



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

**Thursday, September 28, 2017
1:00 p.m.**

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

ROLL CALL

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

Absent: John Kilby, Chair
Rick Stockdale, Alternate
Michelle Jolley, Recording Secretary

Also Present: Brad Burton, Code Enforcement Coordinator

APPROVAL OF THE AGENDA

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

APPROVAL OF THE MINUTES

Mr. Owensby made a motion seconded by Mr. Hoek to approve the minutes of the August 22, 2017 regular meeting as presented. All voted in favor.

HEARINGS

- (A) VROP-2017015, a vacation rental operating permit request from Wm. and Lydia Keller, Judy Owensby agent; to operate a residential vacation rental at 203 Fisher Court, Lake Lure, North Carolina (Tax PIN 1634498)

Mr. Burton and Ms. Owensby were sworn in. There were no ex-parte communications or conflicts of interest to disclose. Mr. Owensby asked to recuse himself from the hearing.

Mr. Hoek made a motion to recuse Mr. Owensby from the hearing. Ms. Weaver seconded. All voted in favor.

Mr. Lusk was seated in Mr. Owensby's place. The Board felt they could reach a fair and unbiased decision. Ms. Owensby did not wish to challenge the Board for cause.

Mr. Burton presented the case. He stated that Wm. and Lydia Keller, property owners, through Judy Owensby, agent, are requesting a vacation rental operating permit (VROP) to operate a 1-bedroom residential vacation rental (RVR) at 203 Fisher Court, 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.

This request was sent to the Development Review Committee and the only comment received was from Mr. Baldwin who stated he had no concerns. A discussion was held with Linda Ward, Town of Lake Lure Customer Service Supervisor, regarding a water line but this was not pertinent to this Board. He stated the agent authorization letter was provided to him and placed in the file. He mentioned he spoke with Rutherford County TDA and they confirmed this property has been listed to their list of rentals. Ms. Owensby noted the garbage containers are at the top of the road. Vice-Chair Butts accepted the letter from the TDA as 'Staff Exhibit 1' and the agent authorization letter as 'Staff Exhibit 2'.

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

With regard to application number VROP-2017015 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. Weaver seconded the motion. Mr. Erickson, Mr. Hoek, Mr. Lusk, Ms. Weaver, and Vice-Chair Butts voted in favor.

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

- (B) VROP-2017016, a vacation rental operating permit request from Greg and Kathy Jack, Valerie Wrobel agent; to operate a residential vacation rental at 358 Whitney Blvd., Lake Lure, North Carolina (Tax PIN 1636923)**

Mr. Owensby was seated in the place of Mr. Lusk.

Mr. Burton and Valerie Wrobel, agent, 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 Greg and Kathy Jack, property owners, through Valerie Wrobel, agent, are requesting a VROP to operate a 4-bedroom RVR at 358 Whitney Boulevard, 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.

This request was sent to the Development Review Committee for review and no comments were received. Mr. Burton mentioned he did not pull the property card for this property. Ms. Weaver stated the tax records show the home as having four bedrooms. Ms. Wrobel stated that was correct and added that she has not pulled a septic permit. She noted the property has ample parking.

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

With regard to application number VROP-2017016 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. Mr. Owensby seconded the motion. Mr. Erickson, Mr. Hoek, Mr. Owensby, Ms. Weaver, and Vice-Chair Butts voted in favor.

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

- (C) VROP-2017017, a vacation rental operating permit request from Leslie S. Williams, to operate a residential vacation rental at 2355 Buffalo Shoals Rd., Lake Lure, North Carolina (Tax PIN 230663)**

Mr. Burton, and Ms. Williams were sworn in. Mr. Erickson disclosed that he met Mr. and Ms. Williams while 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 did not wish to challenge the Board for cause.

Mr. Burton presented the case. He stated that Leslie Williams, property owner, is requesting a VROP to operate a 3-bedroom RVR at 2355 Buffalo Shoals Road, 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.

Mr. Burton stated this request was sent to the Development Review Committee for review and no comments were received. Mr. Erickson asked if the County records had been updated to a three bedroom home. Ms. Williams stated she was unsure if the records had been updated but stated the request for an update to the property card had been submitted. She stated the third bedroom was originally a dining room that she enclosed and converted to a bedroom. She mentioned she plans to have containment built for the trash cans at the top of the road.

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

With regard to application number VROP-2017017 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. Weaver seconded the motion. Mr. Erickson, Mr. Hoek, Mr. Owensby, Ms. Weaver, and Vice-Chair Butts voted in favor.

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

(D) VROP-2017018, a vacation rental operating permit request from Amy Christopoulos, Bobbi Elliot agent; to operate a residential vacation rental at 167 Pearson Circle, Lake Lure, North Carolina (Tax PIN 230075)

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

Mr. Burton presented the case. He stated that Amy Christopoulos, property owner, is requesting a VROP to operate a 1-bedroom RVR at 167 Pearson Circle North, Lake Lure, North Carolina. The property is located in the R-2 Residential zoning district, and there is an existing single-family dwelling on the lot.

