

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

**Tuesday, February 28, 2017
1:00 p.m.**

Chairman Kilby called the meeting to order at 1:03 p.m.

ROLL CALL

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

Absent: Rick Stockdale, Alternate
Lyn Weaver, Alternate

Also Present: Brad Burton, Code Enforcement Coordinator
Michelle Jolley, Recording Secretary
William Morgan, Jr., Town Attorney

APPROVAL OF THE AGENDA

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

APPROVAL OF THE MINUTES

Chairman Kilby mentioned on page 3 under (F) the address is incorrect. It should be 395 Tryon Bay Circle. Mr. Butts pointed out on Page 5, fourth paragraph, "solar plans" should be changed to "solar panels". He also pointed out on Page 13 under "Liaison Report", change "approved" to "reviewed". Chairman Kilby mentioned on page 13, "Old Business", he asked that Mr. Burton provide the applicant a checklist to go by before finalizing applications and asked that the minutes reflect this.

Mr. Butts made a motion seconded by Mr. Owensby to approve the minutes of the January 24, 2017 meeting as amended.

HEARINGS

(A) VROP-2017001, a vacation rental operating permit request from Neil and Kathy Gurney, owners, to operate a residential vacation rental at 174 Havnaers Point Circle, Lake Lure, North Carolina (Tax PIN 0221891)

Mr. Burton and Mr. and Ms. Gurney 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. and Ms. Gurney did not wish to challenge the Board for cause.

Mr. Burton disclosed that the cover letter he provided to all applicants listed the meeting dates incorrectly. He explained the hearing was properly noticed and the postings on site were correct.

Mr. Burton presented the case. He stated that Neil and Kathy Gurney are requesting a vacation rental operating permit (VROP) to operate a 6-bedroom residential vacation rental (RVR) at 174 Havnaers Point Circle, Lake Lure, North Carolina. The property is located in the R-1 Residential zoning district, and there is an existing single-family dwelling on the lot. Residential vacation rentals are a permitted use in the R-1 district subject to special requirements contained in §92.042 of the Zoning Regulations. Section 92.042 (A)(2)(b) of the Zoning Regulations states that VROP applications are to be deemed in the nature of and processed as a conditional use permit.

This request was sent to the Development Review Committee for review on February 20, 2017. The only comments received were from Linda Ward, Customer Service Clerk, stating that the utility bills are up-to-date, and Ron Morgan, Fire Chief. Pursuant to §92.046(B)(2) of the Zoning Regulations, 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.

Mr. Burton noted that he inadvertently accepted an unsigned application. However, he mentioned the applicants were present and he would have them sign their application before leaving. He mentioned that he has had no contact from anyone regarding this case. He explained that the property card lists the home as having no bedrooms. This is due to a glitch in the County's system, which they are aware of and are attempting to fix. He added that the property owners were present and could testify to the number of bedrooms. He stated the County has issued a Certificate of Occupancy (CO) and the property has water and sewer. He stated he was not able to get the CO from the County before the meeting. Mr. Lusk noted that he spoke with an inspector of the property who verified the home was six bedrooms. Mr. Butts mentioned that a condition could be applied requiring verification to the number of bedrooms.

Mr. Gurney explained that he does have the CO via email and he could provide that to Mr. Burton. He stated that he would sign the application with Mr. Burton before leaving. Mr. Erickson asked about construction debris on the property. Mr. Gurney noted this would be

cleaned up before being rented. He stated the lights on the pier will be installed before renting as well.

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

With regard to application number VROP-2017001 for a vacation rental operating permit to operate a residential vacation rental in the R-1 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 with the condition that the property owner submit adequate proof to Town staff that the home has six bedrooms. 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, with the condition applied.

(B) CU-2017001, a conditional use permit request from Robert and Robin Jones, owners, to operate a primary event venue at 3105 Memorial Highway, Lake Lure, North Carolina (Tax PIN 0221462)

Mr. Burton, Mr. and Ms. Jones, and Calyssa Jones were sworn in. Mr. Erickson disclosed he met Calyssa Jones while on the property 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. Mr. and Ms. Jones did not wish to challenge the Board for cause.

Mr. Burton disclosed that he has had conversations with Kevin Cooley and Tommy Hartzog, representing Moneto LLC, adjacent property owners and owners of the area being proposed for satellite parking. He spoke with them regarding concerns they had with the finality of the document submitted to him and contractual arrangements between the two parties. He explained to them that concerns with the contract would be a personal matter and not germane to this case. He stated that he prepared and provided to all members a worksheet on parking and occupancy requirements. That worksheet was included in the packet. He conveyed that "Places of Public Assembly" is the most applicable to the use as "Riverside Event Center." The Zoning Ordinance for parking requirements at places of public assembly, including school auditoriums, states one space for each four seats in the principal assembly room. His calculation determined that 86 parking spaces would be required. He conveyed that the applicants could testify to the parking.

Tommy Hartzog, adjoining property owner, was sworn in.

Mr. Burton presented the case. He stated that Robin and Robert Jones are requesting a conditional use permit to operate a primary event venue at 3105 Memorial Highway, Lake Lure, North Carolina. The property is located in the CG commercial zoning district. Primary event venues are a permitted use in the CG district subject to the granting of a conditional use permit pursuant to §92.031C(C)(11) of the Zoning Regulations.

