



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

**Tuesday, December 18, 2018
1:00 p.m.**

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

ROLL CALL

Present:

**Chairman Mark Hoek
Melvin Owensby, Vice Chair
Bill Bay
David Lusk
Lyn Weaver
Stephen Webber, Council Liaison
Wyn Hardy- Alternate
Al Joyner- Alternate**

Absent: Neil Gurney

**Also Present: Brad Burton, Community Development Director
Garrett Murphy, Development and Environmental Review Specialist
Sha'Linda Pruitt, Recording Secretary**

APPROVAL OF THE 2019 BOARD OF ADJUSTMENT MEETING SCHEDULE

Mr. Lusk made the motion seconded by Mr. Bay

APPROVAL OF THE AGENDA

Mr. Bay made a motion which was seconded by Mrs. Weaver to approve the Agenda as presented. All voted in favor.

APPROVAL OF THE MINUTES

Mr. Owensby made a motion seconded by Mr. Lusk to approve the minutes of the November 18, 2018 regular meeting as amended to include edits which reflected that Al Joyner was seated as an alternative, and on page 3 that will now read, "Zoning Variance has been granted." All voted in favor.

HEARINGS

Let the record show that Mr. Burton, Mr. Murphy, and Mr. Burgess were sworn in.

- a. CU-2018002, a request by Donald Burgess for a conditional use permit. The property is located at 2047 Memorial Highway in Lake Lure, NC 28746.

No board members have any ex parte interest or conflict towards this hearing.

Mr. Murphy discloses that Mr. Burgess is requesting a conditional use permit to place an accessory structure adjacent to his produce stand at 2047 Memorial Highway, Lake Lure, North Carolina. The property is located in the R-4 residential zoning district, and has been operated as a produce stand for some time.

Mr. Murphy also made it aware that Mr. Burgess has provided a complete application, photos of the proposed accessory structure, and a list of improvements he plans on making to his current produce stand.

The Development Review Committee reviewed the plans on November 5, 2018, with two comments.

The first comment was from Mr. Charlie Ellis, who expressed concerns in regards to signage and requested that the Town require something with a more professional appearance.

The second comment was from Mr. Thomas McKay, and was directed towards the general exterior conditions the property. In that ingress and egress should not be diminished, and the property kept free of debris.

Mr. Murphy briefly discussed the different items in the application package Mr. Burgess submitted. Mr. Burgess has also provided a list of things that he plans on improving to his current building such as painting, adding gravel, and pouring a concrete floor.

The Zoning and Planning Board reviewed the application package and their response was to make sure that the Rutherford County Health Department and the NC Department of Agriculture were needed to be aware if Mr. Burgess ever decides to use his structure for more than storage and for future resale of his goods concerning water and sewer.

Parking considerations also were mentioned in the Zoning and Planning Board meeting.

Mr. Bay questioned how the improvements listed in the application would be completed as planned.

Mr. Burton responded that this can be left to staff, and also that Mr. Burgess presented his case on a good faith basis to make these corrections he has acknowledge that work needs to be done and Mr. Burgess is willing to do the work. The biggest concerns would be parking for patrons as they use your business. If the Board so desires you can make this a condition of this permit.

The board inquired whether any neighbors have voiced any concerns.

According to Mr. Murphy, they had one phone call inquiry and an email. After the neighbor reviewed the blue prints, the neighbor felt satisfied with the direction of the project.

Mr. Lusk pointed out that overall height was left off, and confirmed that the Town limit is 35'.

Mr. Lusk also asked about the notes regarding being “tied down” and wanted to know how the structure was being anchored down.

Mr. Murphy replied the county is aware of the structure and everything is being built according to their building codes. It will be built on site and the wording was just in reference to having it anchored in general. 12ft with an overhang not to exceed 1000 ft.

Mr. Burgess spoke at the podium outlining a brief history of his family’s business. He also explained how the conditions of generational hoarding has led to the poor up keep of the property. Mr. Burgess expressed his deepest desire to beautify his property for the community. “We plan on making the thing look as pretty as we can. The more attractive the place is, the more we can sell.”

Mr. Owensby inquired about Mr. Burgess’s plans towards acquiring adequate water and sewer.

