



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

**Tuesday, February 25, 2014
1:00 p.m.**

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

ROLL CALL

Present: Stephen Webber, Chair
John Kilby
Patricia Maringer
Melvin Owensby
Mark Hoek, Seated Alternate
David Butts, Alternate
John Moore, Council Liaison

Also Present: Michelle Jolley, Recording Clerk
Sheila Spicer, Zoning Administrator

Absent: Michael Gray
Roger Jolly, Alternate
Bob Cameron, Council Liaison

APPROVAL OF THE AGENDA

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

APPROVAL OF THE MINUTES

Chairman Webber pointed out that each individual Board member needs to be documented as voting a yes or no for all cases, and the administrative items could state that all members voted in favor.

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

HEARINGS

(A) VROP-2014001, a vacation rental operating permit request from Nicolas Robert to operate a residential vacation rental at 161 Waterside Drive, Lake Lure, North Carolina (Tax PIN 1614899)

Ms. Spicer and Carole McKay, agent for Nicolas Robert, were sworn in.

Mr. Owensby reported that he visited the property earlier today, along with Chairman Webber. There were no conflicts of interest reported and Ms. McKay did not wish to challenge the Board for cause.

Ms. Spicer presented the case. She stated the applicant is requesting a vacation rental operating permit (VROP) to operate a 7-bedroom residential vacation rental at 161 Waterside Drive. She stated the property is located in the R-3 Resort Residential zoning district, and there is an existing single-family dwelling on the lot. She pointed out the Development Review Committee reviewed this application on January 9, 2014 and the minutes from that meeting are included in the packet. She reported the Zoning and Planning Board review was not required due to the fact that there were no proposed changes to the appearance of the building or premises. Ms. Spicer stated there is an on-site septic system and they are connected to CWS water system.

Ms. McKay presented an agent authorization letter, authorizing her to act as agent for Nicolas Robert, to the Board. Chairman Webber labeled the letter as 'Applicant Exhibit 1.'

Ms. Maringer expressed a few safety concerns in regards to missing railings and damage to some of the balconies. Ms. McKay responded that a tree had fallen and damaged a couple of the balconies. She stated that Jonathan Hinkle with Marathon Builders was hired to repair the balconies. She assured the Board all of the safety issues will be repaired and the construction material will be removed. Ms. Maringer asked if the fire pit has a cover and Ms. McKay stated she did not know. Chairman Webber pointed out the fire department would make the determination of whether or not she would need a cover for it. Ms. McKay also mentioned that the septic tank has been recently pumped. Chairman Webber pointed out that the owner of the property is required to have animal resistant trash containers. Ms. Spicer added that the trash containers would need some type of locking lid. She also mentioned the maximum number of parking spaces allowed for a vacation rental operating permit is 12 and Ms. McKay stated she's only asking for 10 parking spaces.

There was no further discussion so Chairman Webber closed the hearing.

There were no issues raised during the deliberations and no conditions were discussed. Ms. Maringer made the following motion:

With regard to application number VROP-2014001 for a vacation rental operating permit to operate a residential vacation rental in the R-3 Resort/Residential zoning district she 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. Owensby seconded the motion. Mr. Hoek, Mr. Kilby, Ms. Maringer, Mr. Owensby, and Chairman Webber voted in favor.

- (B) ZV-2014001 a request from Cliff Carden for a variance from Section 92.040 of the Zoning Regulations for the minimum front (street) yard setback, the minimum front (lake) yard setback, and the side yard setback. The property (currently Tax PINs 232435 through 232438) is located at 222 Ridge Road, Lake Lure, NC 28746

Ms. Spicer, Mr. Carden, Ric Thurlby (Mr. Carden's architect), and Thomas McKay (seller of the property) were sworn in.

Chairman Webber reported he visited the property earlier today, along with Mr. Owensby. There were no conflicts of interest reported and Mr. Carden did not wish to challenge the Board for cause.

Ms. Spicer presented the case. She stated that Mr. Carden has applied for a certificate of zoning compliance to demolish an existing single-family dwelling located at 222 Ridge Road, and construct a new single family dwelling. She stated the proposed structure will encroach into the front street, front lake, and east side yard setbacks; therefore, a variance is required. She reported the configuration of the lot on the GIS printout, included in the packet, does not match the configuration shown on the site plan, also included in the packet. She presented a copy of the recombination plat, which was approved by the Town of Lake Lure and recorded at the Rutherford County Register of Deeds office, to the Board. Chairman Webber labeled the plat as 'Staff Exhibit 1.' Ms. Spicer then presented a signed copy of the recombination plat to Chairman Webber, which he labeled as 'Staff Exhibit 2.' Ms. Spicer also pointed out the requested variance encroaches into the 25 foot state mandated trout buffer. She presented an email from Clint Calhoun, Environmental Management Officer for the Town, to the Board which stated the request would not create any additional impact that has not already occurred. Chairman Webber labeled the

email as 'Staff Exhibit 3.' Ms. Spicer stated she has had no responses from neighboring property owners.