This request was sent to the Development Review Committee for review on February 20, 2017. The only comments received were from Linda Ward, Customer Service Clerk, stating that the utility bills are up-to-date, and Ron Morgan, Fire Chief. Pursuant to §92.046(B)(2) of the Zoning Regulations, 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.

Mr. Burton read from an email he received from Ron Morgan, Fire Chief. He mentioned he has had no response from anyone regarding this case, except Mr. Hartzog and Mr. Cooley. He conveyed that he accepted the application a week past the deadline and it did not go before the Development Review Committee. However, he stated he emailed DRC members details of the request for their review. Mr. Burton read the email he sent to DRC members for the record. Chairman Kilby accepted the emails from Mr. Morgan and Mr. Burton as "Staff Exhibit 1".

Ms. Jones expressed that the Riverside Event Center would be an asset to the community for gatherings weddings, ceremonies, and any community events. She mentioned they tried to beautify the property to fit in well with the scenery of Lake Lure. She noted they worked closely with Ron Morgan for permits and also with Moneto, LLC to create a commercial lease agreement. She stated she does have their new lease agreement and updated parking plans to present to the Board. She pointed out that there are 80 parking spots available through their lease agreement and 30 parking spaces in the rear of the property as well as a few in the front, for a total of approximately 110 parking spaces. She noted it would be rare the full capacity of parking would be used and stated certified traffic controllers would be brought in as needed. She added that they would work closely with the Police Department when needed as well. She pointed out that there are street lights for parking in the rear of the building. She conveyed they would keep a guest count to be in compliance with the parking agreements and fire control. Time restrictions are in place and music will be shut down at 11 p.m., in accordance with the Town regulations. They are currently using Town water and sewer. She mentioned they have already advertised some and have had very good responses. They will offer full service accommodations by partnering with nearby businesses, including florists, lodging, etc. She stated they would be set up as a catering kitchen, but would not be a restaurant.

Mr. Jones stated the kitchen will have a convection oven, refrigerator, and complete fire suppressant system in place, that has already been inspected. He stated the kitchen has been stripped completely out, except for a commercial dishwasher. He conveyed they only plan to keep items cooled or warmed and will not be a restaurant business. They will not cook, produce, or sell food.

Ms. Jones presented their updated parking plan to the Board and Chairman Kilby accepted as "Applicant Exhibit 1". Mr. Burton pointed out that satellite parking must be utilized to have the required number of parking spaces. He explained that the number of parking spaces shown on the parking plan is sufficient and adequate for this facility. Mr. Hartzog mentioned that he and Mr. Cooley have met with the Town and the Flowering Bridge Committee in regards to the future public walkway connecting the Town Center to Chimney Rock Village. He stated they, as well as the Jones', are meaningful in sharing their property with the use of the future public walkway. Mr. Jones expressed that they would like to allow the six parking spaces in the front of the building, street side, to be for handicapped spaces and to load/unload equipment.

Mr. Burton was concerned with the location of the handicapped spots. He asked that the Board consider the applicant secure an encroachment agreement from the NCDOT, as part of the front, street side parking will potentially encroach into the NCDOT right-of-way. Without the proper authorization, there could be some pushback from the State in the future. Ms. Jones stated as long as they could load/unload in the front, she did not feel parking would be needed there. Mr. Burton explained that if they plan to utilize parking by the street, they should have the agreement with the State.

After a brief recess, Mr. Burton conveyed that Mr. Morgan prepared a proposal for the motion, which was provided to the Board.

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

With regard to application number CU-2017001 for a conditional use permit to operate a primary event venue at 3105 Memorial Highway in Lake Lure, NC , Mr. Hoek moved the Board to find that the application is complete and that the proposed use, if located and developed 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 conditional use permit in accordance with and only to the extent represented in the application and plans with the condition that they obtain any required encroachment agreements from NCDOT. Mr. Owensby seconded the motion with the condition. Mr. Butts, Mr. Hoek, Mr. Erickson, Mr. Owensby, and Chairman Kilby voted in favor of the motion with the condition.

The Board felt that all conditions were met and the application was complete. They felt that the testimony regarding the application and parking had met all requirements with the condition applied.

NEW BUSINESS

(A) Liaison Report

Commissioner Webber stated there was nothing new to report.

OLD BUSINESS

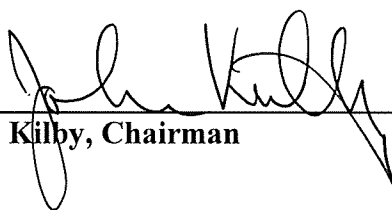
Chairman Kilby noted the end of year report is on the agenda for the next Council meeting.

ADJOURNMENT

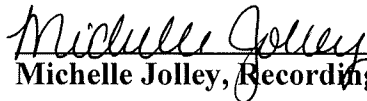
Mr. Owensby made a motion seconded by Mr. Erickson to adjourn the meeting. All voted in favor.

The meeting was adjourned at 3:30 p.m. The next regular meeting is scheduled for Tuesday, March 28, 2017 at 1:00 p.m.

ATTEST:



John Kilby, Chairman



Michelle Jolley, Recording Secretary