



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

**Tuesday, March 28, 2017
1:00 p.m.**

Chairman Kilby called the meeting to order at 1:02 p.m.

ROLL CALL

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

Absent: David Butts
Rick Stockdale, Alternate

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

APPROVAL OF THE AGENDA

Chairman Kilby proposed adding item 6(a) under New Business to update the Board on the end-of-year report for 2016 that was presented to Town Council at their last meeting.

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

APPROVAL OF THE MINUTES

Mr. Owensby made a motion seconded by Mr. Lusk to approve the minutes of the February 28, 2017 meeting as presented.

HEARINGS

(A) VROP-2017002, a vacation rental operating permit request from Edward Laughlin, owner, to operate a residential vacation rental at 461 Fairway Drive, Lake Lure, North Carolina (Tax PIN 1608744)

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

Mr. Burton presented the case. He stated that Edward Reed Laughlin, represented by Tracy M^cGlohon, agent, is requesting a vacation rental operating permit (VROP) to operate a 4-bedroom residential vacation rental (RVR) at 461 Fairway Drive, Lake Lure, North Carolina. The property is located in the R-3 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 March 15, 2017. 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. McGlohon, Buffalo Junction Properties, stated the home is well taken care of and felt it would be an asset to the community.

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

With regard to application number VROP-2017002 for a vacation rental operating permit to operate a residential vacation rental in the R-3 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. Erickson seconded the motion. Mr. Erickson, Mr. Hoek, Mr. Lusk, Mr. Owensby, and Chairman Kilby voted in favor.

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

(B) VROP-2017003, a vacation rental operating permit request from Ed Younger, owner, to operate a residential vacation rental at 202 Sunset Lane, Lake Lure, North Carolina (Tax PIN 1606137)

Mr. Burton, Mr. Younger, and Mr. John Iyooob were sworn in. Mr. Erickson noted he met Mr. Younger on site and spoke with him briefly 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. Mr. Younger did not wish to challenge the Board for cause.

Mr. Burton presented the case. He pointed out that Mr. Iyooob is in the process of buying the property from Mr. Younger; however, Mr. Younger is the current property owner and therefore must be the applicant for the request. He stated that Ed Younger is requesting a vacation rental operating permit (VROP) to operate a 3-bedroom residential vacation rental (RVR) at 202 Sunset Lane, 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 March 15, 2017. 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 disclosed he received an email from Mr. Cox, adjacent property owner, who voiced his opinion that he was unhappy with having a neighboring property as a vacation rental. However, he also noted in the email that his property is currently for sale. Mr. Burton stated he invited Mr. Cox to be present at the meeting, whereby, as a neighbor and party of standing, his testimony would be more effective and not considered hearsay such as an email with an unverifiable origin.

Mr. Hoek pointed out that the application from Mr. Younger lists the proposed occupancy as 12. Mr. Iyooob explained this was a typo and it should have been a proposed occupancy of 10. Mr. Iyooob stated he is currently only asking for three bedrooms, although the property card shows the home has five bedrooms. He conveyed that he would like to amend the original application to a four bedroom vacation rental, with a proposed occupancy of 12. The Board unanimously agreed to amend the original application to reflect a four bedroom vacation rental. Mr. Iyooob mentioned that extensive landscaping would be done outside.

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

With regard to application number VROP-2017003 for a vacation rental operating permit to operate a residential vacation rental in the R-1 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. Erickson, Mr. Hoek, Mr. Lusk, Mr. Owensby, and Chairman Kilby voted in favor

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

NEW BUSINESS

(A) Liaison Report

Commissioner Webber mentioned that training for the BOA members was brought up at the last Town Council meeting in regards to Chairman Kilby's end-of-year report.

(B) 2016 End of Year Report

Chairman Kilby asked what members had not had any basic training. It was noted that Mr. Lusk, Ms. Weaver, and Mr. Stockdale had not yet had any training. Mr. Burton conveyed that he would provide members with the *Introduction to Zoning* books that do not yet have them. He stated he would check with the NC School of Government to see what training is currently available.

Chairman Kilby provided a review of the 2016 end-of-year report. He mentioned that Mr. Burton and Shannon Baldwin, Community Development Director, were asked to estimate the cost for each vacation rental operating permit application process. It was noted that roughly, the cost is around \$450. He did not feel the application fees successfully covered the costs of the permitting process and also noted that the vacation rental process is very time consuming for town staff. He felt that Town Council could come up with a different type of permitting process for vacation rentals.

Chairman Kilby explained that the state passed legislation which could possibly prohibit the Town from requiring permits for short-term vacation rentals. He noted the Town Attorney is currently investigating the new ordinance. Mr. Morgan stated that no indication was found that the General Assembly intended to stop vacation rental permitting processes for short-term vacation rentals. However, he conveyed that he is working with the NC School of Government to try and come to some sort of conclusion. He noted that the School of Government viewed the ordinance as unclear and felt it was not intended for short-term vacation rentals.

Chairman Kilby felt that vacation rentals could be a staff process. He conveyed that if a case was denied or if staff did not feel comfortable about a particular case, it could then be deferred to the BOA. He felt this would be a more streamlined process.

Commissioner Webber stated that if the costs are approximately \$450 for each VROP application and process, and the application fee is only \$255, the Board should consider increasing the fees. He pointed out that if a staff permitting process is utilized instead, it would also change the Conditional Use permitting process as well. He felt the intent of a Board procedure was to control noise, parking, and traffic control. If this could be maintained with a staff process and BOA, town staff, and ZPB agreed, he did not see a problem with it. Mr. Burton mentioned that he could measure parking spaces; however, after hours, parking is a police matter. He noted that the Town has a noise ordinance in place, which is enforced by the Police Department. He stated he could verify that trash receptacles are available at the properties as well. Mr. Burton noted that an inspection element could be applied to the staff process that would allow him to perform on-site inspections to ensure that the properties are relatively safe. Commissioner Webber and Chairman Kilby pointed out that the newly passed state legislation prohibits inspections inside vacation rental homes but felt the vacation rental permitting process should be revisited.

OLD BUSINESS

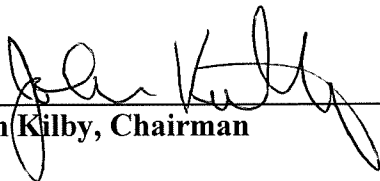
None

ADJOURNMENT

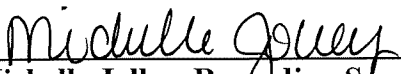
Mr. Owensby made a motion seconded by Mr. Erickson to adjourn the meeting. All voted in favor.

The meeting was adjourned at 3:30 p.m. The next regular meeting is scheduled for Tuesday, April 25, 2017 at 1:00 p.m.

ATTEST:



John Kilby, Chairman



Michelle Jolley, Recording Secretary

