



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

**Tuesday, February 27, 2018
1:00 p.m.**

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

ROLL CALL

Present: Mark Hoek, Chairman
Bill Bay
Neil Gurney, Alternate
Wyn Hardy, Alternate
Al Joyner, Alternate
David Lusk
Melvin Owensby
Lyn Weaver
Stephen Webber, Council Liaison

Absent: n/a

Also Present: Brad Burton, Code Enforcement Coordinator
Michelle Jolley, Recording Secretary

APPROVAL OF THE AGENDA

Chairman Hoek proposed adding item (A) under 'Old Business' for an update on the VROP proposal.

Chairman Hoek made a motion to approve the agenda as amended. Ms. Weaver seconded the motion and all voted in favor.

APPROVAL OF THE MINUTES

Mr. Lusk made a motion seconded by Mr. Bay to approve the minutes of the January 23, 2018 regular meeting as presented. All voted in favor.

HEARINGS

(A) VROP-2018001, a vacation rental operating permit request from David and Kathryn Schroeder; Melissa Messer agent, to operate a residential vacation rental at 182 Deer Trail, Lake Lure, North Carolina (Tax PIN 216684)

Mr. Burton and Ms. Messer were sworn in. Mr. Bay disclosed that he lives on the same street, in the same POA, and received an email from the president expressing her displeasure of the vacation rental request. He stated this would not affect his decision. 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. Messer did not wish to challenge the Board for cause.

Mr. Burton presented the case. He stated that David and Kathryn Schroeder, through Melissa Messer, agent, are requesting a vacation rental operating permit (VROP) to operate a 4-bedroom residential vacation rental (RVR) at 182 Deer Trail Lake Lure, North Carolina. The property is located in the R-3 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 February 15, 2018 and no comments were received.

In response to Mr. Bay's comment, Ms. Messer mentioned that she, along with the Schroeder's, met with a member of the POA. She also mentioned that she has other vacation rentals in the Resort as well. Mr. Lusk pointed out that the property card only lists the home as having three bedrooms. Mr. Burton noted that the Board could apply a condition that the Code Enforcement Officer visit the property and validate the home has four bedrooms before they could be approved to rent as a four bedroom home. Ms. Messer asked to amend her original application to a three bedroom rental. Chairman Hoek asked about trash receptacles. Ms. Messer stated the renters are required to take their trash to a designated place inside the Resort and the trash cans are located in the garage. Mr. Bay asked about parking and Ms. Messer stated extra parking is available in the garage.

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

With regard to application number VROP-2018001 for a vacation rental operating permit to operate a residential vacation rental in the R-3 zoning district, Mr. Lusk 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 amending the original application to three bedrooms, with a maximum occupancy of 10, and a condition that the home only be permitted for three bedrooms until the Code Enforcement Officer validates there are four bedrooms. Ms. Weaver seconded the motion with the condition. Mr. Bay, Mr. Lusk, Mr. Owensby, Ms. Weaver, and Chairman Hoek voted in favor.

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

(B) VROP-2018002, a vacation rental operating permit request from Lake Dog Properties, Inc. (Byron Marsh) to operate a residential vacation rental at 172 Havnaers Point Circle, Lake Lure, North Carolina (Tax PIN 225303)

Mr. Burton and Mr. Marsh were sworn in. Mr. Lusk disclosed that he met Mr. Marsh while on site but did not discuss 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. Marsh did not wish to challenge the Board for cause.

Mr. Burton presented the case. He stated that Lake Dog Properties (Byron Marsh), are requesting a vacation rental operating permit (VROP) to operate a 4-bedroom residential vacation rental (RVR) at 172 Havnaers Point Circle, Lake Lure, North Carolina. The property is located in the R-1 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 February 15, 2018 and no comments were received. Mr. Burton noted the property card was not included in the packet and provided the Board with a copy.

