



Town of Lake Lure

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Incorporated 1927

Minutes of the Regular meeting of the Board of Adjustment

Tuesday, June 25, 2013
1:03 p.m.

Chairman Webber called the meeting to order at 1:03 p.m.

ROLL CALL

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

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

Absent: Vicki Smith

APPROVAL OF THE AGENDA

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

APPROVAL OF THE MINUTES

Mr. Gray made a motion seconded by Ms. Maringer to approve the minutes of the May 28, 2013 meeting as presented. The motion passed unanimously.

HEARINGS

(A) A request by Lake Lure Classical Academy to amend the condition for CU-2010001 requiring all temporary buildings to be removed from the site no

later than October 16, 2013. The property (Tax PIN 1605470) is located at 2520 Memorial Highway, Lake Lure, North Carolina 28746

Ms. Spicer was sworn in. There were no members of the school board present at the meeting. Ms. Spicer gave an overview of Lake Lure Classical Academy's (LLCA) request for an extension. She mentioned there is a letter from Russ Pitts, LLCA's facility committee chairman, included in the packet which asks the Board for an additional three years from the current expiration date on the original conditional use permit. Chairman Webber asked Ms. Spicer if she had received any letters or phone calls with concerns. Ms. Spicer stated she had a phone call from Steve Hayes, adjacent property owner, who received the certified letter and wanted to know the nature of the case. Ms. Spicer explained the case to Mr. Hayes and he stated he had no concerns.

Mr. Kilby stated he would like to have someone with the school board present to ask a few questions. Chris Braund, Lake Lure Town Manager and member of the Lake Lure Classical Academy school board, joined the meeting

Mr. Braund was sworn in. Mr. Gray asked Mr. Braund, if the three year extension is granted, what would happen if the new school building was completed before the three years is up. Mr. Kilby noted that, according to the original conditional use permit, the temporary buildings are to be removed from the site no later than 60 days from the time they are vacated. Mr. Kilby asked Mr. Braund what the projected completion date is for the new school. Mr. Braund stated that August, 2014 is the target date for having the school completed and ready to open. Mr. Kilby then asked if finances are in place. Mr. Braund stated that finances have not been finalized but are almost in place.

Ms. Spicer mentioned she received an email from George Wittmer, neighboring property owner, wanting to know what the case was about. She stated Mr. Braund responded to Mr. Wittmer's email and did not receive a reply back.

There were no further questions.

Chairman Webber made a motion that, with regard to condition number one of CU-2010001, the deadline to remove the temporary buildings be extended to no later than three years and 60 days from August 1, 2013. Motion seconded by Mr. Kilby and all were in favor.

(B) VROP-2013005, a vacation rental operating permit request from John F. Dunbar to operate a residential vacation rental at 187 Garner Drive, Lake Lure, North Carolina (Tax PIN 232096)

Ms. Spicer, Melissa Messer, and Mary Stroman were sworn in.

Mr. Gray advised that Exclusive Mountain Properties is one of his clients, but he will not be financially impacted by the results of the hearing. Chairman Webber reported that he and Mr. Owensby visited the property together, but they did discuss any predetermined

opinions about the case. Ms. Messer did not wish to challenge any of the members for cause.

Ms. Spicer presented an overview of the case. She stated the property owners are requesting a vacation rental operating permit (VROP) to operate a 3 bedroom residential vacation rental in the R-1 Resort Residential zoning district. She pointed out the Board's packet includes a parking plan, agent authorization letter, verification from the customer service supervisor for the town stating that the property is on town sewer, authorization from a licensed plumber indicating that the connection has been inspected, approved commercial license and commercial boat permit, standard rental agreement, and verification that the property has been registered with the Rutherford County Tourism Development Authority. Ms. Spicer reported the Development Review Committee (DRC) reviewed this request on June 6, 2013, and the minutes to that meeting are also included in the Board's packet. She mentioned that there were no concerns raised regarding this request or the application as submitted. Ms. Spicer then pointed out that the town has addressing regulations, and the property's posted address sign does not meet the requirements of those regulations. Ms. Spicer reported she has had conversations with neighboring property owners regarding the case. She stated she has spoken with Mary Stroman, property owner at 197 Garner Drive, Lake Lure, NC, who is present at the meeting. She also reported speaking with Andrew Johnson, an adjacent property owner, who mentioned that he has been out of the country and just received the town's certified notification letter in the mail. He notified Ms. Spicer that he sent an email to her on June 24, 2013 regarding this matter. Ms. Spicer asked Chairman Webber if the Board would accept his email as evidence, and Chairman Webber stated that Tom McKay was present at the meeting to testify on Mr. Johnson's behalf.

