



Minutes of the Regular Meeting of the
Zoning and Planning Board

Tuesday, April 19, 2016

Lake Lure Municipal Center

ROLL CALL

Present: Thomas M McKay, Chair
Bruce Barrett
Charlie Ellis
John Moore, Council Liaison

Absent: Jonathan Hinkle
Norman McGlohon

Also Present: Shannon Baldwin, Community Development Director
Michelle Jolley, Recording Secretary

The meeting started at 9:30 a.m. Chairman McKay led the pledge of allegiance and Mr. Barrett gave the invocation.

APPROVAL OF THE AGENDA

Mr. Baldwin pointed out that staff included an amended agenda in the packet for approval, with two additional items that Town Council requested be sent to the Planning Board. Ms. Spicer requested Agenda Item 6A be discussed first. Chairman McKay stated it may be best to reverse New Business with Old Business. Mr. Baldwin also noted that Town Council asked ZPB to discuss a proposed deck request at the Lake Lure Beach.

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

APPROVAL OF THE MINUTES

Mr. Ellis made a motion to approve the minutes of the March 22, 2016 regular meeting as presented. The Board voted unanimously to approve the minutes.

NEW BUSINESS

- (A) Review VROP-2016005, a vacation rental operating permit request from Doug & Aileen Kelly to operate a residential vacation rental at 114 Sea Wish Way, Lake Lure, North Carolina (Tax PIN 229058)**

Ms. Spicer presented the case. She stated Doug and Aileen Kelly with DK Professionals Realty Lake Lure, Inc., are requesting a Vacation Rental Operating Permit (VROP) to operate a 2-bedroom residential vacation rental. The property is located in the CG Commercial zoning district, and there is an existing single-family dwelling on the lot. Section 92.042 (A)(b)(2) 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 not exempt from ZPB review due to the fact that there is an open Certificate of Zoning Compliance Permit and Land Disturbance Permit for improvements to the property and the structure. She stated that the ZPB review procedure for Conditional Use Permits is outlined in Section 92.046(B)(2) of the Zoning Regulations. The Board is to make a recommendation regarding the application to the Board of Adjustment after considering site treatment, building design, relationship of building to site, harmony of buildings and uses with neighborhood character, landscaping, signs, lights, and any other considerations it feels reasonably affect the appearance of the proposed project. The request was sent to the Development Review Committee for review on April 1, 2016. The only comment received was verification from Linda Ward, Customer Service Supervisor that the property is served by both town water and town sewer. She noted they property owners have had brief discussion about a small sign on the property but they do not have the dimensions of the sign at this time. She stated any comments or recommendation made will be forwarded to the Board of Adjustment at their next meeting on April 26, 2016. LDP permit and CZC has been applied for. She pointed out that there were drainage issues with runoff going into the road but those issues have since been cleared up. She mentioned they also repaired a wall that was leaning and in danger of damaging the road.

Doug Kelly confirmed that there were drainage issues when they bought the property. He stated they put in culverts and gravel basins which have been working well. He also confirmed that they repaired the wall that was leaning and stated they also took down trees which were ready to fall over. He stated they added three feet to the back of the house, which increased the size of the bedroom and bathroom. The increase put the house into the side setbacks. He stated they did a recombination of the property. He noted they took land in the front of their property from Jim and Patsy Cook and in turn gave them part of the land behind their house, which was part of their recombination. He conveyed they would like to rent the property until the economy is well enough to sell. He stated the recombination has not yet been completed.

Mr. Barrett recommended approving the application as presented and sending to the Board of Adjustment. Mr. Ellis seconded the motion. Mr. Barrett, Mr. Ellis, and Chairman McKay voted in favor.

- (B) Review ZP-2016017 for consistency with the Town Center Small Area Plan per Town Council's Request**

Ms. Spicer stated that Lake Lure Tours has applied for a Certificate of Zoning Compliance to build a 25x30 freestanding deck in between the larger beach house and the water. The property is located in the GU district, which requires approval from Town Council. She pointed out that the request was sent to the Town Council, but it was noted in their memo that the Planning Board had not yet approved the request as consistent with the Town of Lake Lure's Small Area Plan. Therefore, Town Council recommended approval as long as the Planning Board deems the request as consistent with the Small Area Plan. She stated the packet includes a copy of the permit application, their request for proposal that they sent out, a copy of their survey, to scale, showing the site plan, hand drawings of the elevation, and construction drawings for the deck. She noted that a Certificate of Zoning Compliance could not be issued until Ron Morgan, Fire Chief, has approved. She stated a recommendation would need to be sent to Town Council. Also included was the floodplain development permit issued by Clint Calhoun with plans from the engineer, Kim Warner. Reduced size versions of the Town Center Small Area Plan were also included. Steve Miller, with Lake Lure Tours, was present to answer any questions the Board may have. She noted that this is an open deck with railings; there will be no roof and no walls.

