

**Minutes of the Regular Meeting of the  
Board of Adjustment**

**Tuesday, July 26, 2005  
2:00 p.m.**

**Lake Lure Municipal Center**

Present: Beth Rose, Chairman  
Stephen Webber  
Harvey Jacques  
Nancy McNary  
Werner Maringer

Also present: Shannon Baldwin, Community Development Administrator  
Susan Lynch, Code Enforcement Clerk, Recording Secretary  
Blaine Cox, Council Liaison  
Mary Ann Dotson (arrived late)

Absent: Fred Noble

Chairman Rose called the meeting to order at 2:04 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 June 28, 2005 were accepted upon a motion by Mr. Maringer. The motion was seconded by Chairman Rose and approved by Mr. Jacques and Ms. McNary. Mr. Webber was opposed; ZV-05-01 was approved erroneously. There was one finding of fact that was unanimously negative; Mr. Webber stated that the regulations state that *we must find the following conditions exist*. He wanted his opposition noted on the record. Mr. Maringer stated that the condition put on ZV-05-01 resolved the one point that was in the negative.

**Appeal ZV-05-02, a request from Charlene Efird, applicant for Bryan and Karen Drum, to change a lot size from the required two acres for a lot zoned R1A to 1.57 acres as required by Section 92.040.**

Ms. Efird was sworn in. The variance Ms. Efird is requesting is for .43 acres. In regard to an e-mail Mr. Drum submitted to the BOA questioning which street the property would be accessed from, Ms. Efird assured the board that the property would be accessed on Asa Gray Drive. Mr. Baldwin and Chairman Rose stated this area is part of a very old subdivision, where lots were divided into small parcels. The Drums bought three lots in 1996 and combined them into a

bigger lot, the parcel that is now in question. Mr. Baldwin reminded the board, that if the lot is a 20% reduction (Mr. Baldwin can sign off on 80%), it is an administrative review. This lot is 78.5%, leaving the board to deal with 1.5%. Chairman Rose stated that the 1.57 acres is quite a hefty size chunk of land. Chairman Rose asked would anyone on the board entertain a motion.

**Mr. Webber moved that ZV-05-02 be approved based on the findings of fact that the property in question is a non-conforming vacant lot under the provisions of Section 92.101(B)(2) of the zoning regulations and therefore the Board of Adjustment is authorized to approve as a variance such dimensions as shall conform as closely as possible to the required dimensions in order to protect adjacent properties to the maximum extent possible. The minimum dimensions shall be as follows: minimum lot area will become 1.57 acres. All other dimensions shall be as for the R1A zone district. Mr. Webber also added the condition that access to the property will be on Asa Gray Drive and not on Issac Walton Court. Ms. McNary seconded and ZV-05-02 was approved unanimously.**

**Appeal ZV-05-03, a request from Mike and Diane Sheehan to relax the minimum front lake yard setback from the required thirty-five feet (35') to zero feet as required by Section 92.040.**

Mr. Kim Warner, engineer and representative for Mike and Diane Sheehan was sworn in. Mr. Warner reviewed the plans of the Sheehan's proposal with the board.

Mr. Webber asked Mr. Warner would the height of the structure above Memorial Drive be seventeen feet and from the lake view would the height of the structure be thirty-two feet. Mr. Warner confirmed the structure would be seventeen feet or less from the street side; thirty-two feet from the lake side.

Chairman Rose and Ms. McNary raised the question of Mr. Sheehan's lot and house being non-conforming; would increasing the size of the structure increase the non-conformity. Mr Baldwin replied that anytime you're expanding a structure into a setback area, you are increasing the non-conformity. Since this is a setback issue, only the Board of Adjustment has the authority to relax the setback.

Ms. McNary made the point that one of the standards for a variance is, "the minimum variance that will make possible the legal use of the land, building, or structure"; since a house is on the property, the criteria has been met. The question came up about Mrs. Sheehan's physical condition, being wheel-chair bound. Ms. McNary stated the variance goes with the land, not people. Mr. Maringer stated that governments can bring compassion into their decision. Mr. Webber agreed with Mr. Maringer but also stated the board members were sworn to uphold the law. Mr. Webber does not see where this meets the requirements for a variance.

**Chairman Rose suggested the board review the findings of fact. Due to a negative response to the findings of fact, Mr. Warner asked if he could withdraw his application at this time. Mr. Webber made the motion the applicant be allowed to withdraw ZV-05-03. Mr. Maringer seconded; the motion was approved unanimously. Mr. Warner thanked the board for their time and consideration.**

**OLD BUSINESS**

None

## **NEW BUSINESS**

### Planned Unit Development Amendment Principles Guide

Mr. Baldwin referenced the minutes of each meeting of the Zoning and Planning Board pertaining to PUD's and composed the PUD Amendment Principles Guide. Chairman Rose requested copies of the guide so members of the Board of Adjustment could review the principles guide.

Chairman Rose requested the definition of a ridge line. She stated the tall building height was set at forty-five feet.

Mr. Maringer requested the definition of community character; Mr. Baldwin answered community character would be the larger area, such as Lake Lure. One would assess the natural environment such as topography, flora, etc. The second is the built environment; the buildings and the infrastructure. The three part test for community character is the natural environment, the built environment, and the last one is public facilities and infrastructure. The neighborhood character needs to be narrowed down, discussing the specific district's location and also the contiguous districts. Mr. Baldwin assured Mr. Maringer community character would be defined in the new ordinance. Mr. Maringer requested continuity and harmony when writing the PUD amendment.

Mr. Baldwin stated that in the next meeting of the Zoning and Planning board, residential and commercial use would be defined. Concern had been voiced at various meetings about rentals built in residential zoned districts.

**ADJOURNMENT: Mr. Maringer moved to adjourn the meeting; Mr. Webber seconded; all in favor.**