

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

**Tuesday, August 25, 2015  
1:00 p.m.**

Chairman Webber called the meeting to order at 1:00 p.m.

**ROLL CALL**

**Present:** Stephen Webber, Chair  
Mark Hoek, Seated Alternate  
John Kilby  
David Lusk, Alternate  
Patricia Maringer  
Melvin Owensby  
Bob Cameron, Council Liaison

**Absent:** David Butts  
Ronald Erickson

**Also Present:** Clint Calhoun, Erosion Control Officer  
Sheila Spicer, Zoning Administrator  
Michelle Jolley, Recording Secretary

**APPROVAL OF THE AGENDA**

Chairman Webber explained a couple of the board members would be leaving early. Therefore, he proposed moving agenda item F to be the first case heard and the rest of the agenda items to follow.

**Ms. Maringer made a motion to approve the agenda as amended. Mr. Hoek seconded the motion. All voted in favor.**

**APPROVAL OF THE MINUTES**

**Mr. Owensby made a motion seconded by Ms. Maringer to approve the minutes of the July 28, 2015 meeting as presented. All voted in favor.**

## HEARINGS

- (A) **ZV-2015004, a request from John Wagner for a variance from §92.040 of the Zoning Regulations for the minimum front street and front lake yard setbacks and the minimum lot size. The property (Tax PIN 230885) is located at 2106 Memorial Highway, Lake Lure, NC 28746**

Ms. Spicer, Mr. Wagner, Jonathan Hinkle, owner of Marathon Builders, and Mr. Calhoun were sworn in. Chairman Webber conveyed that he spoke with Ms. Maringer before the meeting and she stated she is an adjacent property owner to Mr. Wagner. Ms. Maringer requested by letter to Chairman Webber, which he read into the record, to be recused from the meeting. Chairman Webber accepted the letter as 'Board Exhibit 1'. Mr. Lusk was seated in place of Ms. Maringer for the hearing. There were no ex parte communications or conflicts of interest reported. Mr. Wagner did not wish to challenge any seated members for cause

Ms. Spicer presented the case. She stated Mr. Wagner has applied for a certificate of zoning compliance permit to construct a new single family dwelling on his lot at 2106 Memorial Highway. The property is located in the R-4 zoning district, and the minimum lot size in R-4 is 10,000 square feet. The survey included in the packet shows that the lot is only 5,734 square feet. An Attorney's Certificate of Title included in the packet certifies that the lot is a nonconforming lot of record as specified by §92.101 (B) of the Town of Lake Lure Zoning Regulations. She mentioned the packet includes all the information regarding the proposed construction,

Ms. Spicer stated the variance being requested is from §92.040 of the zoning regulations; however, this property is located in the R-4 zoning district and §92.030(A)(F) has front rear and side yard requirements for the R-4 district that are different than those in §92.040. She mentioned she discussed this with Shannon Baldwin, Community Development Director, and they felt that there was a conflict in the regulations. She stated she felt the intent of §92.030(A)(F) was probably meant for commercial construction; however, the regulations do not specifically address that. She mentioned this would have to be directed towards Town Council at a later date and asked that the Board address it the best they can. She stated that §92.040 was amended in March of this year making it the most current. The Board agreed to continue the case operating by the newest requirements in §92.040.

Ms. Spicer pointed out that Mr. Wagner submitted an application to North Carolina Department of Natural Resources (NC DENR) for a trout buffer variance but has not yet received an answer from them. She mentioned he submitted a geotechnical analysis and report, but she has not had a chance to review it yet. She stated he submitted a letter from his architect that he will be providing plans that meet the requirements of the recommendations of the geotechnical report.

Chairman Webber mentioned the case could be continued until staff receives updated plans and the effect of the geotechnical report on the property, at no further cost. Mr. Hinkle stated from what he has read from the geotechnical report, it would not affect the design of the foundation. He submitted a copy of the geotechnical report, his communications with Ashley Rogers with NC DENR on the trout buffer, and a letter from the architect. Chairman Webber accepted the

geotechnical report as 'Applicant Exhibit 1', the communications letter with Ashley Rogers as 'Applicant Exhibit 2', and the letter from the architect as 'Applicant Exhibit 3'.

