



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

**Tuesday, November 17, 2020
1:00 p.m.**

The Chairman called the meeting to order at 1:04pm

ROLL CALL

Present:

**Melvin Owensby, Chairman
Wyn Hardy
Neil Gurney
Kimberly Sayles- Alternate
Scott Doster- Alternate
Greg Gardner- Alternate**

Absent:

**Al Joyner
Bill Bay, Vice Chairman**

**Also Present: Town Attorney, William Morgan
Patrick Bryant, Council Liaison
Mitchell Anderson, Assistant Community Development Director
Garrett Murphy, Development and Environment Review Specialist
Sha'Linda Pruitt, Recording Secretary**

APPROVAL OF THE AGENDA

Chairman Owensby asked for a motion to approve the agenda. Mr. Gardner made a motion to approve the agenda and Mr. Gurney made the second. All voted in favor.

APPROVAL OF THE MINUTES

Chairman Owensby asked for a motion to accept the minutes as presented. Mr. Doster made the motion to approve and Mr. Hardy made the second. All voted in favor.

NEW BUSINESS

(a) Hearings

1. CU-2020002, a conditional use permit request for the construction of a garage apartment adjacent to a single family dwelling within the R-1 Residential Zoning District by James Sciandra at 141 Gentlewinds Lane, Lake Lure, North Carolina (Parcel Number 219240).

Additional Information for the Board:

- 1) Town staff has reviewed the proposed structures and find that all planned structural placement and dimensions are in compliance with the Town's Zoning Regulations.
- 2) Mr. Sciandra has provided a complete application, to-scale plans, and proof of available sewer and water for the proposed project site. These documents are included in the meeting packet.
- 3) Pursuant to §92.046(B(2)), a conditional use request requires a review by the Development Review Committee, and the Zoning and Planning Board for comments. Comments received are included in the meeting packet.

All parties are sworn in. Each persons wishing to testify introduced his or herself and identified their address which gives them standing in this case. The board agrees that those who have standing shall be heard

No board member identified having ex-parte concerns. The applicant did not wish to challenge any board member. The applicant was allowed to proceed with the presentation where he went over his provided sketch plan and other documents that were included in his application. Mr. Sciandra expressed how detrimental being able to build this new structure is to the wellbeing and comfort level of his large sized family.

Staff presentation was administered by Mr. Anderson.

Mr. Morgan stated that a new application would need to be submitted by Mr. Sciandra which would go back through the appropriate board for approval. Mr. Morgan stated that it was not necessary to hear any testimony from neighbors seeing how Mr. Sciandra will be withdrawing his application and submitting a new application towards the two structures.

Mr. Owensby turned it over to the board.

Since it will be a new application the board should base the decision that it will ultimately make based on the testimony for the new hearing and not based on the testimony given today.

Mr. Gurney suggest that the board should wait to hear testimony and if Mr. Sciandra can decide to speak to his neighbors prior to the next hearing should he decide. Mr. Sciandra commented that his is open to communications with his neighbors towards hearing their concerns.

Mr. Morgan recommended that the board ask for a motion to close the testimony part of the hearing for today for this application and a new opportunity for testimony will be granted for those wishing to participate at the new hearing. Chairman Owensby asked for the motion. Mr. Gurney gave the motion and Mr. Gardner gave the second.

2. ZV-2020003, a variance request for the construction of two additions to the single family dwelling within the R-1 Residential Zoning District by William and Jill Jones at 197 Sunset Cove Road, Lake Lure, North Carolina (Parcel Number 221233).

No board member identified having ex-parte concerns. The applicant did not wish to challenge any board member. The applicant was allowed to proceed with the presentation

All parties have been sworn in. No board member identified having ex-parte concerns. The applicant did not wish to challenge any board member. The applicant was allowed to proceed with the presentation. Staff presentation was administered by Mr. Murphy.

Mr. Doster inquired if this application is for the front setback and if yes why do we keep talking about the lake front?

Mr. Wiegman provided clarity that the application is to address the front setback only.

The board asked to review the site plan for the property.

Is the trout buffer going to impact the variance?

Mr. Morgan presented a new statutory amendment about conducting quasi-judicial judgement by a board cannot be voted on until after 24 hours have passed in order to render due process for remote hearings. This makes sure to provide the opportunity for anyone else who needs to speak towards the case to submit their grievances. These new laws only apply during a state of emergency. This also applies to changing the text of an ordinance.

