

**Minutes of the Reconvened Meeting of the
Board of Adjustment**

**Tuesday, April 28, 2021
1:00 p.m.**

Reconvened Meeting held digitally via Zoom.

The Chairman reconvened the recessed meeting from April 27, 2021 at 1:14 p.m.

ROLL CALL

Present **Melvin Owensby, Chairman**
Via Zoom: **Neil Gurney, Vice Chairman**
 Greg Gardner, Board Member
 Wyn Hardy, Board Member
 Al Joyner, Board Member
 Scott Doster, Alternate
 Kimberly Sayles, Alternate

Absent: **Betty Ross, Alternate**
 Patrick Bryant, Council Liaison

Also Present: **William Morgan, Town Attorney**
 Mitchell Anderson, Assistant Community Development Director
 Mike Williams, Development and Environment Review Specialist
 Sha'Linda Pruitt, Recording Secretary

The board opened discussion for deliberations.

A. Hearings

- a) **ZV-2021002, a request from Paul Brock/Lured Market & Grill for a variance of 14' from the minimum rear yard zoning setback for the CG zoning district located at 2655 Memorial Drive in Lake Lure, NC (Tax PIN 216982)**

Paul Brock is requesting a variance for the addition of a restroom on the back right side of the existing building at 2655 Memorial Highway. (Tax PIN 216982). This property is located in the CG Commercial General Zoning District.

- 1) The variance request is to reduce the rear yard setback from the required 15' to 1', for a

variance of 14'.

2) The pre-existing non-conforming structure located at 2655 Memorial Highway was built in 1926, prior to the zoning regulations being adopted.

3) Unpermitted construction of a bathroom addition was begun in fall 2020, resulting in a September 25, 2020 Notice of Violation and October 27, 2020 Stop Work Order. The Stop Work Order was closed and removed March 26, 2021 in response to Mr. Brock's submission of a Zoning Compliance permit application and his completion of a previously submitted Variance application. The Zoning Compliance permit is on hold pending the hearing of the Variance application.

4) The applicant has provided a complete application with to-scale plans. These documents are included in the meeting packet.

Lured Market and Grill proposes to build a 56 square foot American Disabilities Act Compliant Bathroom adjoining the back corner of our existing market. The roofline of the proposed bathroom will correspond with the existing roofline of the existing market. Due to the proximity of the proposed building to the property line, it is admitted that proposed location of said bathroom is too close to the existing lot line for the adjoining lot. However, the Lured Market property backs up to a steep bank with an approximate 60 degree grade, so that this bank on the adjoining property is not suitable for building or development. Furthermore, the aesthetic requirements of the proposed addition require the bathroom to be placed at the back of the property rather than the front part of this historic building.

The Lured Market is requesting a variance to place this bathroom, as well as a 10x10 storage unit, no less than 1 foot from the property line. This variance is necessary to operate Lured Market and Grill successfully, and would be both functional and aesthetically pleasing.

In starting this business, Lured Market has complied with all Rutherford County building requirements as well as all Rutherford County Health requirements and is seeking this variance to comply with the requirements of the Town of Lake Lure.

Staff had sent over the metal siding concerns expressed by the board to the town Attorney Mr. Morgan. Mr. Morgan had reviewed the different canvas types for storage buildings.

Mr. Morgan stated that the existing town ordinance is clear on its intent with addressing Fabric and metal structures to protect the character and appearance of Lake Lure. You can have them but they can't be visible from a public street. The issue is that you can see this from US 74. Staff confirmed that you would in fact be able to see the storage cube from the highway. The board cannot or shouldn't approve a variance that in effect would create another non-conforming structure. You would be blessing the creation of a new ordinance violation. There is a way to do it but it would have to be screened and there are various ways that are listed to do the screening

such as a wooden fence. The board can make this a condition subject to the variance being approved. You can make it a condition that the building either be over laid with wood or hidden by walls, buffer stripes or other means to obstruct the visibility from the hwy. I wouldn't approve and order without making it a condition required by 92.118 Fabric and Metal Structures in the zoning ordinance. The details of achieving compliance should be worked out with staff.

Mr. Gurney asked Mr. Morgan if the town approves to make this a requirement then the Town would work with Mr. Brock to define what exactly would be feasible under this ordinance so that the board wouldn't have to get into those specifics but only to determine if it meets the town's ordinances.

Mr. Morgan stated this is correct that the board doesn't dictate the material used only that the fence be covered. I wouldn't approve and order without making it a condition required by 92.118 Fabric and Metal Structures in the zoning ordinance. The details of achieving compliance should be worked out with staff.

Mr. Gardner stated that the applicant expressed interest previously in reference to the bathroom so perhaps he could do the same type of screening device for the cube which would solve the issue because you wouldn't be able to see the cube from the road.

Mr. Joyner asked staff if the storage cube apart of the original application submitted by Mr. Brock.

Staff confirmed that it was and was included in the site plan.

Mr. Hardy asked the town attorney in regards to the storage cube, does portability as oppose to having a structure planted in ground make any difference in regards to the regulations.

Mr. Morgan referred to Mr. Anderson, staff stated that it would treated as an accessory structure similar to a shed as far as the regulations would be concerned. The only temporary structure that get regulated would be RVs.

Mr. Joyner asked about waste containers.

Mr. Morgan confirmed that most towns do require some form of screening around dumpsters.

Mr. Anderson said the town doesn't view waste containers as metal structures.

Mr. Morgan reiterated that the ordinance does in fact address this specific situation very clearly in the regulations.

Mr. Hardy added that yesterday we agreed with the suggestion that the property owner also sign the application for the zoning variance prior to the construction of the bathroom as a condition was well.

Mr. Morgan asked does the ordinance explicitly say that the owner must also sign the application. Obviously the owner does support this action by way of his letter. I think the owner should sign the application since it will be recorded by the county with the register of deeds.

Mr. Brock stated that six months is more than enough time to complete this project.

The board agreed to make the signature of the property owner on the application as a condition too.

Mr. Joyner asked if the board is approving the location of the storage unit or just the screening of the storage unit.

The storage unit location has not been changed

Mr. Gurney made the motion “With regard to Case Number ZV-2020002, I move the Board to find that the applicants have demonstrated that unnecessary hardships exist as per the following testimony”: The applicant would not be able to build the ADA bathroom in its current location or the storage cube to the property line since the building was erected in the 1920s when the current ordinances did not exist. Mr. Gurney stated that both the storage unit and the ADA can have a variance of 14ft. It may not be closer than 1ft to the property line. In addition we have a condition that the storage cube needs to meet ordinance 92.118 in conjunction with the staff within a six month period. A second condition will be added that the property owner must also sign the application. I move the board to grant the requested variance for the bathroom and storage cube based on the application. Mr. Joyner gave the second.

OLD BUSINESS

None

The Chairman asked for a motion to adjourn. Mr. Hardy gave the motion and Mr. Joyner gave the second.

The meeting ended at 1:43pm

ATTEST:

Neil Gurney, Vice Chairman

Sha'Linda Pruitt, Recording Secretary