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**Minutes of the Regular Meeting of the
BOARD OF ADJUSTMENT**

**Tuesday, November 30, 2004
3:00 p.m.
Lake Lure Municipal Center**

Present: Beth Rose, Chairman
Werner Maringer
Fred Noble
Nancy McNary, Alternate
Harvey Jacque, Alternate
Mary Ann Dotson joined the meeting at 3:50 p.m.

Also present: Blaine Cox, Council Liaison
Shannon Baldwin, Community Development Administrator
Chuck Place, Town Manager
Anita Taylor, Recording Secretary

Absent: Stephen Webber
Susan Lynch, Code Enforcement Clerk

Chairman Rose called the meeting to order at 3:00 p.m.

Mr. Noble moved to approve the agenda. The motion was seconded by Mr. Maringer and approved unanimously.

The minutes of the regular meeting from October 26, 2004 were accepted upon a motion by Mr. Maringer. The motion was seconded by Mr. Noble and approved unanimously.

- 1. Condition Use Permit CU-04-01, a request from Mr. David Klett to add a garage apartment to his property as required by Section 92.026(C).**
David Klett and Larry Lyda, contractor for Mr. Klett were sworn in. Mr. Klett reviewed with the board the particulars of his request. Mr. Baldwin clarified with the board Section 92.026 and 92.085 of the zoning ordinance. After discussion, Chairman Rose presented the finding of fact to the board. The determination was unanimous on all findings of fact.

In accordance with the findings of fact, Mr. Maringer moved that appeal CU-04-01 be approved under the condition that the garage apartment be metered with the main house for electricity. Mr. Noble seconded and the motion was approved unanimously.

- 2. Appeal ZV-04-12, a request from John Wagner, agent for Holly Strutt Gidney and Sally Jayne Strutt, to change the minimum lot area from stated 10,000 sq. ft. to**

7,000 sq. ft. as required from Section 92.040.

Mr. Wagner and realtor Suzanne Eddy were sworn in. Chairman Rose brought to the board's attention that this is a lot of record. After discussion, Chairman Rose presented the findings of fact to the board. The determination was unanimous on the findings of fact.

In accordance with the findings of fact, Mr. Noble moved that appeal ZV-04-12 be approved. Mr. Jacque seconded and the motion was approved unanimously.

- 3. Appeal ZV-04-14, a request from Paul Everhart and David Ray to change the minimum lot area from stated 10,000 sq. ft. to 4, 225 sq. ft.; to change minimum lot width from stated 100' to 64'; to change minimum front (street) yard setback from stated 40' to 6' as required from Section 92.040.**

Mr. Baldwin reviewed with the board the particulars of his request. After discussion, the board agreed that this is not a subdivided lot. If this is one lot, Mr. Everhart would need to procure a conditional use permit for a garage apartment, not a variance to build another single family dwelling on his property. Mr. Place came forward and asked the board to make a determination if a public road which divides a plated lot of record does or does not create two lots.

Ms. McNary moved that even though a road goes through the property, the deeded property is considered one piece of property. Mr. Maringer seconded and the motion was approved four to one. Mr. Jacque disagreed.

Mr. Everhart was sworn in. Mr. Everhart reviewed with the board the particulars of his request. Mr. Everhart withdrew his application at this time to consider his alternatives.

- 4. Appeal ZV-04-13, a request from Kenneth Jordan, agent for Sallie Lynn Lee, to change minimum front (street) yard setback from stated 40' to 26' as required from Section 92.040.**

Mr. Jordan was sworn in. Mr. Jordan reviewed with the board the particulars of his request. After discussion, Chairman Rose presented the findings of fact to the board. The determination was *not* unanimous on the findings of fact.

In accordance with the findings of fact, Ms. McNary moved that appeal ZV-04-13 be denied. Mr. Noble seconded and the motion was approved four to one. Mr. Maringer disagreed.

- 5. Conditional use permit CU-04-02, a request from Traci Dusenbury of Lake Vista Apts. Limited Partnership (Douglas Company, LLC.) to add a planned unit development to the property as required from Section 92.048(A).**

Ms. Dusenberry, development coordinator; Denver Tolner, engineer; and Tony Casteel contractor, were sworn in. The particulars of this project were reviewed with the board. After extensive discussion, Chairman Rose presented the findings of fact to the board. The determination was unanimous on the findings of fact.

In accordance with the findings of fact, Ms. McNary moved that CU-04-02 for Lake Vista Apartments be approved subject to town council's approval of the guarantee performance; the grounds and structures be continuously maintained in good order; and memos dated 11-22-04 and 11-24-04 be incorporated with the exception of the two inch water line which will be negotiated with Tony Hennessee, public works director. Mr. Noble seconded and the motion was approved unanimously.

6. Old business

Chairman Rose suggested the board attend the next town council meeting regarding the planned unit development amendments. The meeting will be held on December 14, 2004.

7. New business

Ms. Dotson thanked staff for the packets that are distributed to the board.

Adjournment: Mr. Noble moved to adjourn, Mr. Maringer seconded and all voted in favor.