



Minutes of the Regular Meeting of the Board of Adjustment

**Tuesday, April 27, 2021
1:00 p.m.**

Meeting held digitally via Zoom.

The Vice Chairman called the meeting to order at 1:05 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
 Betty Ross, Alternate
 Kimberly Sayles, Alternate

Patrick Bryant, Council Liaison

Absent: **n/a**

Also Present: **Mitchell Anderson, Assistant Community Development Director**
Mike Williams, Development and Environment Review Specialist
Michelle Jolley, Recording Secretary

APPROVAL OF THE AGENDA

Mr. Gardner made a motion to approve the agenda as presented. Mr. Gurney seconded and the motion carried 5-0.

APPROVAL OF THE MINUTES

Mr. Joyner pointed out that there was a comment on the rental business stated from Mr. Gurney that management of the parking space was not an issue that Town would be involved in. That

would be between the landlord and the business operator. He asked that that statement be included in the Minutes under the VROP discussion.

Mr. Joyner made the motion to approve the March 23-24, 2021 Meeting Minutes as amended. Mr. Hardy seconded and the motion carried 5-0.

NEW BUSINESS

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)**

Community Development Director Mitchell Anderson and applicant Paul Brock were sworn in. There were no conflicts of interest or ex parte communications to disclose. Ms. Sayles noted that she is a co-business owner in the community and personally knows the applicant but it would not affect her decision. Mr. Brock did not wish to challenge the Board for cause.

Mr. Anderson presented the case. He stated that Paul Brock is requesting a variance for the addition of a restroom on the back right side of the existing building located at 2655 Memorial Highway. This property is located in the CG Commercial General Zoning District. The request is to reduce the rear yard setback from the required 15' to 1' for a variance of 14'. The pre-existing non-conforming structure was built in 1926 prior to the Zoning Regulations being adopted. 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 this request. Mr. Anderson stated that property owner George Wittmer sent him an email and requested to be an applicant on this request as well. He noted that he received no communications from the public.

Mr. Gardner pointed out that the requested addition is possibly within the envelope allowed and there may be no further encroachment but requested a variance because of how close it is to the property lines. Mr. Anderson noted that the addition is not considered part of the existing structure and would be an addition to the existing roofline. Mr. Gardner pointed out that the only encroachment he noticed was with the first parking space. Mr. Brock noted when he originally submitted the plans to the County and to the Town, he had requested the bathroom located further back but felt it made better sense to put the bathroom on the front of the building. He stated that he did not realize at the time how close it was to the property line. He mentioned that he spoke with Mr. Anderson and decided to apply for the variance and take the existing walls and roof off.

Mr. Brock also pointed out that he added a metal storage cube on the opposite side of the building from the bathroom that is about the same distance as the requested bathroom to the property lines

and asked to make this part of his variance request as well. He noted that he spoke with the owners of the condos neighboring the building and they were all in approval of his request.

Ms. Sayles questioned if this bathroom is viable for operation of his business. Mr. Brock stated that there is an existing bathroom that does not meet ADA compliance and the County is requiring a second bathroom to meet ADA compliance. He pointed out that he has temporarily brought in an ADA approved Porta Potty pending the variance and addition of the bathroom. There is already a building right on the line or a foot or so from it.

Mr. Joyner asked if the Board's purview is to be focused on the footprint and esthetics or if it be more towards commercial design standards for the Town. Mr. Anderson explained that the design standards are for larger buildings/additions and he does not know of any regulatory purview of the Board specific to esthetics. Mr. Brock commented that he wants to construct a bathroom in conjunction with the esthetics of the property and would potentially put something in front of the bathroom door to try and block view from the street. However, the bathroom must be ADA compliant and allow for wheelchairs. He requested that the Board consider a 1' variance for his storage cube as well so that he does not have to cover it in vinyl. He noted that when he ordered the cube he had it custom painted so it would blend in. The cube is not a permanent structure but is a very high quality. It could be removed if necessary.

Mr. Anderson read from §92.118 of the Zoning Regulations regarding metal structures. Mr. Brock expressed that the metal storage cube will be nearly invisible from the road. He forwarded pictures of the metal cube to Mr. Anderson to present to the Board members. Mr. Gardner asked if the Board could make a determination on a variance for the storage cube since it was not part of the original application and request. Mr. Anderson felt it would be appropriate to include as part of the testimony from Mr. Brock. He noted that the cube is referenced in the site plan on the variance application. Mr. Anderson mentioned that he will contact Town Attorney William Morgan and ask that he attend the reconvened meeting tomorrow to address any concerns and legal questions. Mr. Hardy asked if there are any other feasible locations for the bathroom to make more accessible and less noticeable from the parking lot and road. Mr. Brock stated that there are no other options unless he adds on to the building.

There was no further testimony. The Board unanimously agreed to recess the hearing until Wednesday, April 28th at 1:00 p.m.

RECESS

Mr. Gardner made the motion to recess the meeting at 1:50 p.m. until Wednesday, April 28, 2021 at 1:00 p.m. Mr. Doster seconded and the motion carried 5-0.