



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

**Tuesday, July 28, 2015
1:00 p.m.**

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

ROLL CALL

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

Absent: Bob Cameron, Council Liaison

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

Chairman Webber announced that Norman McGlohon resigned his position on the Board as he took a position on the ZPB. He pointed out that David Lusk was in attendance at this meeting with possible interest in the open position. He then mentioned that John Moore is present in place of Bob Cameron, whose mother passed away.

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 he was not present and did not second the motion to approve the agenda of the previous meeting. Mr. Erickson made the motion.

Chairman Webber proposed the following changes to the minutes:

- Page 2 - Mr. Kilby made the motion. Change Chairman Webber to Mr. Kilby.
- Page 3, Paragraph B - There was some discussion on the chain being across the road not allowing access, which was not included in the minutes.
- Page 3, next to the last paragraph - Change Webber to Webber. Also, change “there was also no ex part communications” to “there were no ex parte communications”.
- Page 4, first paragraph, last sentence - Change “there were also no records of the variance” to “there was no record of the variance”.
- Page 4, fourth paragraph – Add that the store was “once operated as a gas station and store”.
- Page 4, fifth paragraph – Change “felt a condition would be met” to “felt a condition would be needed”.
- Page 4, next paragraph in bold – Change “Mr. Kilby” to “Ms. Maringer”.
- Page 5, fifth paragraph - change “was” to “were”.
- Page 6, second paragraph – change “due to time constraints” to “in order to conserve time”.
- Next paragraph in bold print – change “Chairman Webber” to “Mr. Kilby”.
- Page 6, 7th paragraph, “Ms. Maringer stated she”.
- Page 7, second paragraph – Change the third sentence to “He mentioned he is not aware of the railing and it would be repaired”.
- Next paragraph – change the wording to say “Mr. Kilby mentioned changing the amendment to allow Mr. Lundy to inspect the safety issues and Chairman Webber stated he would be comfortable with that”.
- Page 7, 3rd line in amendment – “send to ~~the~~ Ms. Spicer.” Take out the word “the”.
- Page 7, sixth paragraph – remove “Mr. Owensby seconded the amended condition”.
- Paragraph 5, remove “Mr. Butts and add Mr. Erickson”.
- Page 7, next to last paragraph 7 – Change “there was no other ex parte communications” to “there were no other ex parte communications”.
- Page 8 – Change “Chairman Webber moved” to “Mr. Erickson moved”.

Mr. Owensby made a motion seconded by Ms. Maringer to approve the minutes of the June 23, 2015 meeting as amended. All voted in favor.

HEARINGS

- (A) VROP-2015005 continued, a vacation rental operating permit request from Gary Brandenburg to operate a residential vacation rental at 997 Proctor Road, Lake Lure, North Carolina (Tax PIN 1629765)**

Ms. Spicer and Melissa Messer, agent for Mr. Brandenburg, were sworn in. There were no financial or personal conflicts of interest or ex parte communications. Ms. Messer did not wish to challenge any members of the Board for cause.

Ms. Spicer stated the Board's packet included an agent authorization letter authorizing Ms. Messer to act as agent, copy of the septic permit issued in 2002, confirmation that this property has been added to Exclusive Mountain Properties' list of rentals with the Tourism Development Authority (TDA), and a standard rental agreement. She stated the request was sent to the Development Review Committee on June 8, 2015, and there had been no comments or concerns received. Since the last meeting, Ms. Spicer mentioned she had three phone conversations. She stated Mr. Hallmark, one of the neighbors, voiced concerns to her regarding trash receptacles but had been informed that Mr. Brandenburg bought bear resistant trash receptacles which alleviated those concerns. She pointed out that Mr. Hallmark was present for the hearing but indicated he did not wish to speak.

Ms. Messer stated the original application was for a three bedroom home but noted the septic permit is only for two bedroom. Therefore, she requested amending the rental application to two bedrooms. Mr. Kilby and Mr. Owensby stated they had seen the property; however, Ms. Maringer, Mr. Butts, and Chairman Webber stated they had not seen the property. Ms. Messer pointed out the chain across the drive is somehow getting put back up after she takes it down. Mr. Owensby mentioned the chain was up when he visited the property and he had to walk around it to access the property. Mr. Kilby stated the property seemed to be in good condition when he visited.

Chairman Webber explained that the Board has a responsibility that every property through the vacation rental process meets the standards. Since he had not visited the property himself, he stated he would accept the input that Mr. Kilby and Mr. Owensby have given regarding the property. He conveyed that there is ample parking available. Ms. Messer mentioned that the house would not be rented until September 1, 2015 and stated some work is being done on the inside. Chairman Webber pointed out that Ms. Messer manages the property located next to his and stated she has always managed the trash outside very well.

Mr. Kilby made the following motion:

With regard to application number VROP-2015005 for a vacation rental operating permit to operate a residential vacation rental in the R-1B 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 the motion. Mr. Butts, Mr. Kilby, Ms. Maringer, Mr. Owensby, and Chairman Webber voted in favor.

The board members felt that all requirements, standards, and concerns had been addressed and met. The permit was granted with no conditions.

(B) VROP-2015008, a vacation rental operating permit request from Dutch Beukema, agent for Peggy Johnson, to operate a residential vacation rental at 187 Falcons Avenue, Lake Lure, North Carolina (Tax PIN 1612207)

Ms. Spicer and Dutch Beukema, agent for applicant, were sworn in. Mr. Owensby stated he spoke to Mr. Beukema prior to this meeting but did not discuss the case. There was no other ex parte communications or conflicts of interest reported. Mr. Beukema did not wish to challenge any seated members for cause.

