

Town of Lake Lure

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Minutes of the Regular meeting of the Lake Structure Appeals Board

**Tuesday, October 23, 2012
1:30 p.m.**

Chairman Webber called the meeting to order at 2:05 p.m.

ROLL CALL

Present: Stephen Webber, Chairman
Michael Gray, Seated Alternate
Lance Johnson, Seated Alternate
John Kilby
Patricia Maringer
Bob Cameron, Council Liaison

Also Present: Clint Calhoun, Lake Structures Administrator
Mike Egan, Community Development Attorney
Sheila Spicer, Zoning Administrator, Recording Secretary

Absent: Betty Johnson
Melvin Owensby, Alternate
Vicki Smith

APPROVAL OF THE AGENDA

Chairman Webber asked that Public Comment be added to the agenda as a new item 4 (A) to allow audience members to speak on non-agenda items. He stated this should be a regular agenda item from this date forward, and all other agenda items should be renumbered accordingly.

Mr. Gray made a motion to approve the agenda as amended. Ms. Maringer seconded the motion and all were in favor.

APPROVAL OF THE MINUTES

Mr. Johnson made a motion to approve the minutes of the April 24, 2012 meeting as presented. Ms. Maringer seconded the motion and all were in favor.

PUBLIC COMMENT

None

HEARINGS

- (A) **LSAV-2012001, a request from Steven B. Shough for a variance from Section 94.05 of the Lake Structures Regulations for the minimum side lot line setback of 15 feet to 2 feet for a variance of 13 feet. The Property (Tax PIN 228844) is located at 165 Neighborly Drive, Lake Lure, NC 28746.**

Mr. Calhoun, Mr. Shough, and Ms. Spicer were sworn in. Samuel Lowery, adjoining property owner to Mr. Shough, was also sworn in.

None of the Board members seated reported any conflicts of interest. Ms. Maringer reported that she met Mr. Shough while visiting the property prior to the hearing but did not discuss the case with him. Mr. Shough did not challenge any of the Board members.

Mr. Calhoun stated he discovered new, non-permitted lake structure construction at Mr. Shough's property in April of this year. Upon making contact with Mr. Shough, Mr. Calhoun reported he found that the construction was complete, and a portion of the new dock was in violation of the side setback requirements of the Lake Structure Regulations and would require a variance to remain.

Ms. Spicer pointed out that certified letters were sent to Mr. Shough's three adjoining property owners, but she inadvertently left copies of the letters out of the Board's packet for the meeting. She stated that Mr. Lowery was the only neighbor to contact her after receiving a letter, and he was present to testify.

Mr. Shough testified there was an existing dilapidated boat slip when he purchased the property in 2011, and he wanted to make repairs while the lake level was down last winter. He stated the new dock was added to provide safe access to the boat slip. He pointed out that his father-in-law has Parkinson's disease and had trouble accessing a boat from the boat slip. Mr. Shough also stated there was no other way to make the boat slip structurally safe without adding the dock beside it. Mr. Gray asked what all was added during construction. Mr. Shough responded that he added posts to the existing slip and a new dock along side it. He stated prior to the construction of the dock the only way to access the boat slip was by walking on an eight inch board. He mentioned that the new construction was within one foot of the neighboring property owner's boathouse. Chairman Webber pointed out that the site plan included with the application indicates the neighboring boathouse crosses the projected property line onto Mr. Shough's side of the line. Mr. Shough confirmed this was correct due to the angle of the property line as it projects into the water.

Mr. Johnson asked if the deck built over the land shown on the site plan was also constructed without a permit. Ms. Spicer stated it was but has since been permitted. Mr.

Calhoun confirmed there was an existing boat slip with a boat lift prior to the construction performed by Mr. Shough.

Mr. Lowery testified that the new construction is much safer and more aesthetically pleasing, and he is not opposed to the variance request.

Mr. Kilby stated it appears a majority of the new construction would have been allowed without a variance. Mr. Calhoun confirmed that only the portion of the dock that crosses the projected property line and is more than four feet in width requires a variance. Mr. Shough apologized for any wrong doing and stated he was unaware of the need for a permit prior to the construction.

There was no further testimony, so Chairman Webber closed the public hearing.

With regard to application number LSAV-2012001 for a variance from Section 94.05 of the Lake Structures Regulations, Mr. Gray moved the Board to find (1) owing to special or unusual conditions, a literal enforcement of the provisions of the regulation(s) will result in practical difficulty or unnecessary hardship, and (2) in the granting of the variance the spirit of the Lake Structures Regulations shall be observed, the public safety and welfare secured, and substantial justice done. Accordingly, he further moved the Board to grant the requested variance in accordance with and only to the extent represented in the application. Mr. Johnson seconded the motion and all were in favor.

In support of the variance, the Board members cited the fact that there are special circumstances particular to the property that would create an undue hardship for the property owner if the variance were denied. It was pointed out that the new construction made the use of the property safer, the variance requested was not excessive, there was no deliberate intent to circumvent the requirements of the Lake Structure Regulations, and all of the requirements for granting a variance had been met.

NEW BUSINESS

Ms. Spicer mentioned that Nathan Odom, owner of Professional Surveying Services and a long-time surveyor in Lake Lure, had passed away. She stated Mr. Odom has always been a tremendous help to the Town and would be sorely missed.

OLD BUSINESS

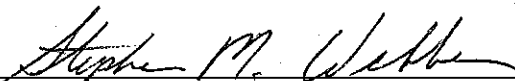
None

ADJOURNMENT

Mr. Kilby made a motion seconded by Mr. Johnson to adjourn the meeting. The motion passed unanimously.

The meeting was adjourned at 2:33 p.m. The next regular meeting is scheduled for November 27, 2012 at 1:30 p.m.

ATTEST:



Stephen M. Webber, Chairman



Sheila Spicer, Recording Secretary