted use in the R-3 district subject to special requirements contained in §92.042 of the Zoning Regulations. Section 92.042 (A)(2)(b) of the Zoning Regulations states that VROP applications are to be deemed in the nature of and processed as a conditional use permit.

This request was sent to the Development Review Committee for review on January 3, 2017 and there were no comments or concerns received. Pursuant to §92.046(B)(2) of the Zoning Regulations, Zoning and Planning Board review was not required due to the fact that there were no proposed changes to the appearance of the building or premises.

Ms. Wrobel noted the home was recently purchased and they are continuing to make improvements. There are no garbage receptacles on the property but they plan to take the garbage to the garbage center. She stated that Rutherford County GIS does have the new owners contact information. Mr. Butts noted the new owners were not included on the property card included in the packet. Ms. Wrobel stated she could provide that information if the Board would like her to do so. Mr. Erickson stated the property card only shows 2-bedrooms and they could only approve up to 2-bedrooms. Ms. Wrobel asked to amend her original application to a 2-bedroom vacation rental.

Mr. Butts moved to amend the original application to a 2-bedroom vacation rental. Mr. Butts, Mr. Erickson, Mr. Hoek, Ms. Weaver, and Chairman Kilby voted in favor.

There was no further testimony, so Mr. Erickson made the following motion:

With regard to application number VROP-2016017 for a vacation rental operating permit to operate a residential vacation rental in the R-3 zoning district, Mr. Erickson 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 as amended with the condition that town staff be provided with adequate documentation from the County showing the current property owner's information. Mr. Hoek seconded the motion with the condition.

Mr. Butts, Mr. Erickson, Mr. Hoek, Ms. Weaver, and Chairman Kilby voted in favor of the condition.

Ms. Weaver seconded the main motion with the condition. Mr. Butts, Mr. Erickson, Mr. Hoek, Ms. Weaver, and Chairman Kilby voted in favor of the main motion with the condition.

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

- (C) VROP-2016018, a vacation rental operating permit request from Valerie M. Wrobel, agent for the owners, Dana Jo Mills, to operate a residential vacation rental at 170 Pearson Circle, Lake Lure, North Carolina (Tax PIN 0231821)**

Mr. Burton and Ms. Wrobel 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. Ms. Wrobel did not wish to challenge the Board for cause.

Mr. Burton presented the case. He stated that Dana Jo Mills, Owner and Valerie M. Wrobel, agent with Carolina Properties, is requesting a VROP to operate a 3-bedroom RVR at 170 Pearson Circle, Lake Lure, North Carolina. The property is located in the R-2 General Residential zoning district, and there is an existing single-family dwelling on the lot. Residential vacation rentals are a permitted use in the R-2 district subject to special requirements contained in §92.042 of the Zoning Regulations. Section 92.042 (A)(2)(b) of the Zoning Regulations states that VROP applications are to be deemed in the nature of and processed as a conditional use permit.

This request was sent to the Development Review Committee for review on January 3, 2017 and there were no comments or concerns raised. Pursuant to §92.046(B)(2) of the Zoning Regulations, Zoning and Planning Board review was not required due to the fact that there were no proposed changes to the appearance of the building or premises.

Mr. Burton conveyed there were no calls or concerns from anyone. The Board noted the bedrooms were not the same on the application in accordance with the property card. The property card lists the property as a 2-bedroom and the application as a 3-bedroom. Ms. Wrobel asked to amend her original application to reflect a 2-bedroom vacation rental. She noted there is a community garbage area on Pearson Circle for garbage pickup.

Mr. Butts moved to amend the original application to a 2-bedroom vacation rental. Mr. Butts, Mr. Erickson, Mr. Hoek, Ms. Weaver, and Chairman Kilby voted in favor.

Mr. Butts noted the agent authorization letter lists the wrong address for the property. Ms. Wrobel stated the correct address is 170 Pearson Circle and apologized for the oversight. Mr. Butts mentioned an ordinance requires animal resistant cans for rental properties. He also mentioned the address must be visible up at the road to be in accordance with the regulations. Ms. Wrobel expressed she would make sure they complied with the regulations.

There was no further testimony, so Mr. Erickson made the following motion:

With regard to application number VROP-2016018 for a vacation rental operating permit to operate a residential vacation rental in the R-2 zoning district, Mr. Erickson 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 as amended. Mr. Hoek seconded the motion. Mr. Butts, Mr. Erickson, Mr. Hoek, Ms. Weaver, and Chairman Kilby voted in favor.

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

(D) VROP-2016019, a vacation rental operating request from James and Livia Tingler LLC, owner/operators, to operate a residential vacation rental at 650 Buffalo Shoals Road, Lake Lure, North Carolina (Tax PIN 0226225)

Mr. Burton, and Jeannine Heath of WNC Mountain Rentals LLC 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. Ms. Heath did not wish to challenge the Board for cause.