Ms. Spicer presented the case. She stated the property owners are requesting a two-bedroom vacation rental. She pointed out that the Board's packet includes an application, an agent authorization letter authorizing Dutch Beukema to act as Ms. Johnson's agent, a parking plan, a standard rental agreement, an Operation Permit from the Health Department authorizing a two-bedroom septic system, and verification from Jeanette Bosgra with Rutherford County Finance that this property has been added to Mr. Beukema's list of rentals with the TDA.

Ms. Spicer reported that the application was sent for review to the Development Review Committee on July 14, 2015 and there were no significant comments received.

Ms. Spicer pointed out that the proposed parking for the request is located on the property next to it at 161 Falcons Avenue, which is also owned by Ms. Johnson and is a permitted residential vacation rental. She stated she has also included in the packet a copy of the approved parking plan for 161 Falcons Avenue in order for the Board to be able to determine whether or not there is adequate parking for both properties. She stated she has been told that 187 Falcons Avenue will only be rented in conjunction with 161 Falcons Avenue. Mr. Beukema confirmed this. There was lengthy discussion on whether the Board could approve parking that is not on the subject property. Ms. Spicer pointed out §92.103 (B) of the Zoning Regulations that allow parking on another property so long as it is within 400 feet of the main entrance and is not reduced or encroached upon in any way. Mr. Kilby also pointed out that there is room to park at the top of the property just off the side and near the end of Falcons Avenue.

Ms. Spicer stated a VROP was originally requested for this address along with the application for 161 Falcons Avenue, but it was removed from the agenda when there was confusion about whether or not the construction of the house was properly permitted and the design is not like a typical single-family dwelling; it is designed more like an efficiency unit. However, she stated that issue has been cleared up, and the construction of the house was properly permitted by both the Town and Rutherford County Building Inspections, and the septic system was approved by Rutherford County Environmental Health. She reiterated that Mr. Beukema has told her this property is not intended as a separate residential vacation rental, but is intended to only be rented with 161 Falcons Avenue, which means the parking would be shared by the parties renting both

properties. Mr. Beukema added that 161 Falcons Avenue may be rented independently; however, 187 Falcons Avenue would only be rented in conjunction with 161 Falcons Avenue. Chairman Webber explained that all parking for vacation rentals must be off-street and on the property. In some cases, he mentioned parking has been outside the property lines and either a condition was added or it wasn't approved. He pointed out that even though the property is owned by the same owner, they could be subject to being sold separately. He stated he is concerned because the permit goes with the property, not the present owner.

Chairman Webber explained a condition could be proposed that the parking be approved as long as the properties are rented in conjunction. Mr. Kilby expressed opposition, so Chairman Webber modified to state if rented jointly the parking is acceptable; if rented separately, parking has to be on-site. Discussion ensued.

Chairman Webber felt that the property should be treated as a separate rental property. Ms. Spicer explained that is why she included the two parking plans. Chairman Webber stated it is showing on another parcel and asked Mr. Beukema if there is any parking on 187 Falcons Avenue, and Mr. Beukema stated no. Mr. Kilby did not feel there were any concerns with the parking. If approved as proposed, Ms. Spicer stated it would be monitored by town staff. She mentioned it is her understanding that parking in the past has been required to be off-street and the Board has imposed conditions to move parking out of the right-of-ways and she does not recall any other parking such as this one. In this case, both properties are controlled and owned by one owner. She mentioned that owner specific conditions have not been allowed in the past because permits run with the property. Further discussion ensued.

Ms. Spicer explained the parking requirement chart §92.103 (A), and stated that residential vacation rentals are defined as a single family dwelling or a duplex and Town Council has deemed them as commercial uses, which means parking spaces must be at least 9 feet by 18 feet.

Ms. Spicer stated in her opinion the parking plan does meet the requirements of the regulations. She pointed out that, if Ms. Johnson sold 187 Falcons Avenue, the new owner would be required to submit a VROP update to the Town to show change of ownership and operator, and staff could then notify the new owner that a new parking arrangement would have to be made.

There was no further testimony so Mr. Kilby made the following motion:

With regard to application number VROP-2015008 for a vacation rental operating permit to operate a residential vacation rental in the R-1 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. Ms. Maringer seconded the motion. Mr. Butts, Mr. Kilby, Ms. Maringer, Mr. Owensby and Chairman Webber voted in favor

The board members felt that all requirements and findings had been met and the application was complete. No conditions were added.

NEW BUSINESS

Mr. Kilby asked if there was something that could be done regarding property access in the future. He stated the Brandenburg case was the first time it has been an issue other than one that was in a gated community. Chairman Webber pointed out that the application form is being amended. Ms. Spicer stated Mr. Egan is amending the application form, which came about after the last training session. She stated she would send him a reminder. Chairman Webber pointed out the application already states that an initial inspection will be conducted. He suggested maybe emphasizing to applicants that the Board members will visit the property prior to the hearing.

OLD BUSINESS

None

ADJOURNMENT

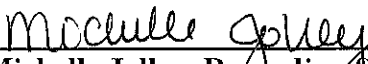
Ms. Owensby made a motion seconded by Mr. Butts to adjourn the meeting. All voted in favor.

The meeting was adjourned at 1:59 p.m. The next regular meeting is scheduled for Tuesday, August 25, 2015 at 1:00 p.m.

ATTEST:



Stephen M. Webber, Chair



Michelle Jolley, Recording Secretary