



**Minutes of the Regular Meeting of the
Board of Adjustment**

**Tuesday, January 27, 2015
1:00 p.m.**

Chairman Webber called the meeting to order at 1:05 p.m.

ROLL CALL

Present: Stephen Webber, Chair
David Butts
Mark Hoek, Alternate
John Kilby
Patricia Maringer
Norman McGlohon, Alternate
Melvin Owensby
Bob Cameron, Council Liaison

Also Present: Sheila Spicer, Zoning Administrator

Absent: None

Chairman Webber announced that Roger Jolly had resigned and welcomed Norman McGlohon to the Board as an alternate member.

APPROVAL OF THE AGENDA

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

APPROVAL OF THE MINUTES

Mr. Butts pointed out that Mark Hoek was listed as a seated alternate at the last meeting and proposed to change to alternate member, as he was not a seated member at that meeting.

Mr. Owensby made a motion seconded by Ms. Maringer to approve the minutes of the December 16, 2014 meeting as amended. All voted in favor.

ELECIION OF OFFICERS

Mr. Kilby nominated Stephen Webber to continue serving as Chairman. Mr. Butts nominated John Kilby to continue serving as Vice Chairman.

All members voted in favor of the nominations for Chairman and Vice Chairman.

HEARINGS

(A) VROP-2014028 Continued, a vacation rental operating permit request from Penny Beneway, agent for William and Dixie Pinson, to operate a residential vacation rental at 310 Shumont Estates Drive, Lake Lure, North Carolina (Tax PIN 1611901)

Ms. Spicer and Ms. Beneway were sworn in at the November, 2014 meeting. Lawrence and Katherine Rudel, residents at 300 Shumont Estates Drive, were sworn in. There were no ex parte communications or conflicts of interest reported. Ms. Beneway did not wish to challenge any seated members for cause.

Since the November, 2014 meeting, Ms. Spicer mentioned that she received an email from Ms. Pinson who asked for a continuance until the next month's meeting. She stated she replied to her email and explained that, if she could not attend, she would need to have someone attend the meeting on her behalf and request a continuance or submit a letter asking for a continuance. She stated she did not get a response back from Ms. Pinson.

Ms. Beneway stated she spoke with Ms. Pinson and they would like to proceed with the hearing and not ask for a continuance.

Since the previous meeting in November, 2014, Ms. Spicer mentioned that she had further conversations with Ms. Rudel and Mr. Moylan in regards to concerns Mr. Moylan had about raw sewage not being pumped through the septic system. She stated she forwarded the concerns to Rutherford County Environmental Health Director Susan Morrison. She stated she also emailed her stating that the Pinson's were seeking a VROP and during the last hearing the Town became aware of the modifications that were made to the house that increased the number of bedrooms and that she could not find any indication that there were any approvals or permits granted for that. She mentioned that the house was originally permitted in 1999 and the Septic Improvement Permit was for three bedrooms. The VROP request is for four bedrooms. Ms. Morrison responded back stating that someone would be sent out to check the property. She later emailed Ms. Spicer back stating that one of their inspectors visited the property to see if there was raw sewage being pumped onto the ground and the only thing he found was a corrugated pipe coming from a gutter downspout. No straight pipes with raw sewage were found. She

requested that if there were any other complaints to call Rutherford County Environmental Health. She explained that since there is only a permit on file for a three bedroom septic system, she recommended that the owner apply for an addition expansion to the system in order to increase the number of bedrooms. Ms. Spicer pointed out that the tax records show the house as having only two bedrooms.

In response to a question from Ms. Maringer, Ms. Spicer stated a certificate was not included with the application showing that the septic was inspected. However, she pointed out certification is not required unless it is a connection to the Town's sewer system.

Mr. and Ms. Pinson approached the Board stating they are opposed to the VROP request. Ms. Pinson stated, if the Board approves the request, she would like to reserve the right to appeal to the Rutherford County Superior Court and therefore requested standing in the case. She stated she is concerned about the quality of her soil and the contamination risk of a possible septic leak and is also concerned that the septic system is not adequate. She stated they have been neighbors to this property for about four years. She mentioned they are not full time residents and are there no longer than a week at a time and does not know if there have been sewer issues in the past. Chairman Webber stated he would be willing to grant standing and felt that their concerns were similar to the Moylans who were granted standing in the case in November.

