



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

**Tuesday, October 25, 2016  
1:00 p.m.**

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

**ROLL CALL**

**Present:** John Kilby, Chair  
David Butts  
Ronald Erickson  
Mark Hoek  
David Lusk, Alternate  
Melvin Owensby  
Rick Stockdale, Alternate  
Stephen Webber, Council Liaison

**Absent:** Lyn Weaver, Alternate

**Also Present:** Michelle Jolley, Recording Secretary  
Shannon Baldwin, Community Development Director

**APPROVAL OF THE AGENDA**

Chairman Kilby pointed out that at the last month's meeting, it was suggested to discuss impervious surface regulations. He proposed adding this item under 'Old Business' as 6(A).

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

**APPROVAL OF THE MINUTES**

Mr. Butts proposed the following changes:

- Page 3, first sentence, change "removing" to "remove"
- Page 4, first paragraph, change "she also states he had concerns" to "she also stated she had concerns"
- Fifth paragraph, change "Williams Owens" to "William Owens"

- Page 5, second paragraph, after “could not locate an outlet” add “for a storm drain”
- Page 5, second paragraph, change “which they had no planned” to “which they had not planned”
- Page 6, first paragraph, change “temporary seeded” to “temporarily seeded”
- Page 8, first paragraph in the motion, change “occurring outside the original site plan” to “occurring outside the building and grading envelope from the original site plan”

**Mr. Butts made a motion seconded by Mr. Owensby to approve the minutes of the September 27, 2016 meeting as amended.**

## **HEARINGS**

**(A) VROP-2016014, a vacation rental operating permit request from Tracy McGlohon, agent for Mark and Larkin Hammond, to operate a residential vacation rental at 142 Waters Edge Court, Lake Lure, North Carolina (Tax PIN 1628854)**

Mr. Baldwin and Ms. McGlohon, Buffalo Junction Properties and agent for the applicant, were sworn in. Mr. Butts disclosed he spoke with Ms. McGlohon to ask directions to the property but did not discuss the case. Mr. Erickson disclosed that he met Ms. McGlohon while on site but the case was not discussed. There were no other ex-parte communications or conflicts of interest to disclose. The Board felt they could reach a fair and unbiased decision. Ms. McGlohon did not wish to challenge the Board for cause.

Mr. Baldwin presented the case. He made a correction to the memo in the packet that the zoning district is R-1D, not R-3 as indicated. He stated that Tracy McGlohon, agent for Mark and Larkin Hammond, is requesting a vacation rental operating permit (VROP) to operate a 5-bedroom residential vacation rental. The property is located in the R-1D Residential zoning district, and there is an existing single-family dwelling on the lot.

This request was sent to the Development Review Committee for review on October 6, 2016 and any comments received were included in the packet. The packet also included the application, parking plan, agent authorization letter, application for lake commercial license, standard rental agreement including the Town’s contract addendum, and verification from Jeanette Bosgra with Rutherford County Tourism Development Authority that the property has been added to their list of rentals.

Ms. McGlohon noted that repair work had recently been made to all the railings, which would be painted next month. Mr. Owensby pointed out that the property card, created in 2014, shows the home as a 3-bedroom home and her application is for a 5-bedroom vacation rental. Ms. McGlohon explained that the basement was finished, there is one bedroom upstairs, one bedroom on the main level, and two bedrooms and a bunk room downstairs. Ms. McGlohon was unsure about the property card and stated she would have to speak with the property owners about it. Mr. Owensby explained that he could not vote in favor of a 5-bedroom vacation rental because the property card lists the home as a 3-bedroom home. Mr. Baldwin expressed that the

Board could choose to apply a condition, if approved, that the home be approved for up to five bedrooms once proof has been submitted that the property card has been updated to a 5-bedroom home, but only three bedrooms would be allowed for use of the vacation rental until then. Ms. McGlohon mentioned that the house is connected to town sewer by way of Carolina Water Systems (CWS). Mr. Butts did not feel that there would be an issue with sewer since the property is not on a personal septic system. Mr. Erickson also agreed that he could not approve a vacation rental with 5-bedrooms and Chairman Kilby agreed that the Board could choose to apply a condition. Mr. Baldwin explained that the property owner would have to get in touch with the County to have the property card updated. Ms. McGlohon explained that the house is currently up for sale and that they would want to have the property card updated to show a 5-bedroom home. Mr. Baldwin felt that the application could remain as is, showing the request for a 5-bedroom rental, with a condition attached to the motion explaining that only three bedrooms would be approved until further proof is provided to staff that the property card reflects five bedrooms. However, he stated that the maximum occupancy would need to be amended to a maximum of 12. Ms. McGlohon asked to amend the original application to a maximum occupancy of 12.