Ms. Maringer asked if the property is on town sewer. Ms. Spicer reported it was verified by Michelle Jolley, Customer Service Clerk for the Town, that the property is connected to town sewer.

Mr. Carden presented his case. He stated he is proposing to demolish the existing dwelling and construct a new dwelling in approximately the same footprint that will be more aesthetically compatible with the neighborhood and will be built to current North Carolina Building Code standards. He reported that mold is visible throughout the entire structure and possibly into the interior wood paneling. He stated he took moisture readings inside the house and captured high readings. He also mentioned termites have gotten into some of the wood. He stated with a new structure, the sewer lines could be rerouted over land in a way they would not be visible. Mr. Carden mentioned the property formerly consisted of four separate lots, which he combined so that the property would meet the minimum lot size requirements of the Town's zoning regulations. He reported the variance he is requesting is the best possible fit for the location of the new structure, due to the topography.

Mr. Carden presented pictures of the current structure, the mold inside the house, the moisture readings, the boathouse, and the wood eaten by termites. Ms. Spicer made copies of a few of the pictures for the record. Chairman Webber labeled the picture of the house mold as 'Applicant Exhibit 1,' and the picture of the wood eaten by termites as 'Applicant Exhibit 2.' He labeled the picture of the entire structure as 'Applicant Exhibit 3' later in the hearing. Mr. Carden mentioned that he is a licensed limited general contractor in North Carolina and a licensed residential builder in South Carolina.

Ms. Maringer asked Mr. Carden if the house contained asbestos. Mr. Carden stated he has not seen signs of asbestos being present in the house, but if he does he will contact a professional licensed to remove it. Mr. Carden pointed out he will not be removing the concrete walls or decks

Ms. Spicer stated she explained to Mr. Carden and Mr. Thurlby that the overhangs are part of the variance. She also stated they added the overhang measurements to the request in the application. Mr. Thurlby pointed out the site plan, included in the packet, does not include the overhang measurements. Ms. Spicer pointed out the overhangs were measured and added into the variance request application included in the packet.

Mr. McKay, real estate agent with Pinnacle Sotheby, added that if the Board grants Mr. Carden's variance request, it would improve the overall appeal of the property and the lake front.

There was no further discussion so Chairman Webber closed the hearing.

During deliberations, Ms. Maringer mentioned her only concern is with construction material falling into the lake when the house is demolished. Mr. Kilby stated, because Mr. Carden is a licensed general contractor, he feels confident Mr. Carden would dispose of construction material properly and would not allow any to fall into the lake. Chairman Webber pointed out the existing dwelling is in a condition that could be hazardous to health and safety due to the presence of mold and termite damage. He mentioned due to the topography and the irregular shape of the parcel, building a new dwelling in a different location on the property would require a greater variance and would result in greater environmental impacts due to extensive grading in close proximity of the waters of Lake Lure. He stated rebuilding in the current location would also allow existing retaining walls and decks to remain in place and be incorporated into the new house footprint, thereby reducing the amount of demolition and land disturbance near the lake. He added the hardship and special circumstances necessitating the variance are not the result of the actions of the applicant but result from the shape and topography of the property as well as the dilapidated condition of the existing dwelling. After deliberations, Mr. Kilby made the following motion:

With regard to Case Number ZV-2014001, Mr. Kilby moved the Board to find that the applicants have demonstrated that unnecessary hardship would result from carrying out the strict letter of §92.040 of the Zoning Regulations and, further, has demonstrated compliance with the standards for granting a variance contained in §92.088 of such Regulations. Accordingly, he moved the Board to grant the requested variance in accordance with the facts and measurements shown on the application form and only to the extent represented by the application.

Ms. Maringer seconded the motion. Mr. Hoek, Mr. Kilby, Ms. Maringer, Mr. Owensby, and Chairman Webber voted in favor.

NEW BUSINESS

- (A) Training Session – Informational video from the Zoning, Planning, and Land Use Section of the N.C. Bar Association explaining the 2013 amendments to the state statute on quasi-judicial land use decisions and zoning boards of adjustment**

Ms. Spicer had technical difficulties with the laptop and was not able to show the informational video. She stated she would email the Board members a link to view the video.

OLD BUSINESS

None

ADJOURNMENT

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

The meeting was adjourned at 2:15 p.m. The next regular meeting is scheduled for Tuesday, March 25, 2014 at 1:00 p.m.

ATTEST:



Stephen M. Webber, Chair



Michelle Jolley, Recording Clerk