Ms. Spicer mentioned that Bob Washburn, owner at 2140 Memorial Hwy., stopped by Town Hall while she was away on vacation and spoke with Ms. Jolley. He asked about the request from Mr. Wagner and read over the memo included in the packet regarding the case. She also mentioned that Ms. Jolley received a phone call from Forest Edwards, neighboring property owner to Mr. Wagner, inquiring about the case. Ms. Jolley explained the reason for the request and Mr. Edwards stated he was fine with the request. She stated that Derlie and Fred Johnston also stopped by Town Hall on August 24<sup>th</sup> inquiring about the request. They read over the case information, and requested a copy of the site plan. Ms. Jolley provided them with the date and time of the meeting and they stated they felt it would be a nice addition and they had no concerns. She noted the emails she received from Ms. Jolley regarding the conversations with Mr. Washburn, Mr. Edwards, and Mr. and Ms. Johnston are included in the packet.

Mr. Wagner gave Mr. Hinkle permission to answer all questions on his behalf. Ms. Spicer stated since the Mountain and Hillside Development applies to this property, an architect or engineer will be required to inspect it once it is completed before the Town can do a final inspection. Chairman Webber pointed out he did not see any plans in the packet for the carport he is proposing, which makes the application incomplete. Mr. Hinkle stated the only documentation he has for the proposed carport and design on the wall is what the architect submitted. Ms. Spicer pointed out elevation drawings and dimensions are shown on the site plan. Ms. Spicer noted the footprint of the carport being proposed is 20'x20'. Mr. Hinkle stated that he does not know what the elevations of the carport would be and proposed the Board include a condition that elevation drawings be submitted before the variance is given. Chairman Webber asked Mr. Hinkle to commit to a maximum height of the carport roof. Mr. Hinkle stated the peak of the roof would be less than 20' from the average finished grade. He conveyed that there would be no walls, only posts, a concrete pad, and a roof.

Chairman Webber mentioned that the attorney's signature on the Certificate of Title is not legible. Mr. Hinkle stated the attorney is Richard Williams. Also, Chairman Webber pointed out it was signed without a property description. Ms. Spicer stated a copy of the recorded plat is attached and included in the packet. She stated it was done in 2014, but nothing has changed.

Mr. Lusk asked if there would be any type of fall protection at the higher end of the carport, and Mr. Hinkle stated wind braces will be applied as required by North Carolina building code. Chairman Webber mentioned that a condition could be applied, if the variance is granted, that the trout buffer granted by the State be submitted before the variance is given.

Mr. Lusk made the following motion:

**With regard to Case Number ZV-2015004, Mr. Lusk 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, have 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 and only to the extent represented by the application.

**Mr. Kilby seconded the motion. Chairman Webber proposed an amendment to the motion that the Certificate of Zoning Compliance only be issued once the trout buffer is granted. Mr. Kilby seconded the motion. Mr. Hoek, Mr. Kilby, Mr. Lusk, Mr. Owensby, and Chairman Webber voted in favor of the amendment.**

**Mr. Kilby, Mr. Lusk, and Chairman Webber voted in favor of the main motion. Mr. Hoek voted no; he felt that the lot size was too small which is the reason the Town has setback regulations. Mr. Owensby voted no; he stated the application was not complete.**

Variance was denied. Chairman Webber explained the right to appeal the Board's decision to the Superior Court of Rutherford County.

**(B) VROP-2015009, a vacation rental operating permit request from Michael & Tara Sheehan to operate a residential vacation rental at 1104 Memorial Hwy, Lake Lure, North Carolina (Tax PIN 232289)**

Ms. Maringer took her regular seated position for the hearing.

Ms. Spicer and Michael & Tara Sheehan were sworn in. There were no financial or personal conflicts of interest or ex parte communications. Chairman Webber asked Mr. Kilby if Mr. Sheehan was his employer. Mr. Sheehan stated that Mr. Kilby is an independent employer but he is in a supervisory line for his company. He conveyed he has not discussed the case with Mr. Kilby and there would be no negative or positive effects for Mr. Kilby to hear the case. Mr. Kilby stated he could reach a fair and unbiased decision. Mr. Sheehan did not wish to challenge any members of the Board for cause. Chairman Webber did not feel that Mr. Kilby needed to be excused.

Ms. Spicer stated the Board's packet included an application, a copy of a letter from CLL Plumbing that the connection to the Town sewer was free of detectable leaks, a vacation rental agreement with a contract addendum, a pontoon boat rental agreement, copy of their rental boat safety checklist, an application for a commercial boat license, and verification from Jeanette Bosgra with Rutherford County Finance that this property is registered with the TDA. She mentioned the request was sent to the Development Review Committee on August 12, 2015 and she has received no comments or concerns. She also mentioned she had no comments from neighboring property owners.