It was made known by Mr. Burton that the property has town water, no sewer capacity, and no public restroom facilities.

Mr. Bay stated that he is glad to have Mr. Burgess’s business and that there certainly in a need for his services and is hopeful that Mr. Burgess will follow through with these plans.

Mr. Burgess declared, “If I make a promise I will keep it. I try my best to keep all my promises.”

Mr. Hoek questioned regarding electric usage.

Mrs. Weaver inquired about parking plans, and it was made known by Mr. Burton that designated parking will have to be regulated by the Town.

On a final note Mr. Burgess disclosed that his family has been in business for 56 years and operating in the 6th generation.

The Board discussed among themselves whether there should be any conditions imposed.

Mr. Webber stepped in to advise that generally you should only impose conditions if they’re necessary to make the application come up to meet the standards for a conditional use permit.

Chairman Hoek asked the board for a motion.

With regard to application number CU-2018002 for a conditional use permit to build an accessory structure to 2047 Memorial Highway in Lake Lure, NC , I move 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.

Motion to approve the application was made by Mrs. Weaver and the motion was seconded by Mr. Owensby. All voted in favor.

- b. ZV-2018004, a request by Ivan Robinson for two dimensional zoning variances. The property is located at 2037 Buffalo Shoals Road in Lake Lure, NC 28746

Mr. Robinson, Mr. Burton, and Mr. Murphy were all sworn in.

It was made known that no board members have any ex parte interest or conflict towards this hearing.

Mr. Murphy led the staff presentation by disclosing that Ivan Robinson is requesting two dimensional zoning variances for his residence located at 2037 Buffalo Shoals Road in Lake Lure, North Carolina. The property is located in the R-1 zoning district, and is a newly completed residential project.

Mr. Murphy identified that the larger zoning variance requires a reduction of three feet, from the required 40' front yard setback. The front entry of the home is where the variance is being sought; specifically the roof over the entry stoop of the front door. The smaller zoning variance requires a reduction of eight inches, from the required 10' side yard setback.

A letter was also presented to the Board from Mr. Alexander Mosijchuk, who was the carpenter doing the work that identified three reasons why a field decision was made to move the front door flush with the exterior instead of recessed.

Mr. Burton strongly encouraged that the Board logs Mr. Mosijchuk's letter into the record as the explanation that rings true to everything that staff has found pertaining to this variance request. While it is not direct testimony it could be given consideration by the Board.

Mr. Owensby confirmed with Mr. Murphy that if the gutter was removed in regard to the smaller variance being sought, that it would no longer be encroaching.

Mr. Robinson later stated that the project did bring forth some concerns that he has worked to readily correct. His goals with the designing elements were to make it look better overall. He tried to come up with a solution and when the carpenter addressed the set back issues he attempted to resolve it.

Mr. Burton declared that he would like to commend all of Mr. Robinson's efforts with this project. There were issues that sprung up under this endeavor but Mr. Robinson did an extraordinary job to fix things.

Finding of facts:

Unnecessary hardship would result from the strict application of the regulations. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.

The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance.

The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.

The requested variance is consistent with the spirit, purpose, and intent of the regulations, such that public safety is secured, and substantial justice achieved. Substantial justice is not achieved when granting the variance would be injurious to the neighborhood or to the general welfare.

With regard to Case Number ZV-2018004, I move 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, I move the Board to grant the requested variance in accordance with and only to the extent represented by the application.

Mr. Owensby made the motion and seconded by Mr. Bay, all voted in favor.

NEW BUSINESS

Mr. Webber states that Board appointments are coming up and as he understands it everyone who has a seat wants to be reappointed.

Mr. Burton made mention that during the Zoning and Planning Board meeting today that an updated version of the Telecommunications Ordinance.

OLD BUSINESS

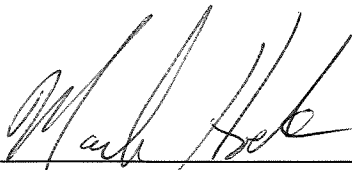
None.

ADJOURNMENT

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

The meeting was adjourned at 2:17 p.m. The next regular meeting is scheduled for Tuesday, January 15, 2018 at 1:00 p.m.

ATTEST:



Chairman Mark Hoek



Sha'Linda Pruitt, Recording Secretary