Mr. Marsh stated that there is adequate parking and four cars can easily be parked. He noted the trash receptacles are provided on site. Mr. Lusk pointed out the property card shows the house as having three bedrooms. Mr. Marsh explained that the house had four bedrooms when he purchased the home. He pointed out that the home is on Town sewer and Duncan Plumbing conducted an inspection. Mr. Burton pointed out the County records are out of date and stated the property is on town sewer with a certification from a plumber. Chairman Hoek asked about a railing for the top of the boathouse. Mr. Marsh stated he had no plans to add one but would add a railing if the Board desired. Chairman Hoek felt it should be considered.

Neil Gurney, neighbor, asked for party status and was sworn in. Mr. Gurney noted an old unstable wall still stands and felt it would be a public safety hazard if left up. Mr. Marsh stated that he would remove the wall before renting.

There was no further testimony, so Ms. Weaver made the following motion:

With regard to application number VROP-2018002 for a vacation rental operating permit to operate a residential vacation rental in the R-1 zoning district, Ms. Weaver 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, she 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. Bay, Mr. Lusk, Mr. Owensby, Ms. Weaver, and Chairman Hoek voted in favor.

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

(C) VROP-2018004, a vacation rental operating permit request from Elaine Anderson to operate a residential vacation rental at 631 Whitney Blvd., Lake Lure, North Carolina (Tax PIN 1605194)

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

Mr. Burton presented the case. He stated that Elaine Anderson is requesting a vacation rental operating permit (VROP) to operate a 5-bedroom residential vacation rental (RVR) at 631 Whitney Boulevard, Lake Lure, North Carolina. The property is located in the R-3 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 February 15, 2018 and no comments were received.

Ms. Anderson pointed out that her property card shows the property only having three bedrooms but stated there are five bedrooms and the septic was enlarged to support five bedrooms. She noted when the property was purchased, the basement was unfinished. She stated they finished the basement without pulling proper permits. She noted there is adequate parking and the trash receptacles are located in the garage. She stated trash would be taken to the designated place inside the Resort. Mr. Lusk asked for a septic certification. Ms. Anderson explained that she did not have a certification with her but the septic was enlarged after they bought the septic permit could be easily obtained from the County. She noted there are four bedrooms on the first and second levels of the home and one bedroom is located downstairs in the basement. She stated the bedroom located in the basement did not have to be used because there would be sufficient room on the first and second level bedrooms without it. Mr. Burton suggested that the basement bedroom not be permitted in regards to Ms. Anderson's testimony that proper permits with the

County were not pulled and therefore the bedroom was not inspected by the County Building Inspector to meet code. Ms. Anderson asked to amend her original application to a four bedroom rental. Mr. Owensby felt that only three bedrooms should be permitted with a condition that the fourth be allowed once proper septic certification is provided to the Code Enforcement Officer.

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

With regard to application number VROP-2018004 for a vacation rental operating permit to operate a residential vacation rental in the R-3 zoning district, Mr. Lusk 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 amending the original application to a four bedroom rental and a condition that only three bedrooms be permitted until proper septic certification is provided to the Code Enforcement Officer validating the septic is adequate for four bedrooms. Mr. Owensby seconded the motion. Mr. Bay, Mr. Lusk, Mr. Owensby, Ms. Weaver, and Chairman Hoek voted in favor.

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

(D) VROP-2018005, a vacation rental operating permit request from Cal Navis; Bobbi Elliott agent, to operate a residential vacation rental at 140 Lake Ridge Road., Lake Lure, North Carolina (Tax PIN 225073)

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

Mr. Burton presented the case. He stated that Cal Navis, through Bobbi Elliot, agent, is requesting a vacation rental operating permit (VROP) to operate a 3-bedroom residential vacation rental (RVR) at 140 Lake Ridge Road, Lake Lure, North Carolina. The property is located in the R-1 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 February 15, 2018 and no comments were received.

