

**Minutes of the Reconvened Meeting of the
Board of Adjustment**

**Tuesday, May 25, 2021
1:00 p.m.**

Reconvened Meeting held digitally via Zoom.

The Chairman opened the meeting at 1:07

ROLL CALL

Present **Melvin Owensby, Chairman**
Via Zoom: **Neil Gurney, Vice Chairman**
 Greg Gardner, Board Member
 Wyn Hardy, Board Member
 Al Joyner, Board Member
 Kimberly Sayles, Alternate
 Betty Ross, Alternate
 Patrick Bryant, Council Liaison

Absent: **Scott Doster, Alternate**

Also Present: **William Morgan, Town Attorney**
 Mitchell Anderson, Assistant Community Development Director
 Mike Williams, Development and Environment Review Specialist
 Sha'Linda Pruitt, Recording Secretary

APPROVAL OF THE AGENDA

All voted in favor.

APPROVAL OF THE MINUTES

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

NEW BUSINESS

- A. ZA-2021001, a Petition for Appeal of Administrative Determination from Larry Bentley regarding new delineated parking at 0 Memorial Hwy. Lake Lure, NC, parcel number 1653330.

The Chairman asked Mr. Bentley if he gave consent for a virtual meeting which he replied "yes." The chairman requested that all parties who will be testifying be sworn in. Charles Smith, Robert Burton, and Larry Bentley were all sworn in and Mr. Anderson on behalf of the town.

No board member has any conflicts of interest or ex-parte communication with the applicants. The applicant did not wish to challenge any board member.

Staff was allowed to proceed with the presentation from the meeting packet.

Larry Bentley has filed a Petition for Appeal of an Administrative Determination regarding an off-site parking area with non-compliant parking space delineation that was inspected and discussed on 3/4/2021.

The non-compliant parking layout was mistakenly approved on 2/13/20 with plans submitted with permit application LSP_2019025, LSP_2019024, and LDP_2019015.

On 3/2/2021, Town staff observed new parking space delineation, created at the parking area located atop the project permitted at 0 Memorial Hwy, parcel number 1653330. The new lines extended at a 45 degree angle from atop the retaining wall towards Memorial Hwy's west bound traffic lane. Such parking space layout would result in vehicles having to back into Memorial Hwy when exiting the parking area.

Staff notified the applicant, project engineer, and HOA member Bob Burton of the non-complaint parking space delineation on the same day.

A meeting with Kim Warner, Vic Knight, Bob Burton, Mitchell Anderson, and Mike Williams occurred during the inspection on 3/4/2021.

Staff recommend the parking spaced be altered to create a parallel parking environment to ensure vehicles did not have to back into Memorial Hwy or lines can be removed completely as the Town's regulations do not required delineated parking for that use.

An application for a Petition for Appeal and a copy of §92.103 of the Town's Zoning Regulations were provided to the HOA member, Bob Burton during the meeting on 3/4/2021

On 3/4/2021, the parking space delineation was removed and a final inspection report and CO_2021011 were issued and emailed to all parties.

On 4/22/21, Staff received an email from Larry Bentley, HOA member, requesting directions on the submission of the Petition for Appeal. A response email was sent on 4/26/2021.

Mr. Larry Bentley filed a petition with Michelle Jolley.

Included in your packet is a copy of the appellants' application and exhibits. Per §92.087(E) of the Lake Lure Zoning Regulations, also included in your packet are the documents constituting the record upon which the action appealed from is taken. This consists of an email sent by Mitchell Anderson to Bob Burton, Bill Tomson, Vic Knight, Kim Warner, Jason Butler, and Mike Williams dated March 2, 2021.

Staff pointed out that the petition was filed after the 30 days deadline.

The floor was opened for applicant testimony.

Mr. Bentley began stating that this project has been ongoing for a few years. The engineer Kim Warner worked with the contractor to make sure that everything was secure. He engineered that the parking slant would be at a 45 degree angle on those parking spaces coming from sunset reserve. It was designed so that when people pull in to park at that angle it would leave 3ft back to the road providing adequate room to enter and exit. The design is so that when a person pulls out they are automatically facing towards the town to avoid any traffic accidents. Our decisions we all based on putting safety as the first priority. There are other homes and business that are facing the same dilemma as we are with having to back out into traffic.

Mr. Smith stated that he is the president of the Home Owners Association. We came up with the idea to take this on in hope that it would aid in the beautification of the town as well. I've been observing that this is an issue that affects many businesses in town. For example when you leave the beach you have to back out into one of the busiest curves on Memorial Hwy. The new Japanese restaurant faces the same parking problems. Most of the available parking on the main strip requires the driver to back out of the space onto Memorial Hwy. The way that our spaces are designed is when you pull out you are automatically in position to go with the flow of traffic. We were after the CO because it was left in pending. To my knowledge we didn't know that we had a 30 day time frame to respond. As soon as we got our CO we came together to contact the town for an appeal.

Mr. Gardner asked Mr. Smith about the photos that were provided featuring a sign that may impede a drivers view.

Mr. Smith replied that the sign was temporary that lot has been sold.

Mr. Gardner provided additional comments in regards to measuring the distance of a drivers vehicle bumper and the distance to the road.

Mr. Hardy and Mr. Gurney both provided testimony having parked their trucks at the 45 degree angle blacked out lines the front wheels were abutting the concrete and the bed of their trucks were hanging towards the road.

Mr. Joyner asked what are the lengths of the parking spaces straight on compared to the space at an angle?

