

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

**Tuesday, September 28, 2004
4:00 p.m.
Lake Lure Municipal Center**

Present: Beth Rose, Chairman
Mary Ann Dotson, Vice-chairman
Stephen Webber
Werner Maringer
Fred Noble

Also present were: Chuck Place, Town Manager & Acting Zoning Administrator
Blaine Cox, Council Liaison
Susan Lynch, Recording Secretary

Absent: Harvey Jacques, Alternate
Nancy McNary, Alternate

Chairman Rose called the meeting to order at 4:00 p.m.

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

The minutes of the regular meeting from August 31, 2004, were accepted upon a motion by Mr. Maringer. The motion was seconded by Mr. Webber and approved unanimously.

1. Appeal ZV-04-08, a request from Salvatore John Costa for a variance from section 92.040 to reduce the minimum rear yard setback from the required 40' to 31'.

Mr. Costa was present and sworn in. Mr. Costa reviewed with the board the particulars of his lot; he is requesting a variance to build a single family residence. Mr. Place brought to the board's attention a minor change to the variance: this is a variance for a street yard setback, not a rear yard. This does not change the variance, the same setback is requested.

After discussion, Chairman Rose presented the findings of fact to the board for determination. The determination was unanimous on all findings of fact.

In accordance with the findings of fact, Mr. Maringer moved that appeal ZV-04-08, be approved. Mr. Webber seconded and the motion was approved unanimously.

2. Appeal ZV-04-11, a request from Vincent J. Wiegman, agent for Ted Davis, to

change the minimum front (street) yard setback from the required 40' to 30'; also, change minimum front (lake) yard setback from the required 35' to 30', as stated in Section 92.040.

Mr. Wiegman and realtor Wade Manning were present and sworn in. Chairman Rose brought to the attention of the board the dissent of two neighbors, Mr. Joseph Beam and Ms. Anne Cecil. The members of the board noted the dissension, and took it into consideration for deliberation. After extensive discussion, Chairman Rose presented the finding of fact. The board was unanimous on all except item 3 which states, "A literal interpretation of the provisions of the zoning ordinance would deprive the applicant of rights commonly enjoyed by other owners in the same district in which the property is located." Ms. Dotson changed her vote due to a misunderstanding. The vote stood at three yes and two no.

In accordance with the Findings of Fact, Mr. Webber moved that appeal ZV-04-11 be approved. Mr. Noble seconded and the motion was approved unanimously.

3. Old Business

Mr. Place reviewed with the board the packets that are mailed out to the board. He wants the packet to be user friendly for the board, and requested any feedback the board could give either Susan Lynch or himself. Variance request signs will be posted by staff instead of the applicant. Kudos came from the board on the packets and the visibility of variance signs.

4. New Business

The Zoning and Planning Board is considering an additional amendment that will relate to nonconforming structures. Also, there is a potential planned unit development being considered in town; PUD's are a conditional use and may come before the board. Members of the board requested up-to-date findings of fact. The staff will provide the information by the next meeting.

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