



**Minutes of the Regular Meeting of the  
Lake Structure Appeals Board**

**Tuesday, July 25, 2017  
1:30 p.m.**

Chairman Kilby called the meeting to order at 1:32 p.m.

**ROLL CALL**

**Present:** John Kilby, Chairman  
Mark Hoek  
David Lusk, Seated Alternate  
Melvin Owensby  
Rick Stockdale, Seated Alternate  
Stephen Webber, Council Liaison

**Also Present:** Clint Calhoun, Environmental Management Officer  
Michelle Jolley, Recording Secretary

**Absent:** David Butts  
Ronald Erickson  
Lyn Weaver, Alternate

**APPROVAL OF THE AGENDA**

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

**APPROVAL OF THE MINUTES**

Mr. Owensby made a motion to approve the minutes of the May 23, 2017 as presented. Mr. Hoek seconded the motion. All voted in favor.

**NEW BUSINESS**

- (A) LSAV-2017002, a variance request from Jonathan Hinkle of Marathon Builders of WNC Inc., on behalf of James and Janet Walters from Section

**94.05 (C) of the Lake Structure Regulations. The property (Tax PIN 1627079) is located at 418 Chapel Point Road, Lake Lure, North Carolina**

**(B) LSP-2017008, a request from Jonathan Hinkle of Marathon Builders of WNC, Inc., on behalf of James and Janet Walters, for approval of a decktop accessory structure. The property (Tax PIN 1627079) is located at 418 Chapel Point Road, Lake Lure, North Carolina**

Chairman Kilby mentioned both cases would be heard at the same time since they pertain to the same property. Mr. Calhoun and the Board agreed to hear together.

Mr. Calhoun, Mr. Walters, and Mr. Hinkle were sworn in. Mr. Owensby disclosed he visited the property and met Mr. Walters. He spoke with him but did not discuss the cases. Mr. Hoek noted that the Walters are friends of his. He spoke with Ms. Walters while on property but did not discuss the case. There were no ex parte communications or conflicts of interest to report. The Board felt they could make a fair and unbiased decision.

Mr. Calhoun presented the case. He read from the memos included in the packet, which stated:

*“Mr. Jonathan Hinkle on behalf of James and Janet Walters is requesting a variance from Section 94.05(B) of the Lake Structure Regulations, requiring that “no structure shall be placed in the water more than 30 feet or one third of the distance to the opposite shore, whichever is less, as measured to and from the shoreline. No portion of any lake structure shall extend beyond this boundary. For the purpose of positioning lake structures along an irregular boundary, the shoreline shall be defined as the straight line between the two widest points on the shoreward side of the structure where they meet the shoreline. The measurement to the opposite shore shall be made to the point on the opposite shore which results in the shortest distance from the proposed structure.” The property (Tax PIN 1627079) is located at 418 Chapel Point Road.*

*In this case the applicant is requesting a variance to build a boathouse over an existing dock that was built, according to Rutherford County records, in 1999. The existing dock has a 32 foot projection on its longest end, over the majority of its width and is 27 feet at its shortest end. The applicant would like to build the new boathouse to the existing dimensions of the current dock, but to do so would be adding to a non-conformity, at least for the majority of the structure. The proposed structure appears to meet all other aspects of the Lake Structure regulations.*

*In addition to the variance request, if approved the property owners would like to build a decktop accessory structure on the proposed rooftop deck. Based on a cursory review of the submitted plans, the proposed decktop accessory structure does not exceed the required height of 10 feet above the surface of the rooftop deck; it does not exceed 50% of the area of the rooftop deck or 150 square feet, whichever is less; the proposed structure is completely open on all sides; it is located abutting the shoreward end of the*

*rooftop deck and does not extend beyond the midpoint of the deck; it does not include any sanitary facilities nor are any storage containers shown on the plans. The proposed boathouse and decktop accessory structure have been designed by a professional engineer. Plan review does not determine whether or not the proposed structure materially obstructs the view of the lake from any adjacent or nearby properties."*

Mr. Calhoun stated he has had no correspondence from anyone regarding this case.

Mr. Hinkle, Marathon Builders, noted one side of the boathouse exceeds requirements by about three feet. He added that it would be an open boathouse and should not obstruct any views. The decktop accessory structure on top of the boathouse will also be open. Mr. Hoek asked about the pier and, if built in compliance, what it would involve. Mr. Hinkle stated four feet of the dock would have to be removed. It would shorten the depth of the slip and the property owners would not be able to fit the boat they already own into the slip. He noted they already have a seawall and dock in place.

Commissioner Webber pointed out that if the height of the decktop accessory structure is true to what is indicated on the application, it would be higher than what is allowed and would also require a variance. Mr. Calhoun noted it appeared to him there was a misunderstanding on the application versus what was on the plans. The plans showed the height of the decktop accessory structure as 10'. The top of the dock to the top of the rooftop deck is 12'10". He noted the application could be amended if there was a mistake on the application but stated Mr. Hinkle would have to testify to that issue. Mr. Hinkle clarified that he made an error on the application. He explained that he took the 12'10" from the eastside elevation. He stated he was measuring for the boathouse itself. He asked to amend the height of the decktop accessory structure on the original application to 10'.

There was no further discussion, so Mr. Owensby made the following motions:

**With regard to application number LSAV-2017002 for a variance from Section 94.05 of the Lake Structures Regulations, Mr. Owensby moved the Board to find (1) owing to special or unusual conditions, a literal enforcement of the provisions of the regulation(s) will result in practical difficulty or unnecessary hardship, and (2) in the granting of the variance the spirit of the Lake Structures Regulations shall be observed, the public safety and welfare secured, and substantial justice done. Accordingly, he further moved the Board to grant the requested variance in accordance with and only to the extent represented in the application.**

**Mr. Hoek seconded the motion. Mr. Hoek, Mr. Owensby, Mr. Lusk, Mr. Stockdale, and Chairman Kilby voted in favor.**

The Board felt the application was complete and all requirements had been met.

**With regard to application number LSP-2017008 for a Lake Structure Permit, Mr. Stockdale moved the Board to find (1) owing to special or unusual conditions, a**

literal enforcement of the provisions of the regulation(s) will result in practical difficulty or unnecessary hardship, and (2) in the granting of the variance the spirit of the Lake Structures Regulations shall be observed, the public safety and welfare secured, and substantial justice done. Accordingly, he further moved the Board to grant the requested variance in accordance with and only to the extent represented in the application as amended.

He further moved to amend the application to change the height of the decktop accessory structure to 10' in accordance with the plans. Mr. Hoek seconded. Mr. Hoek, Mr. Owensby, Mr. Lusk, Mr. Stockdale, and Chairman Kilby voted in favor of the motion with the amendment.

The Board felt the application was complete and felt the requirements had been met and no views were obstructing neighboring properties.

**OLD BUSINESS**

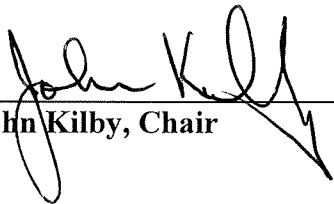
None

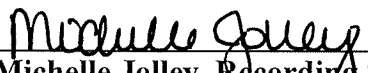
**ADJOURNMENT**

Mr. Stockdale made a motion to adjourn and Mr. Owensby seconded. All voted in favor.

The meeting was adjourned at 2:01 p.m. The next regular meeting is scheduled for August 22, 2017 at 1:30 p.m.

**ATTEST:**

  
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John Kilby, Chair

  
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Michelle Jolley, Recording Secretary