Melissa Messer, owner of Exclusive Mountain Properties, stated that she has been sworn in and is acting on behalf of John Dunbar. His agent authorization letter is included in the packet. Ms. Maringer pointed out to Ms. Messer that on number 16 of the vacation rental agreement, it states there is a maximum parking of four vehicles with the number three in parenthesis. Ms. Messer noted that this should state there is a maximum of three vehicles. There was a discussion held on parking. During the discussion, Chairman Webber noted that while he was visiting the property, he noticed what appeared to be a well next to the road which is sinking. He stated that this is a public safety issue and needs to be addressed. Ms. Messer replied that Dr. Dunbar would take whatever measures necessary to ensure the safety of any renters.

Ms. Johnson expressed concerns she had about there being no handrails along the steps leading down to the lake. She stated that there should be handrails added for public safety.

Tom McKay, adjacent neighbor Andrew Johnson's property manager, was sworn in. Ms. Spicer commented that she received Mr. Johnson's agent authorization letter by email, and Chairman Webber accepted the letter as Board Exhibit 1. Mr. McKay mentioned that Mr. Johnson's concerns pertain to ingress and egress at the property. He stated there have been problems in the past and would like to have these problems resolved.

Ms. Messer noted this property has not been rented with Exclusive Mountain Properties yet but they do have reservations. She mentioned in 2012 Dr. Dunbar had water damage to the basement and spent most of the year making repairs.

Mary Stroman, neighboring property owner at 197 Garner Drive, stated she has some concerns with parking causing problems with ingress and egress to her property. A brief discussion followed.

Ms. Messer again assured the Board that Dr. Dunbar will be willing to make any changes necessary to provide better parking for ingress and egress.

Chairman Webber explained to Ms. Messer that she has the opportunity to accept conditions placed upon the request or she can ask to have this case continued to allow time for some improvements to the property. Ms. Messer responded that she would prefer to have conditions added to her request.

There was no further testimony, so Chairman Webber closed the hearing. During deliberations, the Board discussed bringing the steps up to commercial code by adding handrails, having proper address marking and display to meet town regulations, mark the sinking well as a safety hazard and/or have it repaired so it is not a safety hazard, and to include a condition that Mr. Dunbar be given a temporary maximum parking of one vehicle and continue this case within 100 days.

With regard to application number VROP-2013005 for a vacation rental operating permit to operate a residential vacation rental in the R-1 Residential zoning district, Ms. Johnson 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, she 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. Kilby seconded the motion.

Ms. Johnson moved to amend her motion to add the following conditions:

- 1. Proper street address should be displayed according to town requirements**
- 2. Handrails installed to bring it up to commercial code**
- 3. Repair or adequately mark as a safety hazard the area where the well is**

4. **Within 100 days, the applicant will be required to return with a parking plan, which is to be based on a survey, showing all parking to be situated on the property and off the travel way of Garner Drive and should be clearly delineated on the site.**

Mr. Kilby seconded the amendment to the motion and all were in favor. Mr. Gray, Ms. Johnson, Ms. Maringer, and Chairman Webber voted in favor of the motion.

Ms. Maringer noted that she would like to include on the 4th condition that there be a maximum parking limit of one vehicle. She mentioned that this was discussed but was overlooked on the motion that was made to include the conditions. Chairman Webber stated that the Board will need to revote.

Mr. Gray, Ms. Johnson, Mr. Kilby, Ms. Maringer, and Chairman Webber voted in favor of the motion.

The Board unanimously voted to approve the revised motion as amended.

Mr. Egan noted that failure to address any of these conditions will result in the suspension or revocation of the permit.

The motion passed unanimously.

- (C) **VROP-2013006, a vacation rental operating permit request from Carmel Mendoza to operate a residential vacation rental at 160 Dockside Drive, Lake Lure, North Carolina 28746**

Ms. Spicer and Scott Burrell were sworn in.

There were no ex parte communications or conflicts of interest reported. Mr. Burrell 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 to operate a 2-bedroom residential vacation rental in the R-1 Residential zoning district. She pointed out the Board's packet includes an agent authorization letter, parking plan, a copy of a survey that is not to scale, standard rental agreement, and verification that the property has been registered with the Rutherford County Tourism Development Authority. She also stated there is a sewer system inspection certification included from Phil Humphries showing he inspected the sewer connection on June 3, 2013. Ms. Spicer mentioned that Linda Ward, Customer Service Supervisor, could not locate the property in her Utility Billing and could not verify that the property is on town sewer. Ms. Spicer reported that Tony Hennessee, Public Works Director, visited the site and stated the connection that was inspected by Mr. Humphries was actually the grinder pump and lift station for the neighboring home. She stated the current sewer status for her property is unknown. Ms. Spicer reported that the Development Review Committee (DRC) reviewed this request on June 6, 2013, and

the minutes to that meeting are also included in the Board's packet. Ms. Spicer reported the only call she had was from Louis Seton, adjoining property owner at 144 Dockside Drive. Ms. Seton contacted her on June 17, 2013 with questions about the procedure for vacation rental permitting and stated she has no problems or concerns.