Chairman Webber noticed the commercial boat license application is not yet approved from the Marine Commission. Ms. Spicer explained it was approved by Dean Givens, Lake Operations Administrator. She stated that Linda Ward, Customer Service Supervisor, explained that Mr. Givens was delegated by the Marine Commission to approve commercial license requests that come in after the designated time frame has passed. Mr. Sheehan replied also stating that he has been approved and has already purchased commercial stickers from the Town.

Ms. Maringer mentioned she viewed the property from lake side and from the street but could not physically go down to the boathouse because there was an upside down chair across the stairs preventing her from going down to the boathouse. She did not notice any problems. Mr. Hoek stated he visited the property and boathouse and there were rails; he did not see any problems. The Board members did not feel that a condition was needed for anything.

Ms. Maringer made the following motion:

**With regard to application number VROP-2015009 for a vacation rental operating permit to operate a residential vacation rental in the R-4 zoning district, Ms. Maringer 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 and Mr. Hoek seconded the motion. Mr. Hoek, 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.

**(C) ZV-2014003, a request from Robert Taylor to amend the plans approved with a variance application for an addition at 266 Picnic Point Road (Tax PIN 1612207)**

Chairman Webber noted Mr. Owensby had to be excused; Mr. Lusk sat in his place.

Ms. Spicer, Dr. Taylor, Bill Hutchinson, adjoining property owner, and Kim Warner, Engineer for the property, were sworn in. Chairman Webber stated he discussed this case in detail with Ms. Spicer regarding the approach and course of action before it went on the agenda. There were no ex parte communications or conflicts of interest reported. Dr. Taylor did not wish to challenge any seated members for cause.

Chairman Webber briefed the Board on Dr. Taylor's request. He stated Dr. Taylor was approved for a variance in 2014. The variance approved had two balconies on the lakeside elevation and the third floor was going to be unfinished with two windows. However, the building inspector stated the third floor needed to be finished so Dr. Taylor put up a balcony off of the third floor window on the front side of the house, which does not exceed the variance that was granted. Dr. Taylor stated he did not realize that he needed an additional variance. He is only applying for an amendment to the plans already approved. The amendment does not exceed the granted variance.

Mr. Hoek asked what the actual address is for the property, stating that there were some discrepancies in the packet. Dr. Taylor replied that the address is 266 Picnic Point Rd. He explained he was notified by Ms. Spicer that he needed a variance upon a final inspection at his property. Ms. Maringer asked Mr. Warner if he notified the property owner that the addition needed a variance, and he stated he was not aware a variance was needed until Ms. Spicer made Dr. Taylor aware. Ms. Spicer explained that Dr. Taylor was given other options but he did not want to make additional changes and chose to leave the balcony the way it is and ask for a variance. Chairman Webber asked if Dr. Taylor knew he was not abiding by the Town's regulations and Dr. Taylor stated he did not.

**With regard to Case Number ZV-2014003, Mr. Kilby moved the Board to find that the Board finds the amended plans for the addition at 266 Picnic Point Road are consistent with the findings and facts in conclusions of law for ZV-2014003 and are hereby approved by the Board of Adjustment. Mr. Hoek seconded the motion. Mr. Hoek, Mr. Kilby, Mr. Lusk, Ms. Maringer, and Chairman Webber voted in favor.**

**(D) CU-2015002, a conditional use permit request from Camp Lurecrest to construct in an existing camp a new 40-bed cabin with meeting space. The property (Tax PIN 1648820) is located at 207 Charlotte Drive, Lake Lure, NC 28746**

Ms. Spicer and Jerry Martin, representative with Camp Lurecrest, were sworn in. There were no financial or personal conflicts of interest or ex parte communications. Mr. Martin did not wish to challenge any members of the Board for cause.

Chairman Webber briefed the Board on the request. He stated they were given a conditional use permit last year but did not follow through with obtaining a certificate of zoning compliance permit due to lack of finances so the conditional use permit has since expired. He pointed out the only difference to the packet was an amended construction schedule. Mr. Martin stated there were no other changes. Ms. Spicer relayed that she received a letter from the Board of Directors authorizing Mr. Martin to act as their agent. Chairman Webber accepted the letter as 'Applicant Exhibit 1'. Ms. Spicer submitted last year's application for the approved Conditional Use Permit and Chairman Webber accepted the packet as 'Staff Exhibit 1.'

Chairman Webber asked if there were any changes to any of the plans and Mr. Martin stated there were none.