Ms. Maringer made a motion to grant the Pinsons standing in the case. Mr. Owensby seconded. Mr. Butts, Ms. Maringer, Mr. Owensby, and Chairman Webber voted in favor. Mr. Kilby voted no.

The Pinsons were granted standing in the case.

Ms. Beneway mentioned that after research they could not find any documents listing the house as a three bedroom; therefore, she asked to change the application to request a VROP for a two bedroom rental instead of a four bedroom rental. The Board agreed to change the application to a two bedroom rental with a maximum occupancy of up to eight people. Ms. Beneway pointed out that she has not uncovered any issues with the property. Ms. Spicer handed out a copy of the email from Rutherford County Environmental Health for the record. Chairman Webber labeled the handout as 'Staff Exhibit 2.' Chairman Webber pointed out he visited the property and did not notice any problems with the sewer system but stated he did see the corrugated pipe. He explained who to contact in case there are issues or concerns with the septic system.

Mr. Moylan was concerned that they may not necessarily notice any sewer problems that may arise due to topography and overgrowth of vegetation. He stated in 2009 he spoke with a worker at the 310 Shumont Estates Drive property who told him that there was a sewage leak on the property. Mr. Moylan stated that the owners at that time vacated the house and never repaired the leak. He asked the maximum number for parking, and Chairman Webber stated there is no maximum number of vehicles as long as all vehicles are parked within the designated parking area. Chairman Webber explained the proper

actions if there any complaints with the property. He stated the agent's information would be listed on the placard. Mr. Moylan stated he has concerns with the placard, and Chairman Webber pointed out he should address that at a later time with Ms. Spicer. Chairman Webber also stated that all parking is required to be off the street.

Mr. Rudel expressed concerns with vegetation growing around the septic drainage field and wanted to know if this was acceptable. Chairman Webber stated he cannot attest to the requirements for the septic system. He mentioned the Board does have a copy of the septic improvement permit that authorized construction of a three bedroom system.

Ms. Beneway did not have any further questions. Mr. Moylan approached asking if there would be someone available to contact 24/7. Chairman Webber stated he could contact the agent at the number on the placard with relevant concerns.

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

Ms. Maringer stated she is concerned in regards to the testimony stating there was a problem on the property at one time and nothing was resolved. Mr. Kilby pointed out that no information was provided listing current problems with the property and stated there are ways to address issues as they arise. Chairman Webber mentioned that an Improvement Permit was issued for a three bedroom home in 1989 and a Certificate of Zoning Compliance was also issued. He did not feel the County would have overlooked issues with the septic system. He stated if problems arise, they would be corrected. Ms. Maringer pointed out if there were sewer problems, it would affect the property values of the neighbors properties. Chairman Webber stated problems could arise at any time for any property. There were no other concerns and no conditions considered. Mr. Kilby mentioned that all the concerns brought to the Board are things that could be addressed with the property agent if problems arise.

With regard to application number VROP-2014028 for a vacation rental operating permit to operate a residential vacation rental in the R-3 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. Owensby seconded. Mr. Butts, Mr. Kilby, Mr. Owensby, and Chairman Webber voted in favor. They felt the County made the proper inspections and felt that if any problems arose, those would be addressed. They also

felt the standards have been met. Ms. Maringer voted no stating she has concerns with the sewer system.

The permit was granted with the amendment to the application for two bedrooms instead of four. Chairman Webber explained the process of appeal to the Rutherford County Superior Court within 30 days from receiving the Order.

NEW BUSINESS

Mr. Kilby asked a definition of standing in a case. Ms. Spicer stated she would like to request training on this and explained what party status is. Chairman Webber stated that someone must suffer some type of harm as a result of the VROP that is different from other property owners to gain standing in a case. Discussion ensued.

OLD BUSINESS

Ms. Spicer stated the Order is generated on the application, case, and testimony and sometimes there is not much testimony for the Order. She pointed out the application is help with the Order and suggested that the Board briefly state at the end of a case that the application reflects the findings in the testimony if there is not much testimony on a case.

Chairman Webber pointed out that the annual report was included in the packet.

ADJOURNMENT

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

The meeting was adjourned at 2:09 p.m. The next regular meeting is scheduled for Tuesday, February 24, 2015 at 1:00 p.m.

ATTEST:



Stephen M. Webber, Chair



Michelle Jolley, Recording Secretary