



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

**Tuesday, December 17, 2019
1:00 p.m.**

Chairman Hoek called the meeting to order at 1:03pm

ROLL CALL

Present:

**Mark Hoek
Bill Bay
Wyn Hardy- Alternate
Al Joyner- Alternate
Lyn Weaver
Neil Gurney
Melvin Owensby**

Absent:

**David Lusk
Stephen Webber, Council Liaison
Brad Burton, Community Development Director**

**Also Present: William Morgan, Town Attorney
Mitchell Anderson, Development and Environmental Review Specialist
Sha'Linda Pruitt, Recording Secretary**

APPROVAL OF THE AGENDA

Chairman Hoek asked for a motion to approve the agenda. Mr. Bay made a motion to approve the agenda and Mr. Hardy made the second. All voted in favor.

APPROVAL OF THE MINUTES FROM NOVEMBER 19, 2019

Chairman Hoek asked for a motion to accept the minutes as presented from November 17, 2019? Mr. Gurney made the motion to approve the minutes and Mr. Bay gave the second. All voted in favor.

HEARINGS

(a) Hearings

1. ZV-2019010, a 20' variance request from a 35' lake front-yard zoning setback, a 27' variance request from a 35' front-yard zoning setback, and a 7,349 sf variance request from a 10,000 sf minimum lot area zoning dimension requirement for the R-4 zoning district by Dwayne Deese at Lot 1 of Tryon Bay Circle in Lake Lure, N.C. (Tax PIN 1653096).
 - i. Hearing postponement request received on 12/06/19
2. ZV-2019011, a 20' variance request from a 35' lake front-yard zoning setback, a 27' variance request from a 35' front-yard zoning setback, and a 7,488 sf variance request from a 10,000 sf minimum lot area zoning dimension requirement for the R-4 zoning district by Dwayne Deese, National Indemnity Group, at Lot 2 of Tryon Bay Circle in Lake Lure, N.C. (Tax PIN 1653095).
 - i. Hearing postponement request received on 12/06/19
3. ZV-2019012, a 5.5' variance request from a 35' lake front-yard zoning setback, a 7.08' variance request from a 35' front-yard zoning setback requirement for the R-1 zoning district by Vincent J. Wiegman at 211 Sunset Cove Rd. in Lake Lure, N.C. (Tax PIN 223960).

All parties were sworn in which included Mitchell Anderson, Vincent Wiegman, and Wayne Hyatt.

The board examined all ethical considerations and found that no board member has had any ex-parte communications with the applicant.

Mr. Wiegman opted not to challenge anyone on the board for cause.

Chairman Hoek opened the floor for staff presentations. Mr. Anderson provided the staff presentation. Mr. Anderson read the memo for the case.

Vincent Wiegman, agent for Jennifer Cohen, is requesting a 5.5' variance from a 35' lake front-yard zoning setback and a 7.08' variance from a 35' front-yard zoning setback requirement for the R-1 zoning district. The property is located at 211 Sunset Cove Rd. in Lake Lure, N.C. (Tax PIN 223960).

Additional Information for the Board

- 1) The current structure on the parcel was built in 1988, and predates the Town's Zoning Ordinances passed January 22nd, 1991.
- 2) Sunset Cove Road passes through the center area of the parcel 223960, encumbering the building envelope of this parcel.
- 3) Requested setback variances are calculated from the average setbacks of adjacent parcels.

Mr. Anderson provided further clarification on the plans that were included in the packets. It's staffs understanding that the set backs are adjacent to the property owners and this is a pre-existing non-conforming structure. So some of the structure is already within the setbacks. The setbacks request are for this front bump out at the front door entry and for the overhang on the back deck. You can see these plans of pages A3 and A4. The requested variance will bring the house into conformity.

The board asked if there had been any complaints made by neighbors. Mr. Anderson replied that he had received some emails with concern to the sewer connection. As of now the applicant has paid a tap fee and is connected to the town sewer system as confirmed by Linda Ward. Some reconfiguration may have to occur concerning this matter but at this point in time staff cannot confirm such.

Chairman Hoek opened the floor for the Statement of Applicant.

Mr. Wiegman wanted to clarify that the numbers for the variance were averaged numbers with the setbacks from the neighbors on both sides. Those numbers are not from 35ft, they are from that averaged number. The average of the rear set back is 17ft and we are looking for one more foot past that. The only increase from the existing structure will be that 1ft.

Questions began by the board.

The board and the town attorney discussed the wording of how the variance should be moving forward in concern for the 35ft as stated or based on the applicant taking the number from the average. Attorney Morgan felt there was no need to change the language because it was still understandable to future applicants according to what is being described.

Discussion ensued.

The floor was open for other testimony.

Mr. Wayne Hyatt from the Lake Lure Utilities board testified that he was made aware of the concerns of this variance by Richard Glassen. As Chairman of the Lake Lure Utilities board Mr. Hyatt more or less just wanted to make the board aware that his board would be having some recommendations for how to approach projects that would affect the sewer line in the future. In regards to this particular variance he had no objections.

Deliberations

SUGGESTED MOTION: VARIANCE

Unnecessary hardships would result from the strict application of the regulations.

The home was built in 1988 prior to the town's regulations. It's not infringing upon the existing houses.

DESCRIBE FOR THE RECORD:

The hardships result from conditions that are peculiar to the property, such as location, size, or topography of the property.

The road runs right through the property which hurt the property owner. The home footprint and the direction of the road are not changing.

DESCRIBE FOR THE RECORD:

The hardship did not result from actions taken by the applicant.

The house was built prior to the new zoning ordinance.

DESCRIBE FOR THE RECORD:

The requested variance is consistent with the spirit, purpose, and intent of the regulations; will secure public safety and welfare; and will preserve substantial justice.

It does meet the regulations of public safety if it did not you would be receiving a public outcry and numerous complaints.

DESCRIBE FOR THE RECORD:

CONDITIONS:

The minimal amount is needed and used rather than the 35ft. This property is consistent with the other homes on the street. There are no special privileges be granted here.

The board closed the Deliberations

The Chairman asked for a motion to grant the variance. Mr. Bay gave the motion. Mr. Owensby gave the second.

SUGGESTED MOTION: VARIANCE

Mr. Owensby read the motion as follows:

With regard to Case Number ZV-2019012, I move the Board to find that the applicants have demonstrated that unnecessary hardships exist as per the following testimony that the variance be granted.

All voted in favor.

NEW BUSINESS

None

OLD BUSINESS

None

ZV-2019007, a 2.0' variance request from a 10' rear-yard zoning setback requirement for the R-1 zoning district by Heather and Darin Brockkelbank at 117 Sherwood Dr. in Lake Lure (Tax PIN 219320).

A final inspection was conducted and some problems were cited with the setbacks in particular. The Brockkelbank's are currently engaged in a missionary trip in Africa but Heather Brockkelbank has been in constant contact to get her property in compliance. Mrs. Brockkelbank was notified that she will receive a notice of violation for the problems that are on the site and

that she needs to respond to that within 15 days with a formal answer and remedy. The town has no reason to believe that this situation will not be rectified.

The election of officers will be held in January.

ADJOURNMENT

The Chairman asked for a motion to adjourn.

Mr. Owensby gave the motion to adjourn and

Mr. Gurney gave the second. All voted in favor.

Meeting adjourned at 1:42pm

ATTEST:



Melvin Owensby, Chairman



Sha'Linda Pruitt, Recording Secretary