



Incorporated 1927

# Town of Lake Lure

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## Minutes of the Regular meeting of the Board of Adjustment

Tuesday, April 24, 2012  
1:00 p.m.

Chairman Webber called the meeting to order at 1:00 p.m.

### ROLL CALL

**Present:** Stephen Webber, Chairman  
Betty Johnson  
Patricia Maringer  
Melvin Owensby, Seated Alternate  
Vicki Smith  
Bob Cameron, Council Liaison

**Also Present:** Mike Egan, Community Development Attorney  
Sheila Spicer, Zoning Administrator, Recording Secretary

**Absent:** Lance Johnson, Alternate  
John Kilby

Chairman Webber stated that Nancy McNary had resigned prior to the meeting due to scheduling conflicts

### APPROVAL OF THE AGENDA

Chairman Webber asked that the agenda be amended to delete item 5(B) under Hearings due to the fact that the applicant has asked that the request be postponed to a later meeting.

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

### APPROVAL OF THE MINUTES

Chairman Webber asked that the paragraph under Review of Bylaws on page 2 of the draft minutes of the February 28, 2012 meeting be amended to state that he simply asked the Board members to review the bylaws, not that he had requested they be included in

the Board's packet.

**Mr. Owensby made a motion seconded by Ms. Maringer to approve the minutes of the February 28, 2012 meeting as amended. The motion passed unanimously.**

### **NEW BUSINESS**

Chairman Webber thanked Ms. McNary for her many years of service on the Board. He asked that Commissioner Cameron, Council Liaison, request Town Council to appoint a new Board member to fill the vacancy created by Ms. McNary's resignation.

### **HEARINGS**

**(A) ZV-2012002, a request by Lake Lure Village Resort for a variance from Section 92.030(C)(9) of the Zoning Regulations for the minimum setback of 60 feet from Lake Lure for common amenities to 24.1 feet for a variance of 35.9 feet. The property (Tax PIN 1645305) is located on Village Boulevard, Lake Lure, NC 28746.**

Ms. Spicer, Joyce Bare, Mike Beauregard, Bill Bush, and Tim Turner were sworn in.

Chairman Webber reported he spoke with Ms. Spicer and Mr. Egan prior to the meeting regarding the fact that the request requires a variance from the lake front yard setback on both sides of the proposed structure since the proposed location is on a peninsula.

Other than the conversations already mentioned by Chairman Webber, all of the Board members indicated they had not had any ex parte communication regarding the case. None of the members reported any conflicts of interest. Chairman Webber asked who would be representing the Lake Lure Village Resort Property Owners Association (POA) for the variance request. Mr. Bush addressed the Board and stated he is a member of the POA Board and is in charge of special projects. Mr. Bush indicated he did not wish to challenge any of the Board members seated for the case.

Ms. Spicer gave an overview of the case. She stated the applicants wanted to construct a 20 feet by 10 feet gazebo on the peninsula of a lakefront property owned by the POA. She pointed out that the application indicates the gazebo will be used by the property owners, which means it is a common amenity. She mentioned common amenities are a conditional use in the R-3 zoning district and have a setback of 60 feet from the shoreline of Lake Lure. Since the proposed location shown on the site plan included in the Board's packet, Ms. Spicer stated a variance is required before a conditional use permit could be obtained.

Chairman Webber asked Mr. Egan how the record should properly reflect that a variance from the front lake yards setback is needed for both sides of the structure. Mr. Egan pointed out that it is shown on the site plan, which is part of the record, and he can help the Board with the final motion to ensure it includes the two front lake yard setbacks.

Mr. Beauregard addressed the Board and stated he oversees the water and sewer systems in Lake Lure Village Resort as well as helps oversee various projects. He voiced his concerns over the proposed location of the gazebo due to the fact that it would block the electric company's access to the existing security light on the peninsula. He stated the gazebo needs to be moved several feet to one side. Chairman Webber advised that he needs to discuss this with the POA because it would require an amended application. Mr. Egan stated it would also require an amended site plan. Chairman Webber pointed out that the site plan does not indicate a right-of-way for the electric line. Mr. Bush showed the Board the location of the utility pole on the site plan as well as the location of an existing gravel path that leads to the end of the peninsula. He mentioned that the path is the only vehicular access to the site and is quite steep. Chairman Webber stated the request must be postponed if the location of the gazebo needs to be moved; otherwise, a new variance would have to be sought if this variance is granted as presented and the location of the gazebo must later be move. He granted a brief recess so Ms. Bare, president of the POA, Mr. Beauregard, and Mr. Bush could discuss their options.

After the recess, Mr. Turner stated he is the surveyor that prepared the site plan, and he could show the new proposed location on the site plan and initial the changes. He said the new location would be 16 feet fro the 990 feet elevation line on the east side and 35 feet on the north side, which would be moving the structure approximately 22 feet to the north. Chairman Webber asked if the public notices for the hearing specified the amount of the variance sought. Ms. Spicer responded that the notice posted in The Daily Courier did not specify the amount pf the variance, but the letters to the adjacent property owners did. Mr. Egan again stated he feels an accurate site plan is needed. Chairman Webber stated the application needs to be amended as well. Ms. Spicer pointed out that the conditional use permit request for this project will require that letters be sent to the adjacent property owners notifying them of the hearing for that request. She stated she could send amended notices for the change in the variance requests with that mailing so the applicants would not have to pay an additional fee for mailing the notices again. The applicant agreed to allow the variance to be tabled and heard at the same meeting as the conditional use permit request to take advantage of that option.