Mr. Burton presented the case. He stated that James Tingler with James and Livia Tingler LLC are requesting a VROP to operate a 2-bedroom RVR at 650 Buffalo Shoals Road, Lake Lure, North Carolina. The property is located in the R-1A Residential zoning district, and there is an existing single-family dwelling on the lot. Residential vacation rentals are a permitted use in the R-1A district subject to special requirements contained in §92.042 of the Zoning Regulations. Section 92.042 (A)(2)(b) of the Zoning Regulations states that VROP applications are to be deemed in the nature of and processed as a conditional use permit.

This request was sent to the Development Review Committee for review on January 3, 2017 and there were no comments or concerns received. Pursuant to §92.046(B)(2) of the Zoning Regulations, Zoning and Planning Board review was not required due to the fact that there were no proposed changes to the appearance of the building or premises.

Mr. Burton conveyed he did not receive any phone contact but did have neighboring property owners stop by with concerns about a shared access road. He stated he did not deem their concerns germane to this application but made them aware that they could attend the meeting to voice their concerns.

Mr. Erickson pointed out that the property card lists the house with no bedrooms. Mr. Burton explained that it is a newly constructed home and the applicant could testify to the number of bedrooms. Ms. Heath testified the property has a Certificate of Occupancy which shows the house has two bedrooms. She stated the garbage would be contained either on the back deck or by the street. She noted they do provide animal resistant cans.

There was no further testimony, so Mr. Hoek made the following motion:

With regard to application number VROP-2016019 for a vacation rental operating permit to operate a residential vacation rental in the R-1A 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. Mr. Butts seconded the motion. Mr. Butts, Mr. Erickson, Mr. Hoek, Ms. Weaver, and Chairman Kilby voted in favor.

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

(E) VROP-201620, a vacation rental operating request from Stephen and Leilani Lowry, owner/operators (Carole McKay, agent), to operate a residential vacation rental at 402 Holmstead Road, Lake Lure, North Carolina (Tax PIN 1640775)

Mr. Burton, and Ms. McKay 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. Ms. McKay did not wish to challenge the Board for cause.

Mr. Burton presented the case. He stated that Stephen and Leilani Lowry, owners and Carole McKay, agent are requesting a VROP to operate a 4-bedroom RVR at 402 Holmstead Drive, Lake Lure, North Carolina. The property is located in the R-1D Residential zoning district, and there is an existing single-family dwelling on the lot. Residential vacation rentals are a permitted use in the R-1D district subject to special requirements contained in §92.042 of the Zoning Regulations. Section 92.042 (A)(2)(b) of the Zoning Regulations states that VROP applications are to be deemed in the nature of and processed as a conditional use permit.

This request was sent to the Development Review Committee for review on January 3, 2017 and there were no comments or concerns received. Pursuant to §92.046(B)(2) of the Zoning Regulations, Zoning and Planning Board review was not required due to the fact that there were no proposed changes to the appearance of the building or premises.

Mr. Burton conveyed he received no comments or concerns from anyone regarding this case. Ms. McKay noted this home meets all the standards for her firm. She stated they are currently constructing a garbage stand for the trash containers. Mr. Butts suggested visible street numbers displayed up at the road for emergency traffic.

There was no further testimony, so Mr. Butts made the following motion:

With regard to application number VROP-2016020 for a vacation rental operating permit to operate a residential vacation rental in the R-1D 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. Erickson seconded the motion. Mr. Butts, Mr. Erickson, Mr. Hoek, Ms. Weaver, and Chairman Kilby voted in favor.

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

- (G) ZV-2016012(A) and ZV-2016012(B), two (2) variance requests from Jeremy Huskey, which are requisite to the siting and construction of a new home proposed at 159 Deerwood Drive, Lake Lure, NC (Tax PIN 1647000). These variances concern §92.040 "Building Site-Minimum Dimension Requirements;" specifically ZV-2016012(A), which is a request from building height requirements and ZV-2016012(B), which is a request from front yard setback requirements.

Mr. Burton and Mr. Huskey 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. Huskey did not wish to challenge the Board for cause.

Mr. Burton presented the case. He stated that Mr. Jeremy Huskey is proposing to build a new home at 159 Deerwood Drive and comes before the Board requesting two Variances from dimensional requirements of the zoning ordinance for this project. It should be noted these requests are submitted separately on one application as "A" and "B" requests by the applicant and shall require two separate motions.

The proposed site is located in an R-1 zoning district. The parcel is currently a vacant lot, .24 acres in size and is an existing lot of record. The project shall be subject to the Town's Mountain and Hillside Development Standards per Chapter 12 of the Town's Zoning Ordinance (Level II, >40% slope). Public water is not available to the site. The applicant proposes connection to an existing private sewer line and information was included in the packet.