Mr. Ellis noted the Concession Agreement would be up next year and asked if there is a provision that the deck be removed at the end of the Concession Agreement. Ms. Spicer stated the discussions were held between Chris Braund, former Town Manager, Tony Hennessee, Public Works Director, and Lake Lure Tours. She mentioned the Town is providing a large portion of the funding for this project and felt it would default back to the Town at the end of the Concession Agreement.

Steve Miller, Lake Lure Tours, stated he met with Ron Morgan who gave his approval of the project. He stated that a ramp would come off of the fourth window level to the deck, which would constitute it as part of the structure. He mentioned that the deck will be accessed by steps that come in from the beach and also a ramp. He pointed out that they want to create a space with an underutilized area of the beach. He mentioned this would help with use of the beach house being more than a 100 day event. He conveyed that umbrellas would be added. He stated that it is a joint project and Lake Lure Tours would match the funds given by the Town. He stated the building is Town owned property and anything done to the building would be Town owned.

Ms. Spicer noted she spoke to the building inspector by phone, per Ron Morgan's request. The building inspector mentioned the plans show 36 inch tall railings. He stated that 42 inch railings may possibly be required. She noted this would not affect this Board's recommendation.

Mr. Ellis made a motion that the Zoning & Planning Board approve ZP-2016017 and that the Board find the application consistent with the Town's Small Area Plan. Mr. Barrett seconded and all voted in favor.

(C) Review Fence Regulations per Town Council's Request

The ACC of the Village Resort notified Laurie Barnwell, 115 Pine Tree Court that she needed a permit from the Town for a fence that she had put up. The requirements for fences do not allow any type of wire mesh in the street front setbacks. Ms. Spicer noted she has not seen the fence but Ms. Barnwell mentioned it is a T-post hog wire fence. She conveyed to Ms. Barnwell that

she had the option to either bring the fence into compliance, request a variance, although she was not sure if that would be allowed, or request a text amendment to allow this type of fence in the setback, which Ms. Barnwell chose to do. She went before Town Council and asked that they send to the Planning Board for review, and Town Council agreed to do so. Ms. Spicer noted that fences are allowed in the front yard setback with certain requirements; however, wire mesh fencing is not allowed in the front yard setbacks.

Blaine Cox noted the regulation prohibiting wire mesh fencing was for aesthetics. Mr. Ellis asked if prohibition was against an all metal fence. He felt that some types of hog wire fences encompassed with other materials look nice. Ms. Spicer read from the Zoning Regulations regarding fences. She mentioned her determination was that hog wire is a metal, mesh fencing. She conveyed that her determination could be appealed to the Board of Adjustment. Chairman McKay mentioned he had no problem with decorative fencing in the street side. Mr. Ellis asked if the regulations are the same for street side and lake side setbacks. Ms. Spicer answered no, not in regards to fences. Mr. Ellis felt the regulations are highly inconsistent in that a hog wire type fence could be added in the lake front setbacks but not the street front setbacks. He noted that a simple text amendment could be added to the regulations. Commissioner Moore stated maybe a distinction could be determined that welded mesh panels be allowed that meet specified criteria. Mr. Baldwin recommended the Board visit the property and take a look at Ms. Barnwell's fence. Chairman McKay asked that Ms. Barnwell take pictures and send to the Board.

Chairman McKay asked that staff create provisions to the fence regulations and bring back to the Board. Mr. Baldwin stated he would need to visit the property to see what type of fence it is. Ms. Spicer conveyed that Ms. Barnwell described the fence as a metal T-post with metal rolled fencing. Mr. Baldwin pointed out that Ms. Spicer makes determinations based on the regulations; not on aesthetics. Ms. Spicer added that design reviews are not be done at staff level. Chairman McKay suggested adding examples of fences that would be allowed in the regulations as a direction for people to take. Ms. Spicer stated she is not familiar with the panels Commissioner Moore spoke of and would need to do some research on that. She stated she would bring this back at a later time. She mentioned she told Ms. Barnwell she did not have to remove her fence until the Board makes a decision.

OLD BUSINESS

(A) Review amendments to the Zoning Regulations to Clarify Gardens are allowed in Specified Districts as Accessory Uses, Define "Urban Agriculture" and Allow the Same Under Certain Conditions, and Add Language that Creates AG Agricultural Districts

Mr. Baldwin provided an overview. He mentioned he would like to continue to work on the language to keep it simple and accomplish what the Board would like to accomplish. Chairman McKay suggested Mr. McGlohon and Mr. Barrett meet again on this issue and bring a recommendation back to the Board. He noted he had an issue with the density and containment wording and how that applies to Lake Lure. Mr. Ellis agreed that Mr. McGlohon and Mr. Barrett should pick this apart and come up with a good recommendation for the Town. He felt that creating an AR district would only benefit someone who rezones their property and added that

rewording of the amendment prevent someone from having to bring a request up for rezoning property for casual farming and gardening.

