



**Minutes of the Regular meeting of the
Board of Adjustment**

**Tuesday, January 28, 2014
1:00 p.m.**

Chairman Webber called the meeting to order at 1:01 p.m.

ROLL CALL

Present: Stephen Webber, Chair
Michael Gray
John Kilby
Patricia Maringer
Melvin Owensby
David Butts, Alternate
Mark Hoek, Alternate
Roger Jolly, Alternate
Bob Cameron, Council Liaison

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

Absent: N/A

APPROVAL OF THE AGENDA

Mr. Gray made a motion to approve the agenda as presented. Ms. Maringer seconded the motion. All voted in favor.

APPROVAL OF THE MINUTES

Ms. Maringer made a motion seconded by Mr. Owensby to approve the minutes of the December 17, 2013 meeting as presented. All voted in favor.

NEW BUSINESS

(A) Election of Officers

Chairman Webber reminded the Board members that only regular members can be elected to serve as chair or vice-chair, but all members may vote.

Mr. Kilby nominated Chairman Webber to continue serving as chairman. There were no other nominations. Mr. Butts, Mr. Gray, Mr. Hoek, Mr. Jolly, Ms. Maringer, and Mr. Owensby unanimously voted for Chairman Webber to continue serving as chairman.

Mr. Gray nominated Mr. Kilby to continue serving as vice-chair. There were no other nominations. Mr. Butts, Mr. Gray, Mr. Hoek, Mr. Jolly, Ms. Maringer, Mr. Owensby, and Chairman Webber unanimously voted for Mr. Kilby to continue serving as vice-chair.

HEARINGS

(A) A request by Jim Grant to amend ZV-2013001, a variance approved on February 26, 2013 Section 92.040 of the Zoning Regulations for the minimum front (lake) yard setback. The property (Tax PIN 225459) is located at 349 Holmes Road, Lake Lure, North Carolina

Ms. Spicer, Mr. Grant, and Mr. Grant's contractor, Alan Duncan, were sworn in.

There were no ex parte communications or conflicts of interest reported. Chairman Webber reported that he visited the property, along with Mr. Hoek. Mr. Grant did not wish to challenge the Board for cause.

Ms. Spicer presented an overview of the case. She stated the property owner previously requested a variance from the front (lake) yard setback to extend a portion of his residence at 349 Holmes Road, to which the Board voted to approve on February 26, 2013. She explained the site used for his request was prepared from a 2003 survey of the property performed by Nathan Odom of Professional Surveying Services and a certificate of zoning compliance permit (Zp-2013012) was issued on February 27, 2013 based upon the variance granted. This permit stipulated that a foundation survey was required to insure the addition was located as shown on the approved plans. Ms. Spicer reported that Mr. Odom passed away in 2012, so Mr. Grant contracted with Scott Bostic of Professional Surveying, PLLC to perform the foundation survey. She stated this survey indicated the house is located about five inches closer to the lake than previously shown causing the addition to extend closer to the lake than what was approved by the Board. Ms. Spicer pointed out that Mr. Bostic has provided a detailed letter explaining his surveying process, as well as an illustration of the portion of the structure that exceeds the setback as reduced by the variance. Copies of these documents and the foundation survey, along with copies of the original variance filed, were included in the packet.

Mr. Grant presented his case and testified that the no portion of the foundation or wall is in the setbacks. He stated the only portion in the setbacks is the overhang.

There was no further testimony, so Chairman Webber closed the hearing. Chairman Webber explained to the Board, based on the state law changes, a variance requires a super majority vote. There were no concerns raised from the Board members during discussion. Mr. Gray made the following motion:

With regard to the request to modify the variance previously issued in Case No. ZV-2013001, Mr. Gray moved the Board to find approving such request is consistent with the standards contained in §92.088 of the Zoning Regulations. Accordingly, he also moved the Board to grant such request in accordance with and only to the extent represented in the application. Ms. Maringer seconded. Chairman Webber, Mr. Gray, Mr. Kilby, Ms. Maringer, and Mr. Owensby voted in favor.

(B) VROP-2014002, a vacation rental operating permit from Eric and Angela Stockdale to operate a residential vacation rental at 1672 Memorial Highway, Lake Lure, North Carolina (Tax PIN 231563)

Ms. Spicer, and the authorized agent for Eric and Angela Stockdale, Sharon Ryan, was sworn in.

There were no ex parte communications or conflicts of interest reported. Chairman Webber reported that he visited the property, along with Mr. Hoek. Ms. Ryan did not wish to challenge the Board 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 at 1762 Memorial Highway. She pointed out the Board's packet includes the application, a parking plan, septic permits, Distinctive Mountain Lodging's standard rental agreement, and email 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 January 9, 2014, and the minutes to that meeting are also included in the Board's packet. Ms. Spicer pointed out that during the DRC meeting, Ms. Ryan updated the addendum she included with her standard rental agreement. She stated that letters were sent to adjacent property owners and she received a call from Mr. Conforti with questions about the case. She mentioned after explaining the case to him he did not have any concerns. Ms. Spicer pointed out Ms. Ryan was supposed to bring an agent authorization letter with her. Ms. Ryan stated she did not have the letter with her but she would bring the letter by after the meeting was over. Mr. Egan stated the Board could go ahead and hear the meeting contingent upon her bringing the agent authorization letter to Ms. Spicer.

Ms. Ryan testified that she spoke with the Fire Chief and stated the carbon monoxide detectors and fire extinguishers have been installed.

Chairman Webber pointed out there are spotlights located on the right front corner of the house and recommended that Ms. Ryan make sure those are not pointed towards the road when they're on at night. Ms. Ryan assured the Board she would make sure the spotlights

were not pointed towards the road. Chairman Webber explained to Ms. Ryan that if the Board votes to approve the VROP, it will be contingent upon her bringing the signed agent authorization letter to Ms. Spicer.

There was no further testimony, so Chairman Webber closed the hearing. There were no concerns raised from the Board members during discussion. Mr. Kilby made the following motion:

With regard to application number VROP-2014002 for a vacation rental operating permit to operate a residential vacation rental in the R-4 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 presented in the application and plans and subject to the condition that Ms. Ryan shall deliver a copy of the agent authorization letter to the Zoning Administrator prior to the issuance of the permit. Mr. Owensby seconded the motion. Chairman Webber, Mr. Gray, Mr. Kilby, Ms. Maringer, and Mr. Owensby voted in favor.

OLD BUSINESS

None

ADJOURNMENT

Mr. Owensby made a motion seconded by Mr. Gray to adjourn the meeting. All voted in favor.

The meeting was adjourned at 1:36 p.m. The next regular meeting is scheduled for Tuesday, February 25, 2014 at 1:00 p.m.

ATTEST:



Stephen M. Webber, Chair



Michelle Jolley, Recording Clerk