Mr. Hoek made the following motion:

**Mr. Hoek moved that the Board grant CU-2015002 to construct a new 40 bed cabin with meeting space at 207 Charlotte Drive due to the fact the Board previously approved the same Conditional Use Permit and nothing has changed with the exception of the timing of the construction schedule.**

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

**(E) ZV-2015002, a request from Clarence Stokes for a variance from §92.040 of the Zoning Regulations for the minimum side yard setback. The property (Tax PIN 226538) is located at 280 Mark Twain Drive, Lake Lure, NC 28746**

Ms. Spicer, and Clarence and Josephine Stokes were sworn in. Chairman Webber relayed that he had a lengthy conversation this morning with the property owners while on their property; however, the case was not discussed. Mr. Hoek stated he also spoke with the property owners but the case was not discussed. There were no ex parte communications or conflicts of interest reported. Mr. Stokes did not wish to challenge any seated members for cause.

Ms. Spicer presented the case. She stated Mr. Stokes has applied for a certificate of zoning compliance permit to construct an accessory structure next to his existing house at 280 Mark Twain Drive. The proposed structure will encroach into the side yard setback on the west side of the property; therefore, he is seeking a variance to reduce the side yard setback to 4 inches.

Ms. Spicer disclosed that she received a phone message from George Wittmer requesting details on the case. She left a message providing him with the details of the case and conveyed to him that he could come by and review the files and come to the hearing if he would like. She stated he did not return her call. She also disclosed that Mike Trombino, owner at 257 Seton Rd., stopped by Town Hall while she was away on vacation and spoke with Ms. Jolley. He asked about the posted sign he saw on Mark Twain Dr. He read over the memo included in the packet regarding their case. He stated to Ms. Jolley that he would be unable to attend the meeting but he had no concerns regarding the request. There were no other comments received. Ms. Spicer pointed out that notification letters were mailed out on August 11, 2015 via first class mail.

Ms. Spicer asked Mr. Stokes for verification that this is a non-commercial workshop to complete the Certificate of Zoning Compliance file and Mr. Stokes verified it would be a non-commercial workshop. Ms. Maringer pointed out that Mr. Stokes' request is to build a wall within four inches of the wall beside of him. Mr. Stokes replied that this wall is also owned by him. He stated the property dividing line is not directly parallel and runs across the neighbor's driveway. Ms. Maringer also pointed out that a large tree is up against the wall. Mr. Stokes replied he would not be taking the tree down because it does not interfere with the building plan. He stated the maximum height of the workshop is 13'06" from the grade. Chairman Webber pointed out the side yard setback required is 10' and the application would need to be amended to show it reduced by 4", which would be 9'08".

Chairman Webber referred to §92.026(B)(3), Customary Accessory Buildings, which includes non-commercial workshop, which states it shall be allowed for home occupations subject to all provisions of §92.177. Mr. Stokes replied that it would not be used for home occupation; it would be used for hobbies. The Board did not feel any conditions were needed.

Ms. Maringer made the following motion:

**With regard to Case Number ZV-2015002, Ms. Maringer 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, have demonstrated compliance with the standards for granting a variance contained in §92.088 of such regulations. Accordingly, she moved the Board to grant the requested variance in accordance with and only to the extent represented by the application.

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

The Board felt that it was in harmony of the intent of the zoning regulations, the accessory structure was placed in the most appropriate spot, and he kept it within the minimal dimensions necessary. The variance was approved with no conditions.

**(F) ZV-2015003, a request from Stephen Gettys for a variance from §92.040 of the Zoning Regulations for the minimum side yard setback. The property (Tax PIN 226884) is located at 104 Edwards Point, Lake Lure, NC 28746**

Ms. Spicer, Stephen Gettys and Frank Gettys, property owners, were sworn in. Chairman Webber stated he spoke with Mr. Gettys when he visited the property but the case was not discussed. There were no ex parte communications or conflicts of interest reported. Mr. Stephen Gettys did not wish to challenge any seated members for cause.

Ms. Spicer presented the case. She stated that Mr. Gettys has applied for a certificate of zoning compliance permit to construct a covered deck above an existing deck on the lake side of his house at 104 Edwards Point. The proposed construction encroaches into the side yard setback on the north side of the property; therefore he is seeking a variance to reduce the side yard setback to 4.91 feet.