Mr. Burton stated this request was sent to the Development Review Committee and no comments were received. Ms. Elliott stated the request is for a small cottage next to a larger single family home. She explained that the property owners plan to request a vacation rental for the larger home when the renovations have been completed. The renovations include room for adequate parking. She stated there is one garbage container located at the back of the cottage. She noted the garage would not be part of the rental and would remain locked. Vice-Chair Butts asked that the two side-by-side homes be posted with address signs for EMS. Ms. Elliott stated they have requested two separate addresses with the County; 167 and 169 Pearson Circle. [Actual address as assigned is 197].

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

With regard to application number VROP-2017018 for a vacation rental operating permit to operate a residential vacation rental in the R-2 zoning district, Mr. Owensby 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. Hoek seconded the motion. Mr. Erickson, Mr. Hoek, Mr. Lusk, Mr. Owensby, and Vice-Chair Butts voted in favor.

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

(E) VROP-2017019, a vacation rental operating permit request from James and Melinda Hickerson, Kathleen Hoek agent; to operate a residential vacation rental at 114 Jack London Court, Lake Lure, North Carolina (Tax PIN 230289)

Mr. Burton, Sam Karr, adjoining property owner at 143 Jack London Court, and Ms. Hoek were sworn in. Mr. Hoek asked to recuse himself from the hearing.

Mr. Owensby made a motion to recuse Mr. Hoek from the hearing. Ms. Weaver seconded and all voted in favor.

Mr. Lusk was seated in place of Mr. Hoek. There were no ex-parte communications or conflicts of interest to disclose. The Board felt they could reach a fair and unbiased decision. Ms. Hoek and Mr. Karr did not wish to challenge the Board for cause.

Mr. Burton presented the case. He stated that James and Melinda Hickerson, property owners, through Kathleen Hoek, agent, is requesting a VROP to operate a 4-bedroom RVR at 114 Jack London Court, 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.

Mr. Burton stated this request was sent to the Development Review Committee for review and no comments were received. He pointed out he provided the Board with a handout of a second party email from Carol Ann Spear. He also disclosed he had a conversation with Sam Karr regarding a concern about parking on site. The Board accepted the email as 'Staff Exhibit 1.'

Vice-Chair Butts asked Mr. Karr if he would like to request standing in the case. Mr. Karr, 143 Jack London Court, requested to have standing. He stated he had concerns with parking as Jack London Court is a very narrow road with no shoulder and he drives right past the house to get to the end of the cul-de-sac.

Mr. Owensby made a motion to allow Mr. Karr to have standing. Mr. Erickson seconded and all voted in favor.

Ms. Hoek stated that parking would be off-street on the shoulder of the road. She noted there is additional gravel on the shoulder of the road which would support parking for the rental. She mentioned there would be no more than six vehicles allowed.

Mr. Karr mentioned that gravel was placed on the shoulder of the road but was not done in conjunction with town guidelines. The gravel was placed in the ditch, no pipe was put in, and when it rains gravel washes into the culvert. He noted the town right-of-way is 20' from the center of the road. He stated that at times the street does get blocked and wanted the Board to take that into consideration. He mentioned that there are multiple places for a driveway on the one acre property the rental is on. He mentioned that at Christmas there was about 13 vehicles there. Vice-Chair Butts explained the ordinance states that parking must be within the boundaries of the property. Mr. Burton asked if Mr. Karr felt that the gravel areas being utilized for parking was within the town right-of-way area. Mr. Karr stated yes, there was not enough adequate off-street parking to accommodate this rental. Vice-Chair Butts mentioned he had concerns with parking. Mr. Erickson stated he had trouble parking with his truck while on site. The only legitimate parking he saw was in front of the garage.

Mr. Owensby asked Ms. Hoek if she felt the property owners would object to building a driveway onto their property for parking and only using one off-street parking space. Ms. Hoek stated she would ask the property owners. Mr. Owensby explained he would be in favor of approving the request with a condition that off-street parking be provided somewhere on the

property and Ms. Weaver agreed. The Board held discussion regarding parking. Vice-Chair Butts asked Ms. Hoek if she would be willing to amend the original application to reflect only one parking space in front of the garage until the condition applied was met which requires additional parking somewhere else on the property. However, if a parking violation is found, the permit could be subject to revocation. Mr. Burton explained this is specific to the vacation rental only. Ms. Hoek agreed with the condition and also with amending the original application. Mr. Burton asked that the condition include language that states 'pursuant to approval by the Zoning Administrator and the Environmental Management Officer'. Ms. Hoek asked to amend her original application.

Mr. Owensby made a motion to amend the original application's parking plan per Ms. Hoek's request. Mr. Lusk seconded and all voted in favor.