Ms. Elliott explained that the home is located on the lake but a boat would not be offered with the rental. She stated that four vehicles would fit onto the parking pad if parked tandem. She mentioned that additional parking is available on Lost Cove. Ms. Weaver had a concern with parking and felt that four vehicles would be very tight. Chairman Hoek pointed out that there was no lighting on the stairs down to the boathouse. Ms. Elliott stated they could add lighting.

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

With regard to application number VROP-2018005 for a vacation rental operating permit to operate a residential vacation rental in the R-1 zoning district, Mr. Bay 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. Weaver seconded the motion. Mr. Bay, Mr. Lusk, Mr. Owensby, Ms. Weaver, and Chairman Hoek voted in favor.

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

(E) VROP-2018006, a vacation rental operating permit request from Mark and Genevieve Helms to operate a residential vacation rental at 218 Boys Camp Road, Lake Lure, North Carolina (Tax PIN 1651961)

Mr. Burton and Ms. Elliott were previously sworn. There were no ex-parte communications or conflicts of interest to disclose. The Board felt they could reach a fair and unbiased decision. Ms. Elliott did not wish to challenge the Board for cause.

Mr. Burton presented the case. He stated that Mark and Genevieve Helms, through Bobbi Elliot, agent, are requesting a vacation rental operating permit (VROP) to operate a 3-bedroom residential vacation rental (RVR) at 218 Boys Camp Road, Lake Lure, North Carolina. The property is located in the R-2 zoning district, and there is an existing single-family dwelling on the lot.

Mr. Burton stated that renovations to the residence are underway. If the Board is desirous of issuing the Permit, the following condition is suggested: "The property cannot be used as a Residential Vacation Rental until all renovations are complete and the residence is move-in ready."

This request was sent to the Development Review Committee for review on February 15, 2018 and no comments were received.

Mr. Burton explained that the current parking pad is a result of a discussion between Clint Calhoun, Environmental Management Officer, and the previous owner, John Wagner. Mr. Bay noted he had concerns with erosion of the parking pad and whether or not a retaining wall was needed. Chairman Hoek felt there was adequate parking. Ms. Elliott noted that parking behind the house was not allowed. She stated the some of the pea gravel is washing away and stated there are plans to put steps from the parking pad down to the house. She noted that trash receptacles would be provided. Chairman Hoek pointed out that the handrails on the back stairs were unstable.

Mark Helms, property owner, was sworn in. He mentioned that he is a licensed general contractor and stated there is no danger of the parking pad collapsing. He noted that the pea gravel on top is washing away in places. He explained that part of the remodeling will be drainage work around the parking pad. He stated the height between the parking pad down to the house is about four feet.

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

With regard to application number VROP-2018006 for a vacation rental operating permit to operate a residential vacation rental in the R-2 zoning district, Mr. Bay 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. Weaver seconded the motion with the condition that the property not be rented until it is move-in-ready as validated by the Code Enforcement Officer. Mr. Bay, Mr. Lusk, Mr. Owensby, Ms. Weaver, and Chairman Hoek voted in favor.

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

NEW BUSINESS

Ms. Weaver suggested that proof of a septic permit or inspection be required to clean up any concerns with septic and sewer. Commissioner Webber explained that the burden is on the applicant and they must provide proof. He stated that if evidence is not there the Board does not have to approve it with a condition.

OLD BUSINESS

(A) Update on the VROP Proposal

Mr. Burton stated that staff was instructed to study changing the VROP process back to an administrative process and provided an update. He explained that revocation of a permit could be appealed to the Board of Adjustment.

ADJOURNMENT

Mr. Owensby made a motion seconded by Mr. Lusk and Ms. Weaver to adjourn the meeting. All voted in favor. The meeting was adjourned at 1:53 p.m. The next regular meeting is scheduled for Tuesday, March 27, 2018 at 1:00 p.m.

ATTEST:



Mark Hoek, Chairman



Michelle Jolley, Recording Secretary