Mr. Gray asked Ms. Spicer where the parking is located. Ms. Spicer stated according to the parking plan it appears parking is located in the right of way for Dockside Drive.

Mr. Burrell, with Hidden Treasures Property Land Management and Ms. Mendoza's appointed agent, gave an overview of the sewer inspection that was done. He mentioned there is no evidence to show that Ms. Mendoza is on town sewer. Discussion followed. Mr. Kilby stated he did not feel that the Board could go any further until sewer or septic is confirmed. He noted there needs to be a parking plan that show parking within the property boundaries, as well.

Mr. Kilby made a motion to continue the hearing for VROP-2013006 to a later date until verifiable facts on the sewer at the property and a survey clearly showing property lines in relation to parking is presented.

Mr. Egan mentioned the hearing needs to be continued to a specific date to prevent having to re-advertise the hearing. The Board discussed with Mr. Burrell what he needs to have prepared for the continued meeting. Chairman Webber noted he has a concern with a caution sign at the beginning of the steps on the property stating they are slippery when wet. He advised there needs to be some kind of non-skid strips down on the ramps to prevent someone from falling.

Mr. Kilby amended the motion to state the hearing is continued until the August 27, 2013 meeting. The motion was seconded by Mr. Gray and all were in favor.

(D) ZV-2013003, a request from Michael Sheehan for a variance from Section 92.040 of the Zoning Regulations for the minimum front (lake) yard setback of 35 feet to 0 feet for a variance of 35 feet, a variance from the minimum front (street) yard setback of 50 feet to 23.88 feet for a variance of 26.12 feet, and a variance from the minimum lot size of 10,000 square feet to 8,710 square feet for a variance of 1,290 square feet. The property (Tax PIN 232289) is located at 1104 Memorial Highway, Lake Lure, North Carolina 28746

Ms. Spicer was sworn in. Mr. Sheehan was not present at the meeting. Ms. Spicer stated that, due to recent developments, Mr. Sheehan is amending the plans for an addition to his residence. She reported the amended plans were not ready in time for this meeting, so Mr. Sheehan is requesting that the Board open the hearing for his variance application, and then continue it to the July 23, 2013 meeting.

Chairman Webber asked Ms. Spicer if Mr. Sheehan's amended plans will change the variance requested. Ms. Spicer stated she does not know for certain because she has not

received the amended plans yet. Chairman Webber asked Mr. Egan if Mr. Sheehan's changes do affect the variances to where they are greater than what was noticed, will the Board need to send out another notification to adjacent property owners. Mr. Egan explained that another notice will need to go out to the adjacent property owners stating that Mr. Sheehan has asked for a continuance and the amounts of the variance request may change.

Ms. Maringer asked Mr. Egan if the Board could open the hearing without an application. Mr. Egan answered that yes the hearing could be opened and continued to a later date.

Mr. Gray made a motion to continue the hearing for ZV-2013003 to the July 23, 2013 meeting. Ms. Johnson seconded the motion and all were in favor.

NEW BUSINESS

NONE

OLD BUSINESS

None

Mr. Kilby mentioned he feels it should be necessary that someone always be present at the meetings to represent their case and application. Chairman Webber explained the bylaws state that if the applicant or designated representative for a case is not at the Board's meeting when the case is scheduled to be heard, the Board will not be obligated to vote on the case. The Board will consider any requests to hear the appeal from the Zoning Administrator or any other official of the Town before deciding whether to postpone the matter. Mr. Kilby asked if that could be amended and Chairman Webber stated it could.

ADJOURNMENT

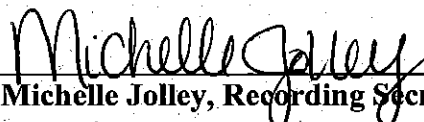
Mr. Gray made a motion seconded by Ms. Maringer to adjourn the meeting. All were in favor.

The meeting was adjourned at 3:45 p.m. The next regular meeting is scheduled for Tuesday, July 23, 2013 at 1:00 p.m.

ATTEST:



Stephen M. Webber, Chairman



Michelle Jolley, Recording Secretary