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

With regard to application number VROP-2017019 for a vacation rental operating permit to operate a residential vacation rental in the R-1 residential zoning district, Mr. Owensby 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, subject to the following condition:

Prior to use as a residential vacation rental with more than one vehicle parking, a parking plan must be submitted to the Zoning Administrator showing adequate off-street parking for additional vehicles. The applicant is responsible for any additional permits for such.

Ms. Weaver seconded the motion with the condition. Mr. Erickson, Mr. Lusk, Mr. Owensby, Ms. Weaver, and Vice-Chair Butts voted in favor.

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

(F) VROP-2017020, a vacation rental operating permit request from K. Charles and Nina Nash, to operate a residential vacation rental at 145 White Pine Drive, Lake Lure, North Carolina (Tax PIN 232500)

Mr. Hoek was seated in place of Mr. Lusk.

Mr. Burton and Vic Knight, agent for the applicant, 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. Knight did not wish to challenge the Board for cause.

Mr. Burton presented the case. He stated that K. Charles and Nina Nash, property owners, through their agent, Vic Knight, are requesting a VROP to operate a 3-bedroom RVR at 145 White Pine 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. Mr. Burton provided the Board with an agent authorization letter, which was accepted as 'Staff Exhibit 1.'

Mr. Burton stated this request was sent to the Development Review Committee for review and no comments were received. He noted he received no correspondence from anyone regarding this request. He mentioned that an area of the designated parking area is failing. There is an active permit on file with the Town and reconstruction plans were engineered by Kim Warner. He pointed out work for that is now underway and Mr. Knight could testify to that matter. He stated the lot is extremely steep with a failing old railroad tie parking area and Mr. Warner has submitted an engineered signed and sealed plan to repair the area. Once this project is completed, it should be an adequate parking area for the rental. He noted he could get the GIS printout during a break since it was not included in the packet. The Board recessed for five minutes.

After a brief recess, Mr. Burton provided the GIS printout from Rutherford County to the Board and it was accepted as 'Staff Exhibit 2.' The handout showed the home as having one bedroom.

Mr. Knight stated he believed there are two bedrooms and the downstairs is a large open space and laundry room. He mentioned that the Nash's have owned and operated several vacation rental homes and are accustomed to vacation rentals. He noted the house is located inside Rumbling Bald Resort. He explained that construction is underway for the parking area and an inspection is scheduled for tomorrow morning. He mentioned they are anticipating the parking area will be completed in two weeks. The new parking space plan is for three parking spaces. Storm drainage will also be improved. He stated they would be adding animal resistant trash enclosures. He testified that there are two bedrooms on the main floor and a large open space that could potentially be used as a bedroom on the lower floor.

Mr. Owensby asked Mr. Knight if he would be willing to amend the original application to a two-bedroom rental instead of three bedrooms. Mr. Knight stated he felt the intention of the property owners was to use the large space on the lower level as the third bedroom. Mr. Owensby explained that the County only has the home listed as having two bedrooms and would not grant the permit as a three-bedroom rental. Mr. Knight asked if there was a way to verify a septic permit with the County. Vice-Chair Butts stated yes a septic permit could be obtained from the County. Mr. Knight testified that there are windows on the lower level as well as a 36" exterior door and a deck that is a minimum of 4' wide that wraps around to the parking area. The lower level has a closet and a bathroom. He testified that it does meet bedroom requirements. Council Liaison Webber noted that the building inspection department with the County makes those determinations, not this Board. He explained that the Board could approve as a two-

bedroom rental with a condition that once proof of three-bedrooms is provided, the home could be rented as a three-bedroom rental.

Ms. Weaver moved to amend the original application for a vacation rental request for a two-bedroom home, with a maximum occupancy of eight. Mr. Hoek seconded and all voted in favor.

Mr. Erickson mentioned that several pickets are coming apart from the railing on the lower deck in the back of the house. Mr. Knight stated this would be corrected before the home is rented. Mr. Erickson also noted the rear porch on the left and the stairs are sagging. Mr. Knight explained that Mr. Warner has made recommendations to redo the footings on the columns on that side of the deck and stated the stairs would be fixed as well.

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

With regard to application number VROP-2017020 for a vacation rental operating permit to operate a residential vacation rental in the R-3 residential 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, and subject to the following condition:

The vacation rental may only be rented as a two bedroom, maximum occupancy of eight, and can be increased to a three bedroom rental with a maximum occupancy of ten once adequate proof of additional bedrooms is submitted to the Zoning Administrator.

Mr. Erickson seconded the motion. Mr. Erickson, Mr. Hoek, Mr. Owensby, Ms. Weaver and Vice-Chair Butts voted in favor.

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

NEW BUSINESS

None

OLD BUSINESS

None

ADJOURNMENT

Mr. Hoek made a motion seconded by Mr. Owensby to adjourn the meeting. All voted in favor. The meeting was adjourned at 2:54 p.m. The next regular meeting is scheduled for Tuesday, October 24, 2017 at 1:00 p.m.

ATTEST:



David Butts, Vice-Chairman

Michelle Jolley, Recording Secretary