**Ms. Smith made a motion to table case number ZV-2012002 to a later date to allow the applicant time to amend the application and the site plan. Ms. Johnson seconded the motion and all were in favor.**

**(C) ZV-2012004, a request by the Town of Lake Lure for a variance from section 92.040 of the Zoning Regulations for the minimum front (lake) yard setback of 35 feet to 6.5 feet for a variance of 28.5 feet. The property (Tax PIN 1648621) is located at 2930 Memorial Highway, Lake Lure, NC 28746**

Ms. Spicer, Town Manager Chris Braund, and Ed Dittmer, Chairman of the Parks and Recreation Board, were sworn in.

There were no ex parte communications or conflicts of interest reported by the Board. Mr. Dittmer indicated the applicant did not wish to challenge any of the Board members seated.

Ms. Spicer gave an overview of the request. She stated the Town of Lake Lure's Parks and Recreation Board would like to construct a pergola near the Lake Lure Tours ticket office as part of the renovation of Washburn Marina. The proposed site of the pergola is located in the GU Government Use district and is within the 35 feet front lake yard setback and therefore requires a variance.

Mr. Dittmer addressed the Board and stated the proposed location of the pergola, as shown on the site plan included in the Board's packet, is a prime location for visitors. He stated the structure will have benches and will be connected to the existing Town Center walkway by extending the pavers to the location. He pointed out that it will provide a gathering place for visitors as well as a break area for anyone walking the trails and walkway.

Ms. Maringer voiced concerns over the choice of vegetation to be planted to cover the pergola indicated on the plans because her experience with Carolina Jasmine indicates it is prone to die underneath and drop its leaves. Mr. Dittmer stated Carolina Jasmine was chosen because it stays green all year, but he mentioned the Parks and Recreation Board will be obtaining the advice of a landscape architect if the variance is granted.

Ms. Johnson pointed out that a variance has already been granted to provide a covered seating area at the Lake Lure Tours ticket office. Mr. Dittmer responded that the ticket office's seating area is for commercial use and not very decorative. He stated the proposed pergola will provide a seating area that is aesthetically pleasing and more suitable to the overall landscaping of the site. Chairman Webber stated he has been told from the start of his service on the Board that aesthetics should not be a consideration for a variance; however, he pointed out that the GU-Government Use district lists parks, playgrounds, and recreation areas as permitted uses on that district. He asked how much seating is proposed. Mr. Dittmer responded that no specific amount has been decided on yet, but it will be portable type seating such as picnic tables or benches.

Chairman Webber stated a variance must be the least variance that makes reasonable use of the land, building, or structure. He asked why this structure couldn't be moved further from the setback. Mr. Dittmer responded that the plans to tie the structure into the Town Center walkway necessitate it being located in the area proposed.

Ms. Maringer asked if the proposal will be compatible with the new Town Center Master Plan. Mr. Dittmer pointed out that the Town Center Master Plan is still in development, and he serves on the steering committee for that project.

After a brief discussion on the plans submitted, Chairman Webber closed the public hearing. During deliberations, the Board discussed the fact that the GU district includes uses such as parks and recreation areas. It was also mentioned that, while aesthetics are

not necessarily a hardship, proposed structures should be in harmony with the surrounding area.

Ms. Smith moved with regard to case number ZV-2012004 for a variance from Section 92.040 of the Zoning Regulations, that the Board find (a) owing to special conditions, a literal enforcement of the provisions of the regulations will result in practical difficulty or unnecessary hardship, (b) in the granting of the variance the spirit of the Zoning Regulations shall be observed, the public safety and welfare secured, and substantial justice done, and (c) the conditions specified in §92.085(C)(1) exist. Accordingly, she further moved the Board to grant the requested variance in accordance with and only to the extent represented in the application. Ms. Johnson seconded the motion and all were in favor.

### OLD BUSINESS

#### (A) New Board Functions under Ordinance Numbers 12-02-14, 12-02-14A, and 12-02-14B

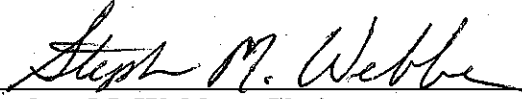
Chairman Webber asked the Board members to review the new regulations recently adopted by Town Council assigning new functions to the Board. He asked that they present any questions they may have regarding these regulations in writing for discussion at the next meeting. He asked Ms. Spicer to add this item to the agenda for the next meeting.

### ADJOURNMENT

Ms. Maringer made a motion seconded by Ms. Johnson to adjourn the meeting. All were in favor.

The meeting was adjourned at 2:05 p.m. The next regular meeting is scheduled for Tuesday, May 22, 2012 at 1:00 p.m.

ATTEST:

  
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Stephen M. Webber, Chairman

  
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Sheila Spicer, Recording Secretary