ZV-20160012(A)

Mr. Huskey is requesting that the Board to consider a variance of four feet from the Town's building height requirement of 35 feet elevation at the roof peak. Mr. Huskey reports that site constraints and topography are contributing factors to this request.

Mr. Burton noted the illustration included in the packet included his comments in red. He explained how height is measured as it pertains to this structure. He expressed that Mr. Huskey is

well within his means to ask for a variance in regards to the building height measurement. Mr. Huskey is asking for a variance of the height requirement to bring the finished height to 39' and a final survey would be required. The variance would keep Mr. Huskey in scope with the building parameters.

Mr. Huskey noted he is the owner and the builder. He mentioned it is a tight lot with a steep slope making it limited to where the house can sit. He stated he would not be changing the slope of the lot. He explained he made adjustments to the interior walls and the roof pitch, took off two feet off the depth, and reduced the rear porch. He stated he has made adjustments and is still very close to the 35' line without taking into consideration the porch. He noted his porch would be wood construction. Without the porch he barely falls within the 35' line. He stated he could take the roof off the deck and it would meet regulations but it would take away from the usefulness and functionality of the home. He noted that adding the roof to the porch does not make the porch any taller.

Mr. Erickson asked if the roof would be reduced any further. Mr. Huskey stated that he could reduce it further, but he would personally not want to on a finished space for fear of leaks. He pointed out that there would be two main floors.

There was no further discussion, therefore the following motions were made:

With regard to Case Number ZV-2016012(A) [building height], Mr. Erickson 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.

Mr. Hoek seconded the motion. Mr. Butts, Mr. Erickson, Mr. Hoek, Ms. Weaver, and Chairman Kilby voted in favor.

The Board felt that a hardship was demonstrated due to topography and the application was complete.

ZV-2016012(B)

Mr. Huskey is requesting that the Board to consider a Variance of 26.5 feet from the Town's front yard setback requirement of 35 feet from the edge of the road right-of-way. Mr. Huskey reports that site constraints and topography are contributing factors to this request.

Mr. Burton mentioned the illustration included in the packet shows the encroachment into the setbacks in orange. He explained that a section in the Mountain & Hillside Development Regulations in Section 92.207(d) states:

"Often in steep-slope settings, the preferred placement of a structure is immediately adjacent to the roadway, thereby minimizing the amount of disturbance of the hillside. The community

development director shall have authority to reduce the minimum front yard requirements in such circumstances.”

Mr. Burton explained Mr. Huskey met with Shannon Baldwin, Community Development Director, and Sheila Spicer, former Zoning Administrator, in the past and this was brought up. He stated that Mr. Baldwin felt it best to bring this before the Board, although he could have made the decision on his own. He also felt in order to keep the title clean, the Board should make the decision.

There was no further discussion, therefore the following motion was made:

With regard to Case Number ZV-2016012(B) [front yard setback], Mr. Hoek 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.

Mr. Butts seconded the motion. Mr. Butts, Mr. Erickson, Mr. Hoek, Ms. Weaver, and Chairman Kilby voted in favor.

The Board felt that a hardship was demonstrated due to the topography and the application was complete.

NEW BUSINESS

(A) Election of Officers

Mr. Butts nominated John Kilby to continue serving as Chairman and Ms. Weaver seconded. All voted in favor. Mr. Erickson nominated Mr. Butts to continue serving as Vice-Chairman and Mr. Hoek seconded. All voted in favor.

(B) Liaison Report

Commissioner Webber noted two items. The end of year report is due for the Town Council and bylaws must be reviewed as well for the year.

OLD BUSINESS

Chairman Kilby asked that Mr. Burton meet with Mr. Baldwin and create a checklist for applicants before finalizing applications. The checklist should include that the number of bedrooms on the application coincide with the number of bedrooms listed on the property card. Mr. Burton stated he could require that a CO from a building inspector be provided. Commissioner Webber suggested that proof of ownership be required as well in case the property card lists a previous owner.

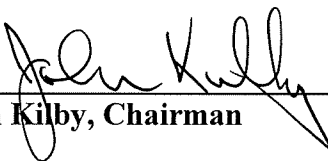
Mr. Burton asked if the Board would like for him to continue to provide directions to the properties as part of the packets. Chairman Kilby asked that the directions still be included in the packet.

ADJOURNMENT

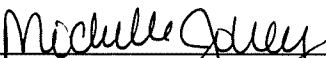
Chairman Kilby made a motion seconded by Mr. Hoek to adjourn the meeting. All voted in favor.

The meeting was adjourned at 3:30 p.m. The next regular meeting is scheduled for Tuesday, February 28, 2017 at 1:00 p.m.

ATTEST:



John Kilby, Chairman



Michelle Jolley, Recording Secretary