**Mr. Butts made a motion to amend the original application to change the maximum occupancy to 12. Mr. Owensby seconded the motion. Mr. Butts, Mr. Erickson, Mr. Hoek, Mr. Owensby, and Chairman Kilby voted in favor.**

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

**With regard to application number VROP-2016014 for a vacation rental operating permit to operate a residential vacation rental in the R-1(d) zoning district, Mr. Butts 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, as amended, with the condition that the property can only be operated as a 3-bedroom, 10 occupancy, vacation rental until adequate proof that up to five bedrooms has been permitted by the County and the Zoning Administrator. Mr. Hoek seconded the motion. Mr. Butts, Mr. Erickson, Mr. Hoek, Mr. Owensby, and Chairman Kilby voted in favor**

The Board felt that the application was complete and all requirements were met.

**(B) VROP-2016015, a vacation rental operating permit request from Ayu-Robb Investments LLC to operate a residential vacation rental at 1805 Buffalo Shoals Road, Lake Lure, North Carolina (Tax PIN 1642238)**

Mr. Baldwin, Ariana Ayu, and David Robb were sworn in. There were no ex-parte communications or conflicts of interest to disclose. The Board felt they could reach a fair and unbiased decision. Mr. Robb and Ms. Ayu did not wish to challenge the Board for cause.

Mr. Baldwin presented the case. He made a correction to the memo in the packet that the zoning district is R-1, not R-3 as indicated. He pointed out that he received an email from the owners, Mr. Robb and Ms. Ayu, that their LLC name was incorrect on the original application. They stated that the LLC name had been changed to Ayu-Robb Investments LLC. They also mentioned in the email that they agree to the house being used as a vacation rental. Chairman Kilby accepted the two emails as 'Staff Exhibit A' and 'Staff Exhibit B'.

Mr. Baldwin stated that Ayu-Robb Investments LLC is requesting a VROP to operate a 3-bedroom residential vacation rental. The property is located in the R-1 Residential zoning district, and there is an existing single-family dwelling on the lot. He noted that he had no responses from neighboring property owners.

The request was sent to the Development Review Committee on October 6, 2016. The packet included the application, parking plan, standard rental agreement with the Town's contract addendum, and verification from Jeanette Bosgra with Rutherford County Tourism Development Authority that the property has been registered with their list of rentals. He stated he has not received any notification from neighboring property owners.

**Mr. Butts made a motion to amend the name on the original application to Ayu-Robb Investments, LLC. Mr. Owensby seconded the motion. Mr. Butts, Mr. Erickson, Mr. Hoek, Mr. Owensby, and Chairman Kilby voted in favor**

Mr. Robb mentioned that the house has its own septic system and well and stated there is no access to the lake. Mr. Erickson asked about animal-resistant trash receptacles. Ms. Ayu explained they have a place outside for the cans enclosed with lattice. Mr. Erickson felt that would be ok as long as they had animal resistant cans. Mr. Baldwin read the regulations regarding animal resistant containers. Ms. Ayu stated that they live inside Fairfield and would come and remove the trash each time they come to clean the house.

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

**With regard to application number VROP-2016015 for a vacation rental operating permit to operate a residential vacation rental in the R-1 zoning district, Mr. Hoek 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, as amended. Mr. Erickson seconded the motion. Mr. Butts, Mr. Erickson, Mr. Hoek, Mr. Owensby, and Chairman Kilby voted in favor.**

The Board felt that the application was complete and all requirements were met.

**(C) ZV-2016011, a request from Janet & James Walters for a variance from §92.040 of the Zoning Regulations regarding the minimum front lake yard setback (35' setback required, 7' reduction being requested, to establish a new setback at 28') and maximum height limit (35' maximum required, 6'6" increase being requested, to establish a new height limit of 41'6"). The property (Tax PIN 1627079) is located at 418 Chapel Point Road, Lake Lure, NC 28746**

Mr. Baldwin, Vince Weigman, architect, and Mr. and Ms. Walters were sworn in. Mr. Erickson disclosed that he met Mr. Walters on site but the case was not discussed. Mr. Hoek disclosed that they are his neighbors and friends but they have not discussed the case. There were no other ex-parte communications or conflicts of interest to disclose. The Board felt they could reach a fair and unbiased decision. Mr. Weigman, and Mr. and Ms. Walters did not wish to challenge the Board for cause.

