



Town of Lake Lure

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Incorporated 1927.

Minutes of the Regular meeting of the Board of Adjustment

Tuesday, February 26, 2013
1:00 p.m.

Chairman Webber called the meeting to order at 1:02 p.m.

ROLL CALL

Present: Stephen Webber, Chairman
Michael Gray, Seated Alternate
Lance Johnson, Seated Alternate
John Kilby
Patricia Maringer
Melvin Owensby, Alternate
Bob Cameron, Council Liaison

Also Present: Sheila Spicer, Zoning Administrator, Recording Secretary

Absent: Betty Johnson
Vicki Smith

APPROVAL OF THE AGENDA

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

APPROVAL OF THE MINUTES

Mr. Kilby made a motion seconded by Ms. Maringer to approve the minutes of the January 22, 2013 meeting as presented. The motion passed unanimously.

HEARINGS

(A) VROP-2013001, a vacation rental operating permit request from Daniel & Pamela Grotsky, to operate a residential vacation rental at 144 Swallow Lane, Lake Lure, North Carolina (Tax PIN 231409).

Ms. Spicer and Ms. Grotsky were sworn in.

There were no ex parte communications or conflicts of interest reported. Ms. Grotsky did not challenge any of the Board members seated for the hearing.

Ms. Spicer presented an overview of the case. She stated the property owners are requesting a vacation rental operating permit (VROP) to operate a 4-bedroom residential vacation rental (RVR) in the R-3 Resort Residential zoning district. She pointed out the Board's packet includes a parking plan, standard rental agreement, and verification that the property has been registered with the Rutherford County Tourism Development Authority. She stated the septic improvement permit issued by Rutherford County Environmental Health was included, as well. Ms. Spicer reported that the Development Review Committee (DRC) reviewed this request on February 12, 2013, and the minutes to that meeting are also included in the Board's packet. She reported there had been one response from a neighboring property owner seeking information regarding the request after the hearing notifications were posted, but no concerns were raised.

Mr. Gray questioned the fact that the septic improvement permit is for a 3-bedroom system, but the request is for a 4-bedroom RVR. Ms. Spicer pointed out that a statement in the application and the MLS property information included with the application also indicate the home is a 3-bedroom dwelling. She directed the Board's attention to the DRC minutes that state this issue was discussed, but Ms. Grotsky chose to leave the request at 4-bedrooms.

Ms. Grotsky addressed the Board and stated the home has a finished basement and a loft area that could both be used as sleeping areas; that is why she asked for a 4-bedroom VROP. Referencing the concern raised by Ms. Spicer regarding the address posting on the property in her memo to the Board, Ms. Grotsky showed the Board a new address plaque that will be posted and stated the address will also be posted on the house near the driveway.

Ms. Maringer asked where the half bathroom is located. Ms. Grotsky replied it is in the basement. Ms. Maringer also asked if there are drainage issues with the parking area because there appeared to be standing water when she visited the property. Ms. Grotsky stated the driveway and parking area had been checked when they purchased the house, and no problems had been reported. She also stated she had not seen any drainage problems.

There was no further testimony, so Chairman Webber closed the hearing. During deliberations there was significant discussion about the fact that the septic improvement permit is only for 3-bedrooms. Upon a motion made by Mr. Gray and seconded by Mr. Kilby, the Board unanimously voted to reopen the hearing to gather further testimony.

Mr. Gray asked Ms. Grotsky if there is room on the property to expand the septic system. Ms. Grotsky responded she feels there should be plenty of room. Mr. Kilby asked if the basement is completely finished. Ms. Grotsky stated it was finished before she purchased the property. Mr. Kilby asked if she had contacted Rutherford County Health Department

about expanding the septic system; she responded she had not. Mr. Gray asked Ms. Spicer what the maximum occupancy is for a 3-bedroom RVR. Ms. Spicer responded the maximum occupancy would be 10 persons. Mr. Kilby asked Ms. Grotsky if that would meet her needs. She responded that would probably be sufficient.

Commissioner Cameron stated he may be able to help if he is sworn in. Mr. Kilby made a motion to allow Commissioner Cameron to testify. Mr. Johnson seconded the motion. Mr. Gray, Mr. Johnson, and Mr. Kilby voted in favor of the motion; Chairman Webber and Ms. Maringer were opposed.

Commissioner Cameron was sworn in. Chairman Webber asked if his testimony was regarding septic systems. Commissioner Cameron responded he has experience as a contractor in the installation of septic systems. He stated the system is designed based on the soil type it is located in. He pointed out the repair area on the improvement permit and stated that area is for repairs, extending existing drain lines, or expanding the system. Chairman Webber asked if the system shown on the improvement permit could be for a 4-bedroom system. Commissioner Cameron responded no, it is only a 3-bedroom system. Mr. Johnson asked if another repair area would be required if the existing repair area were to be used to expand the system. Commissioner Cameron responded that extending the drain lines would likely be the only thing required to upgrade the system for 4-bedrooms.

Chairman Webber closed the hearing.

With regard to application number VROP-2013001 for a vacation rental operating permit to operate a residential vacation rental in the R-3 Resort Residential zoning district, Mr. Kilby moved the Board to find that the application is complete and that the proposed use, if operated according to the application and any conditions attached hereto, meets the following standards: (1) it will not materially endanger the public health or safety; (2) it will not substantially injure the value of adjoining or abutting property; (3) it will meet all standards and requirements specified in the regulations of the Town; (4) it will be in harmony with the neighborhood character and in general conformity with applicable elements of the Comprehensive Plan; and (5) satisfactory provision and arrangement has been made for those matters specified in §92.046(D) of the Zoning Regulations of the Town of Lake Lure.