Mr. Smith stated that he did not have the exact measurements but that Mr. Burton does.

Mr. Joyner asked for clarity as to whether the appeal so solely for the 45 degree lines to be in placed which was confirmed by other board members.

Mr. Burton began his testimony there are 6 spaces available the last spot fits 18ft. the further parking spot is the smallest spot, the last 3 go from 27ft and the last spots go to 22ft There could be signage added to indicate the designated spots. Ideally the first spots fit only compact to full size cars. I was the incoming President of the Association. This project was 126k. Each member had to pay 5800 out of pocket to cover the project. The project was permitted in 2013 by the city. The staff that originally worked on this project in 2013 were no longer with the town so we inherited the problem as such and the current staff wouldn't approve the structure which we found unfair. Throughout the entire project we always had parking it was only modified for safety reasons. The original spaces were at a 60 degree angle but we changed it and made them all go the same direction. The original plan featured 8 spaces, 4 backed out towards Lake Lure. Throughout the project we monitored the parking and increased the width of the spaces to give driver the room to look over their shoulders and back out safely. We were never informed of any problem until the day that the CO was to be issued then we were told that you can not have stripped parking spaces when that had always been included in the plans that were submitted all along. We are trying to provide a much safer future for all parties concerned. The striped spaces were always in the plans that were submitted years before any construction even began, no one ever told us that was not allowed until the day that we asked for a completion certificate. We can go back and add additional signage for the first 3 spaces indicating that they are designated for compact cars only. We are asking for consideration to help us and help the town.

Mr. Gurney added that a simple solution would be to leave it like it is without the lines so that you can regulate it yourselves.

Mr. Burton the reason for the lines is there are 4 private slips. We are trying to create a more organized place for people to park. If we have to regulate ourselves it will be harder to manage. We want it to have some organizational value. The lines are needed to make people park where they need to park.

Mr. Joyner asked how many space do you need to achieve your objective?

Mr. Burton responded 6.

Mr. Anderson provided comments 92.103 each parking space shall beno vehicle shall be required to back out into traffic.

The spaces are not new. There were pre-existing conditions. I made the decision due to people backing out onto the highway and potentially getting hurt.

Mr. Morgan pointed out that while other business may face this same issue. They are legal conforming structures because they existed before the current regulations were in place so they are allowed as they are grandfathered in.

Mr. Gardner asked staff if the Lure Ridge home association could simply provide a sign indicating parallel parking up to a certain point.

Mr. Anderson that would likely fall under incidental signage which would not require a permit

Mr. Gurney suggested self-regulation or the board would have to make their decision based on the law. To have a law changed we would have to take it before council and it would have to be voted on.

Mr. Joyner asked if the CO that was issued still in place or does the appeal override it.

Mr. Anderson stated that a new CO would not have to be issued. They legally are allowed to park right now as it is.

Mr. Morgan stated that the association could petition council for an ordinance amendment

Mr. Joyner added that the board has to make decisions within the boundaries that have been presented.

The Chairman pointed out that we must also consider the timing of the submission which was past the 30 day mark.

Mr. Morgan stated that regardless or not if the applicant was told ignorance of the law is not excused.

Mr. Joyner asked whether the board affirms the staff ruling or would be allowed to come back with other proposals if they do not wish to explore the option of self-regulating the spaces.

Mr. Morgan stated that the board needs to either affirm, object or dismiss as your ruling.

The board closed the discussion for deliberations.

FINDINGS OF FACT

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

(1) On 13 February 2021 a permit was issued to Lure Ridge Owner's Association by the Town of Lake Lure for the replacement of a retaining wall and seawall on an existing parcel located on Tax Parcel Identification Number 1653330.

(2) The non-complaint parking layout was mistakenly approved on 13 February 2021 with plans submitted with permit application LSP_2019025, LSP_2019024, and LDP_2019015.

(3) On 2 March 2021, Town staff observed the non-compliant parking space delineation and notified the applicant, project engineer, and Lure Ridge Owner's Association property owner Robert Burton of the violation of Section 92.103 of the Zoning Regulations of the Town of Lake Lure. The new parking space layout resulted in vehicles having to back into Memorial Hwy when exiting the parking area.

(4) On 4 March 2021, the parking space delineation was removed and a final inspection report and CO_2021011 were issued.

(4) On 4 May 2021, Larry Bentley filed for a Petition for Appeal of Administrator Determination. This petition being submitted 61 days after the Zoning Administrator Determination.

CONCLUSIONS OF LAW

(A) Section 92.103 of the Zoning Regulations of the Town of Lake Lure expressly prohibits vehicles from “back into the street except from space used for single or two-family dwellings”.

(B) The manner in which the parking in question is designed brings it within the prohibition in §92.103. Accordingly, it was proper for the Zoning Administrator to require the alteration of the parking area.

DECISION

Accordingly, the Board of Adjustment affirms the determination of the Zoning Administrator that the parking delineation requiring vehicles to back into the street is prohibited by the terms of §92.103.

Mr. Gardner gave the motion to affirm the town’s decision. Mr. Gurney gave the second all voted in favor.

OLD BUSINESS

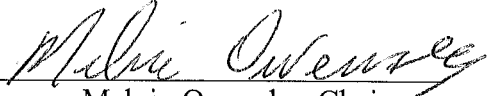
None

The Chairman asked for a motion to adjourn. Mr. Hardy gave the motion and Mr. Joyner gave the second.

The meeting ended at 1:43pm

ATTEST:


Sha'Linda Pruitt, Recording Secretary


Melvin Owensby, Chairman