The applicant ask that a decision be made as soon as possible and not to have to wait until the next meeting for a verdict.

There must be a board quorum present in order to render a decision after the 24 hour wait. All of the board members agreed to return back for the decision to be delivered.

Chairman Owensby asked for a motion to pause and reconvene on the following day at 2:30pm Mr. Gardner gave a motion and Mr. Gurney gave the second. The meeting paused at 3:15pmⁿ

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

**Tuesday, November 18, 2020
2:30 p.m.**

The meeting was called to order at 2:31pm.

Present:

**Melvin Owensby, Chairman
Wyn Hardy
Neil Gurney
Kimberly Sayles- Alternate
Scott Doster- Alternate
Greg Gardner- Alternate**

Absent:

**Al Joyner
Bill Bay, Vice Chairman**

**STATEMENT OF THE
CASE**

This matter came before the Lake Lure Board of Adjustment on November 17th and 18th, 2020 on the application of William and Jill Jones. Mr. and Mrs. Jones requested an 8.81 foot setback variance from an averaged 33.81 foot front-yard setback required for the R-1 zoning district resulting in a 25.0 foot front-yard setback for the property located at 197 Sunset Cove Road in Lake Lure, N.C. The property tax pin is 221233.

A quasi-judicial hearing was held on the aforementioned dates. Mr. Wiegman, agent for property owners, and property owners, William Jones and Jill Jones, were present. The following persons were sworn as witnesses and presented testimony in this matter:

**FINDINGS OF
FACT**

Based on the above testimony, the Board makes the following uncontested findings of fact: ~

- (1) William and Jill Jones are the owner of the property identified by tax pin 221233 and located at 197 Sunset Cove Road in Lake Lure, N.C, which is zoned R-1.
- (2) The pre-existing non-conforming structure located at 197 Sunset Cove Road was built prior to the zoning regulations being adopted.
- (3) The property is encumbered by a bend in Sunset Cove Road, causing a hardship on the property owner.
- (4) A majority of structures on neighboring properties are also within close proximity to Sunset Cove Road.
- (5) William Jones and Jill Jones, seek an 8.81 foot setback variance from an averaged 33.81 foot front-yard setback resulting in a 25.0 foot front-yard setback.

CONCLUSIONS OF LAW

- (A) Due to the encumbering bent of Sunset Cove Road and the age of the primary structure, a literal interpretation wouldn't allow the applicant to improve livability of the property. Unnecessary hardship would result from the strict application of §92.040 of the Zoning Regulations as it pertains to the encroachment of a structure into the front yard setback.
- (B) The hardships result from the reduced buildable area caused by the bend of Sunset Cove Road, are considered an extraordinary and exceptional condition pertaining to the particular piece of property.
- (C) The applicant bought the house as it was. Therefore, the hardship did not result from the actions of the applicant.
- (D) The request is consistent with the spirit, purpose, and intent of the regulations; will secure public safety and welfare; and will preserve substantial justice.

The board deliberated. Chairman Owensby asked for a motion for the conclusions of law items A, B, C,D, listed. Mr. Gardner gave the motion and Mr. Doster gave the second. All voted in favor.

DECISION

Accordingly, the Board of Adjustment hereby authorizes the issuance of the zoning variance subject to the following conditions to William Jones and Jill Jones for their property at 197 Sunset Cove Rd. in Lake Lure, N.C. pursuant to § 92.086 of the Zoning Regulations.

CONDITIONS

As the residence is currently utilizing a septic system and the proposed expansion will required additional septic capacity, the Board of Adjustment imposes a condition that the applicant provides proof of sewer capacity to the Zoning Administrator for review prior to commencing work.

Chairman Owensby asked for a motion for the conditions. Mr. Hardy gave the motion and Mr. Doster gave the second. All voted in favor to grant the variance upon compliance of the conditions set forth.

OLD BUSINESS

None

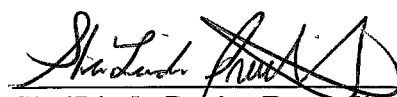
ADJOURNMENT

The Chairman asked for a motion to adjourn. Mr. Gurney gave the motion to adjourn and Mr. Gardner gave the second. All voted in favor. Meeting adjourned at 2:48 pm

ATTEST:



Melvin Owensby, Chairman



Sha'Linda Pruitt, Recording Secretary