Ms. Spicer disclosed that On August 14<sup>th</sup> Robert Ivey, 112 Edwards Point, called requesting details on the case. She provided him with the case information and he stated he did not have any concerns. She stated she also received a call from Robert Nicholson on August 14<sup>th</sup> requesting information on the hearing. She explained to him the request and he stated he had no concerns. She disclosed that Cynthia Ritterhoff called yesterday asking for information and she explained to her what was being requested. Ms. Ritterhoff stated she had no issues. She also mentioned she received a call from Julie Kavanaugh asking for information on the case. She mentioned she was concerned if there would be anything concerning the street. Ms. Spicer provided her with the details of the case and Ms. Kavanaugh stated she was ok with the request.

Mr. Lusk asked about architectural drawings of both decks and the roof. Ms. Spicer stated the packet includes a copy of the survey, which shows the existing deck. She stated a note was included on the survey which states, "proposed deck overhead same size as existing". She noted he did not hire an engineer, and he provided her with a picture where he included the dimensions. Ms. Spicer conveyed that Mr. Stokes would have to meet state building code requirements as well. Chairman Webber pointed out that the survey did not include the overhangs. He stated he measured the existing overhang closest to the property line, including the gutter, and it was 2'. He also measured the eave on the roadside and it was 2'. He stated the variance request would be for 2.91 instead of 4.91 because of the overhangs. Ms. Spicer stated



she relayed to Mr. Gettys that overhangs are not allowed in the setback without a variance and he stated to her that the footprint shown on the survey in the packet is the footprint of the roof over the deck with the overhangs. Mr. Gettys asked to amend the application. The application was amended at the hearing to allow for two feet overhangs on the deck to match the overhangs on the house if construction funds allow. Matching the overhangs on the house would add to the aesthetic appeal of the new covered deck.

Ms. Maringer pointed out he had already changed out the existing posts and Mr. Gettys stated he changed from 4x4 posts to 6x6 posts. The Board felt that the findings had been met.

Mr. Kilby made the following motion:

**With regard to Case Number ZV-2015003, 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, have 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 and only to the extent represented by the application as amended.**

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

Chairman Webber explained that the hardship was a result of the narrow shape of the property and location of the existing house on the lot and the requested addition would not encroach any further into the setbacks than what is currently there.

**(G) ZV-2015005, a request from Kim Warner, agent for 179 Lakeview LLC, for a variance from §92.040 of the Zoning Regulations for the minimum front lake yard setback as reduced by §92.131. The property (Tax PIN 222132) is located at 179 Lake View Road, Lake Lure, NC 28746**

Ms. Spicer, Mr. Warner, agent for 179 Lakeview LLC, and Jim Stelling, a member of the LLC, and Clint Calhoun, Erosion Control Officer were sworn in. There were no ex parte communications or conflicts of interest reported. Mr. Hoek mentioned the builder building this home also built his home but stated he would not receive any personal or financial gain. Mr. Warner did not wish to challenge any seated members for cause.

Ms. Spicer provided verification that Mr. Stelling is a managing member of the LLC to the Board. Chairman Webber accepted the letter as 'Applicant Exhibit 1'.

Ms. Spicer presented the case. She stated James and Kathleen Stelling have applied for a certificate of zoning compliance permit to renovate the existing single-family dwelling at 179 Lakeview Road. They are proposing to remove the existing structure to the foundation and rebuild a new single-family dwelling. She stated the front lake yard setback is 35 feet from the shoreline, and the existing structure encroaches into the setback. The Town of Lake Lure Zoning Regulations specifies in §92.101 (D)(2) that removal of a nonconforming structure or portion of a structure may only be reconstructed if the removal is the result of involuntary destruction; there is no provision other than receiving a variance that allows the rebuilding of a nonconforming

structure that is voluntarily removed. Therefore, Mr. and Ms. Stelling are requesting a variance to reduce the front lake yard setback to 18.32 feet. She conveyed that the property is located in the floodplain and stated Mr. Calhoun is present to answer any questions regarding the floodplain.

Neil Valentine, adjacent property owner at 161 Lakeview Rd., was sworn in. He stated he had concerns in substantial reduction in the shoreline setback and how it would impact his views of the lake and the mountains. Chairman Webber explained that the new structure would be two stories, according to the plans submitted, but would not be any closer to the lake. He stated the variance is required to build the structure back after it is torn down.

Ms. Spicer clarified that this property already has a reduced lake front setback and referred to Section 92.131. Chairman Webber disagreed, stating that the requirement for a reduced setback as the exception is that the two structures on the right and left of the proposed structure must be within 100'; the Valentine structure is not within 100' of the proposed structure but the other structure is. Therefore, he stated the exception rule to the setback does not apply to this. Ms. Spicer and Mr. Warner both agreed. Mr. Warner stated he would need a 30' reduction and requested to amend the application to a 30' reduction. The Board agreed unanimously to amend the application.