Mr. Baldwin presented the case. He made a correction to the memo in the packet that the proposed roof is 29 feet, not 28 feet as he had misread from the application. He mentioned that the request was advertised as a variance of seven feet, instead of six. He felt that since more of a variance was advertised than was needed, it should be ok to proceed with the hearing. He stated that Janet and James Walters applied for a Certificate of Zoning Compliance Permit to add a roof over the existing decks of their house. The proposed roof would be located in the front lake yard setback; therefore, a variance is required prior to issuance of the permit. The property is located in the R-1 zoning district; the front lake yard setback is 35 feet from the shoreline. The closest distance from the proposed roof to the shoreline is 29 feet. Therefore, James and Janet Walters (applicants-owners) are requesting a variance of six feet from the front lake yard setback. Architect Vincent Weigman (applicant-owner's agent) will also provide information to the Board regarding his variance request.

Mr. Weigman stated they are asking for a variance of six feet, which is a foot roof overhang past where the existing deck already protrudes into the setback. He stated the height difference is the location of the measurement. He conveyed the new roof would be well below the height of the original ridge. He stated the hardship is due to the slope of the terrain and the deck was already in the setbacks. They are only wanting to add one additional foot. He noted the dimensions were based on the best of his ability, not from a survey. Mr. Butts felt the hardship was justified for the height based on the topography of the lot. He was unsure about a hardship for the setback.

Mr. Erickson felt that since the structure was built in the setbacks, it would create a hardship. Mr. and Ms. Walters explained that the sun heats up the deck in the evenings and gets so hot they cannot walk outside on it. Chairman Kilby felt this could justify a hardship.

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

**With regard to Case Number ZV-2016011, Mr. Owensby 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. Erickson seconded the motion. Mr. Butts, Mr. Erickson, Mr. Hoek, Mr. Owensby, and Chairman Kilby voted in favor.**

The Board felt that a hardship was demonstrated in regards to the topography of the lot, and the fact that the deck was built inside the setbacks and was not at the fault of the applicants.

## **NEW BUSINESS**

### **(A) Liaison Report**

Commissioner Webber noted there was nothing new to report.

Chairman Kilby felt that a document for frequently asked questions be created explaining that the number of bedrooms being requested would need to coincide with the County's records. He stated this would solve the issues on the bedrooms. Mr. Baldwin stated he could work on a document and would bring it to the next meeting. Chairman Kilby also mentioned that the regulations on trash containers for VROP's be revisited and updated. He did not feel the language was definitive enough. The regulations currently require animal resistant containers. Mr. Baldwin stated that Town Council adopted the language and he did not know how they defined animal resistant but felt they wanted something created to keep garbage from being torn out of the container/structure onto the property. He felt they did not want to require a specific type of design and wanted to allow for some flexibility. Chairman Kilby did not feel the regulations were in-depth enough to require a certain type of animal resistant container. Mr. Baldwin stated his opinion was that any type of container would be animal resistant. Mr. Hoek recommended leaving the regulations the same and suggested educating the property owners on animal resistant containers/structures and renters not to leave food on the ground. Chairman Kilby stated that the Board hold another discussion next month.

## **OLD BUSINESS**

Chairman Kilby noted he did not feel that the impervious surface regulations needed to be addressed at this time. Mr. Hoek agreed that it should just be addressed as issues come up.

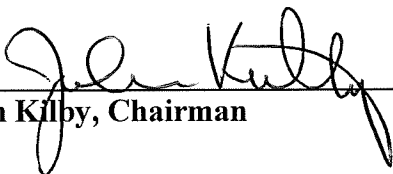
Chairman Kilby pointed out that the Town is currently looking to fill the Zoning Administrator position.

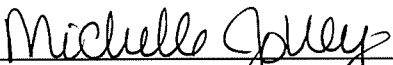
**ADJOURNMENT**

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

The meeting was adjourned at 2:43 p.m. The next regular meeting is scheduled for Tuesday, November 15, 2016 at 1:00 p.m.

**ATTEST:**

  
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**John Kilby, Chairman**

  
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**Michelle Jolley, Recording Secretary**