Accordingly, he further moved the Board to grant the requested vacation rental operating permit in accordance with and only to the extent represented in the application and plans. Mr. Johnson seconded the motion. Ms. Maringer moved to add the condition that the permit is only approved as a 3-bedroom RVR. Mr. Gray seconded the motion. Both motions passed unanimously.

- (B) ZV-20130001, a request by Jim Grant for a variance from Section 92.040 of the Zoning Regulations for the minimum front (lake) yard setback for his property of 24.83 feet to 23.41 feet for a variance of 1.42 feet. The property (Tax PIN 225459) is located at 349 Holmes Road, Lake Lure, NC 28746**

Ms. Spicer, Mr. Grant, Kathleen Grant, and their contractor Alan Duncan were sworn in.

There were no conflicts of interest reported. Mr. Kilby stated Mr. Grant had asked him about permitting for his project quite some time ago, but he had simply told Mr. Grant to contact Ms. Spicer. There were no other ex parte communications reported. The applicant did not challenge any of the Board members seated for the case.

Ms. Spicer reported there had been no response from neighboring property owners to the hearing notices. She then gave an overview of the case. She stated Mr. Grant is seeking permission to raise and extend a small roof section on his dwelling that is located in the lake front setback. She pointed out Mr. Grant has a reduced lake front yard setback per Section 92.131 of the Town of Lake Lure Zoning Regulations, but the portion he proposes to extend still encroaches into his reduced setback. Ms. Spicer reminded that the Zoning Regulations prohibits enlarging a non-conforming structure in a way that increases the non-conformity as well as prohibits increasing the cubic content of a non-conforming structure; therefore, a variance is required before this work can be performed. She mentioned that Mr. Grant is currently performing other renovations to his dwelling; however, the construction in progress is allowed by the regulations, and he has a valid certificate of zoning compliance permit for the work.

Mr. Johnson stated it appears the overhangs will extend beyond what is depicted on the site plan included in the packet. Ms. Spicer pointed out that the letter from Kim Warner the engineer for the project also included in the packet states the overhang is included in the calculations.

Mr. Grant addressed the Board and stated the home is in need of repairs. He mentioned he had received a variance in 2006 to demolish and rebuild on the property but did not perform the work for various reasons. He stated there have been significant problems caused by water damage due to the existing roof line and pitch. He stated he was informed in 2008 the southern wall of the structure was in imminent danger of failing due to water damage. He had significant repairs made at that time, but still continued to experience water related problems. Mr. Grant reported that in 2012 the engineer deemed that portion of the structure unsafe and outlined measures necessary to correct the ongoing problems. One section of the home had to be removed and is being replaced in the same footprint. At that time both the engineer and the contractor recommended replacing the flat roof with a gabled roof to prevent future water problems. He pointed out the proposed center of the new roof will be 2 inches further away from the lake than the existing roof, and only the wings of the proposed roof will encroach into the setback. Mr. Grant confirmed that the variance requested includes the overhangs.

Mr. Gray asked when the house was built. Mr. Grant replied he believed it was built in the late 1940s. Mr. Gray asked if there were setback requirements when the house was built. Mr. Grant stated there were not. Chairman Webber asked if the existing lower level is being replaced exactly as it was. Mr. Grant confirmed that it was. Chairman Webber asked if extending the upper level is part of the necessary repairs. Mr. Grant stated it was.

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

The Board briefly deliberated the case.

With regard to case number ZV-2013001 for a variance from Section 92.040 of the Zoning Regulations, Mr. Gray moved the Board to find (a) owing to special conditions, a literal enforcement of the provisions of the regulation(s) 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. Mr. Johnson seconded the motion, and all were in favor.

In support of the decision, the Board pointed out that the proposed roof extension will not have any further impacts than what already exists. They also pointed out the property owner has demonstrated the variance requested is the least variance possible to correct the ongoing water problems, the need for the variance is not a result of the actions of the applicant, and the letter from the engineer indicates he feels the work proposed will remedy the hardship created by the ongoing water problems.

NEW BUSINESS

Mr. Kilby stated as a result of the Board's involvement in the RVR process over the last several months he feels VROP requests should be handled by staff. He stated he feels Ms. Spicer is qualified to handle those requests, and they should only come to the Board on appeal. He read the following motion:

"We feel the vacation rental permit process duties should be placed back under the control of the Zoning Administrator, who is a trained, qualified Town employee. The only vacation rental permits that should involve the BOA are when the Zoning Administrator deems it necessary due to an unusual issue or when the permit applicant disagrees with the decision of the Zoning Administrator. Our Zoning Administrator, at the inception of this new zoning process, completed over 180 vacation rental permit applications, and we feel she is the proper qualified Town staff member to process this permitting requirement."

Mr. Gray seconded the motion. The Board discussed the conditional use permit process versus an administrative review. They also briefly discussed the VROP cases they have heard with Ms. Spicer for any decisions she may have made differently if they were handled administratively.

The Board unanimously voted to forward the recommendation to Town Council.

Chairman Webber stated he wanted Mr. Kilby as Vice-Chair to conduct the next meeting

for training purposes.

OLD BUSINESS

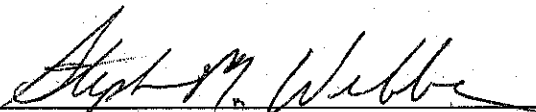
None

ADJOURNMENT

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

The meeting was adjourned at 2:20 p.m. The next regular meeting is scheduled for Tuesday, March 26, 2013 at 1:00 p.m.

ATTEST:



Stephen M. Webber, Chairman



Sheila Spicer, Recording Secretary