Mr. Barrett stated that he really wanted something simple that would not be bogged down with permitting. He felt the amendment presented in the packet was too complicated. He felt the restrictions are outdated. He mentioned there is already a nuisance ordinance in place if a problem arises. Mr. Ellis mentioned new definitions could be added to the existing code. He stated there is not much land in town that is suitable for an AR district. Chairman McKay pointed out that there are two properties that currently have livestock and asked what would happen if a complaint was filed. Ms. Spicer stated that the Police Department enforces the animal ordinance and they would handle those complaints. Mr. Baldwin pointed out that definitions were already included in the minutes. He stated the Board could revisit the Agriculture District discussion at a later time if they would like.

Ms. Spicer noted in the 10 years she has been in her position, she has never had someone come in requesting an Agricultural District. Mr. Baldwin felt the Board should take a proactive approach and have it in the books in case someone came along and wanted to rezone their property. This would give property owners more freedom to do things relative to livestock that they currently do not have. Chairman McKay pointed out there is already a section in the regulations regarding horses but there is no section currently concerning small livestock and gardening.

Mr. Ellis requested separating this discussion into two different sections for recreational farming vs. commercial farming. He suggested that Mr. McGlohon and Mr. Barrett work together to bring a proposed amendment to the ordinance back to the Board next month for review. He mentioned if someone wanted to do a community garden on town property, they could simply come before the Town Council and ask for their permission. Chairman McKay noted the school already has an FFA program in place. Ms. Spicer clarified that Mr. Baldwin has conducted a large amount of research on this and it would be easily enforced. She noted the ordinance looks daunting but it really is not. She stated she is willing to work with Mr. Baldwin to bring something back to the Board. Mr. Baldwin added that he would really like Mr. McGlohon's expertise on this issue as well.

Mr. Ellis asked for information on updating the Comprehensive Plan. Mr. Baldwin stated this is on hold until the town has a new manager.

(B) Town Council reaffirms Town Center Small Area Plan per Planning Board's Request

The Board tabled this discussion until a town manager is hired and could be present.

PLANNING PROJECTS UPDATE

Mr. Baldwin provided an update on DOT encroachment agreement with the Town for pedestrian walkways for the Flowering Bridge. He noted that they want to take the plan DOT approved and put into action. They also want to place markers for the paths. He stated they will be meeting

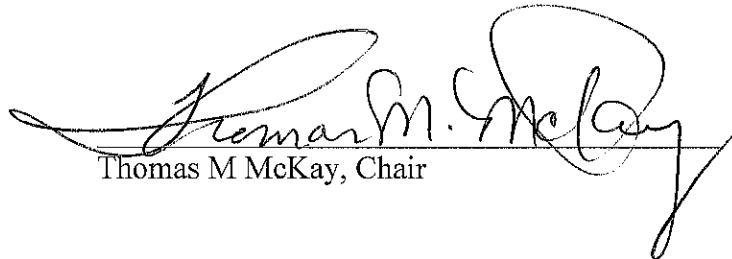
with the engineer, Kim Warner, on Thursday to look over the plans. He noted that this sets the stage for additional economic development on that side of town. He added that the encroachment agreement the Town has entered into does not include the property across from Boys Camp Road.

Commissioner Moore asked for funds on the unified development ordinance. Mr. Baldwin stated that there is \$40,000 set for this in the budget. Mr. Baldwin mentioned to the Board that Mike Egan, the Community Development attorney, will be retiring at the end of May and will no longer be accessible for legal counsel. He also stated that Chris Callahan would be retiring at some point this year as well. He noted that the Board would need to decide if they want to replace Mr. Egan. He stated the Board would need to have a discussion on what level of counsel they would want. He pointed out there is a fee per month for legal counsel whether they are used or not. He added that the retainer has been \$600 a month. Chairman McKay felt that staff should have legal counsel available, based on the Town history. He mentioned the budget process is coming up soon and he felt that the Town to have legal counsel available.

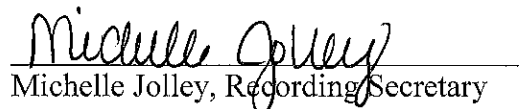
Ms. Spicer noted that a different attorney was used during an appeal case and she stated he was very good. Mr. Baldwin noted that since the Town attorney is also retiring, the Board could decide whether they want to use one firm that encompassed both needs or if they would like to use different firms. Commissioner Moore felt it would be a good idea to go with a firm that has the level of expertise that the Board needs. Mayor Keith added that a general attorney may not have enough expertise on land use laws and the Town may find themselves having to hire another attorney with more expertise if litigation were to arise.

Upon a motion by Mr. Barrett and seconded by Mr. Ellis, the meeting was adjourned at 11:12 a.m. The next regular meeting is scheduled for Tuesday, May 17, 2016 at 9:30 a.m. at the Lake Lure Municipal Center.

ATTEST



Thomas M McKay, Chair



Michelle Jolley, Recording Secretary