Ms. Spicer mentioned she received an email from Ms. Jolley that Annabelle Barker, adjacent property owner at 147 Lakeview Rd., stopped by Town Hall while she was away on vacation and spoke with Community Development Director Shannon Baldwin. She asked about the request from Mr. Warner and read over the information included in the packet regarding the case. She stated she was fine with the request.

Ms. Maringer asked if the porch was original with the house. Mr. Warner stated the house has been added on to multiple times and was unsure if it was original to when the house was built. Ms. Spicer pointed out that it is part of the existing footprint and is on the property card. Ms. Maringer asked if the footings would hold a two story house. Mr. Warner stated yes and added that he would add more reinforcement to the foundation walls. Ms. Maringer expressed concerns with adding extra weight to the house when building five feet from the shoreline. Mr. Warner stated a geotechnical analysis is close to being needed, but is not required. Mr. Calhoun mentioned he could not attest to whether the structure would hold because he is not a geotechnical engineer. Mr. Warner stated there is a good seawall in place now and assured the Board the footings would support the additions.

Chairman Webber asked about safety. Mr. Warner conveyed he has determined the foundations are good and are not cracked. He stated he is building on the original foundation but would be making some adjustments to support the structure. Chairman Webber explained that the Board cannot require any recommendations when a geotechnical analysis is not required; therefore, the Board relies on the testimony provided. He stated the Board would not allow an addition 5' from the lake setback normally; however, there is an existing structure already 5' from the lake setbacks. He stated because of topography, it is not feasible to build the house at any other location on the property. He felt the building location is justified because of the topography of the lot.

Mr. Warner mentioned that he brought copies of slightly revised drawings that show an 8x10 uncovered deck on the end of the house with steps and flood vents, which are not shown on the original plans. Chairman Webber accepted the exhibit of five pages as "Applicant Exhibit 2". Mr. Calhoun confirmed the structure is in the floodplain by about a foot and stated floodplain regulations would apply. He explained that state regulations would apply and stated flood vents are required to allow equalization of pressure on the foundation in case of a flood. He mentioned that three elevation certificates would have to be submitted; one for preconstruction, one after the foundation is installed, and one after post construction. He noted that back flow preventers are required to have a bathroom. He noted the revised plans meet the floodplain requirements.

Mr. Valentine stated felt he this would be a nice addition. He noted his only concern was if it was being built closer to the lake. Since it is being built in the exact footprint as the original structure, he was ok with the request.

Ms. Maringer relayed she could not vote in approval. She did not believe it was a necessary hardship and she was concerned with the structure being 5' from the shoreline. She felt that the weight of a two story house that close to the shoreline would create a potential problem. She stated she was not authorized to state whether the proper building codes required for the footings would support the two story house. She mentioned she is taking into consideration her experience from living on the lake and seeing houses fall into the lake due to floods.

Mr. Kilby made the following motion:

**With regard to Case Number ZV-2015005, 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 as reduced by §92.131 and further, have 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 and only to the extent represented by the application, as amended.**

**Mr. Hoek seconded the motion. Mr. Hoek, Mr. Kilby, Mr. Lusk, Mr. Owensby and Chairman Webber voted in favor. Ms. Maringer voted no.**

Mr. Hoek, Mr. Kilby, and Chairman Webber felt that the variance was justified since it would be rebuilt in the same footprint as what is currently there, it is necessary due to the topography which creates a hardship, and a newer addition would be safer. Chairman Webber pointed out that it would be a few inches shorter than the original structure. Ms. Maringer stated it is a non-conforming house, she felt that there was not a hardship, and is already outside the setbacks.

### NEW BUSINESS

None

**OLD BUSINESS**

Commissioner Cameron provided an update on the sound system. He stated it is currently in the works and he would get an update from the Town Manager to bring back to the Board. He mentioned that there is enough money in the budget to support a new system.

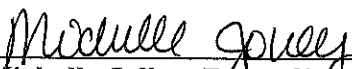
**ADJOURNMENT**

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

The meeting was adjourned at 3:43 p.m. The next regular meeting is scheduled for Tuesday, September 22, 2015 at 1:00 p.m.

**ATTEST:**

  
\_\_\_\_\_  
Stephen M. Webber, Chair

  
\_\_\_\_\_  
Michelle Jolley, Recording Secretary