



Incorporated 1927

Town of Lake Lure

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Minutes of the Regular meeting of the Board of Adjustment

Tuesday, May 22, 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
Lance Johnson, Seated Alternate
John Kilby
Melvin Owensby, Alternate
Vicki Smith
Bob Cameron, Council Liaison

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

Absent: Patricia Maringer

APPROVAL OF THE AGENDA

Chairman Webber asked that the agenda be amended to add item 6(A) under Old Business to add an opportunity for Board members to ask questions about new regulations.

Mr. Johnson made a motion to approve the agenda as amended. Ms. Johnson seconded the motion and all were in favor.

APPROVAL OF THE MINUTES

Ms. Smith made a motion seconded by Mr. Johnson to approve the minutes of the April 24, 2012 meeting as presented. The motion passed unanimously.

NEW BUSINESS

None

HEARINGS

(A) ZV-2012003, a request by Jayne Mann for a variance from Section 92.040 of the Zoning Regulations for the minimum front (lake) yard setback of 35 feet to 7 feet for a variance of 28 feet. The Property (Tax PIN 1643268) is located at 114 Hummingbird Cove, Lake Lure, NC 28746.

Ms. Spicer and Ms. Mann were sworn in.

Ms. Smith reported that she visits Ms. Mann on a weekly basis and had advised her at one point to seek a variance for her proposed project. Mr. Johnson reported that Ms. Mann pointed out the deck she wishes to screen in when he visited the site in preparation for the meeting. Ms. Johnson reported that she is good friends with Ms. Mann but has not discussed this case with her. All of the Board members seated reported that they had no conflicts of interest regarding this case. Ms. Mann did not challenge any of the members seated.

Ms. Spicer testified that Ms. Mann had approached her with a request to add a roof and screen in an existing deck on her property that is located in the front lake yard setback. She stated she had told Ms. Mann at that time that a variance would be required due to the fact that it would be increasing the nonconformity of the structure. Ms. Spicer mentioned that she had spoke to Janice Paris, and adjacent property owner, on May 9, 2012 and explained the particulars of the request. She also mentioned that the certified letter sent to Joseph and Ryan Delaney, adjacent property owners, had been returned as undeliverable.

Chairman Webber pointed out that the application states the request is to reduce the setback to 7 feet, but the drawings included with the application are inconsistent. Ms. Spicer responded that the site plan prepared by the survey included with the application indicates the deck is located 7 feet from the shoreline and the dimensions of the deck are 12 feet by 16 feet.

Mr. Kilby asked Ms. Mann to clarify whether or not she was asking to change the dimensions of the existing deck. Ms. Mann testified that she was not; she only wanted to add a roof to and enclose what is currently there. Chairman Webber asked if the proposed roof would be consistent with the existing roof of the dwelling. Ms. Mann responded that it would. Chairman Webber asked if the proposed walls would be full screen walls or half solid and half screen. Ms. Mann responded that they would be full screen walls.

There was no further testimony, so Chairman Webber closed the public hearing.

Ms. Smith moved with regard to case number ZV-2012003 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.

Chairman Webber stated as justification for voting in favor of the variance that it will not adversely affect neighboring property owners and the applicant has a medical condition necessitating the work proposed as evidenced by a note from her physician included with the application.

(B) ZV-2012005, a request by the Town of Lake Lure for a variance from Section 92.116 (B) of the Zoning Regulations to exceed the maximum allowable height of a fence in the front lake yard setback. The property (Tax PIN 1608101) is located at 197 Buffalo Shoals Road, Lake Lure, NC 28746.

Ms. Spicer and Town Manager Chris Braund were sworn in.

There were no ex parte communications or conflicts of interest reported by the Board. Mr. Braund 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 wished to replace the existing, dilapidated chain link fence on either side of the Lake Lure Dam with a 6 feet tall decorative steel fence; however, the portion of the fence located at the north end of the Dam is located in the R-1 zoning district. She pointed out that the Zoning Regulations require that fences located in the front lake yard setback be no more than 42 inches in height. She mentioned that the fence is necessary to prevent people from accessing the lake in close proximity to the Dam. She testified that entering the lake in this area could result in severe injury or death due to the current pulling towards the dam when the gates are open. She also stated the fence prevents objects from falling onto workers at the bottom of the dam. Ms. Spicer also reported she had a conversation with Dr. John Hunt, an adjacent property owner, on May 14, 2012, and Dr. Hunt indicated at that time that he had no objections to the request.

Mr. Kilby asked why the fence on the north end of the Dam would not extend along the entire length of the property to also help protect the existing boathouse where the fire boat is sometimes stored. Mr. Braund replied that a portion of the property, including the boathouse, may be subdivided off and sold at a later date.

Ms. Johnson, referencing the proposal for Asheville Contracting Company included with the application, asked if the proposed gates will be locked to prevent unauthorized access. Mr. Braund replied that the gates would be locked. Chairman Webber asked if the fence would be the style indicated in the plans submitted with the application. Mr. Braund verified that it would.

Chairman Webber asked if the flood gate controls would also be cleaned up as part of this proposed improvement project. Mr. Braund responded that making the flood gate controls more presentable is currently in the Town's capital improvements budget. Mr. Kilby stated the Town is selling itself short by not making the area around the Dam more aesthetically pleasing due to the large number of visitors that are drawn to it each year.

There was no further testimony, so Chairman Webber closed the public hearing.

Mr. Johnson moved with regard to case number ZV-2012005 for a variance from Section 92.116 (B) 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, he 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.

Chairman Webber stated as justification for voting in favor of the variance that the fence is required to ensure public safety.

OLD BUSINESS

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

Chairman Webber asked the Board members if they had any questions regarding these new Board functions. There were no questions from the Board members.

ADJOURNMENT

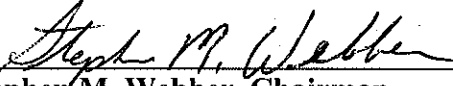
Ms. Smith made a motion seconded by Mr. Kilby to adjourn the meeting. All were in favor.

The meeting was adjourned at 1:28 p.m. The next regular meeting is scheduled for Tuesday, June 26, 2012 at 1:00 p.m.

ATTEST:



Sheila Spicer, Recording Secretary



Stephen M. Webber, Chairman