



**MINUTES OF THE REGULAR MEETING OF THE TOWN OF  
LAKE LURE ZONING AND PLANNING BOARD**

**TUESDAY, FEBRUARY 20, 2024  
9:30 A.M.**

**Present:** Randall Nelson, Chair  
Charlie Ellis, Vice Chair  
Mac Hillabush  
Dave Keenan  
Ken Williams

David DiOrio, Filling in as Town Council Liaison

**Absent:**

**Staff:** Michael Williams, Community Development Director  
Richard Carpenter, Development and Environmental Review Specialist

**The meeting was called to order at 9:30 a.m.**

**I. ROLL CALL**

The Board opened with the pledge of allegiance. Roll call was completed as listed above.

**II. APPROVAL OF THE AGENDA**

**Mr. Ellis made a motion to include the addition of new business item C to consider text amendment for Section 36-64 (f) (5). Mr. Ellis further explained that this is in regard to front, rear, and side yard setbacks related to commercial uses that adjoin residential uses, and that there is a word that should be changed that could improve clarity of the ordinance. Mr. Keenan seconded and all voted in favor.**

**Mr. Keenan made a motion to switch items A and B under new business. Mr. Hillabush seconded and all voted in favor.**

**Mr. Ellis made a motion to approve the agenda, as amended. Mr. Hillabush seconded and all voted in favor.**

III. **APPROVAL OF THE MINUTES**

Mr. Keenan made a motion to approve the minutes from the December 19, 2023 regular Zoning and Planning Board meeting, as presented. Mr. Hillabush seconded and all voted in favor.

IV. **PUBLIC COMMENT**

Mr. Wade Oppliger explained that he is with the Lake Lure Rowing Club (LLRC) and asked if he will need to address the board about new lake structures that he plans to put at the former ABC Store location. It was noted that he is working with Community Development. Mr. Oppliger expressed that his intention is to learn what the process consists of. Mr. Oppliger expressed he further intends to clean up the area and improve it upon entering into a concession agreement with the Town. Mr. Oppliger noted that the lake structures in reference would work as a lean two cover for water crafts in the area. Mr. Oppliger stated that he thinks that they will fall under the Town's architectural scheme. It was noted that the structures were manufactured in 1962 and are historic. Mr. Oppliger expressed that he will have the site stabilized from erosion issues, and he has looked at setbacks and restrictions. Mr. Oppliger added that he is unable to do anything until the lease is signed and the ground is stabilized, but he wants to be prepared. Director Williams noted that not all plans have been reviewed yet, but they have discussed the trout buffer with the state and there are other requirements that Mr. Oppliger is working to fulfill. It was discussed that it is not yet known whether or not the Zoning and Planning Board will need to make any recommendations or decisions in regard to the property, but it is possible that the new structures may require the board's review for design standards. Commissioner DiOrio noted that Council will have authority to make certain approvals since this is taking place on Town owned property. Mr. Oppliger noted that the permitting process is in progress at this time and he is in communications with Town and County staff. Mr. Ellis asked how large the structures are and Mr. Oppliger answered 14 x 20 with a 2 ft. overhang, close to 100 ft. long. Mr. Ellis asked if they would be re-located to the property while intact and Mr. Oppliger answered that the overhang will be removed during the re-location, but will be re-installed. Mr. Oppliger expressed excitement.

V. **OLD BUSINESS**

There was no old business to discuss.

VI. **NEW BUSINESS**

- A. *Review Lake Structures §6-49(10) and §6-48 regarding prohibition against constructing boathouse without a residential dwelling on the upland or adjoining lot to provide staff-requested interpretation and text amendment recommendation for clarification.*

Director Williams explained that the Town has found a regulation that is not clear enough for staff to make a determination on an application for a lake structures. Director Williams explained that Code of Ordinances Section 6-49 prohibits having a boathouse unless there is a dwelling on an upland or adjacent property. Director Williams read the definition of "boathouse." Director Williams noted that more people are building more open structures rather than closed boathouses. Director Williams explained someone has applied to put a

closed storage shed on a dock without a dwelling, and staff does not know when an enclosure on a dock become a closed dock or boathouse. Director Williams noted that there are certain situations in which covered structures must go through the Lake Structure Appeals Board (LSAB) for approval.

Staff has recommended adding the following definition to the ordinances: *accessory structure closet* means an exterior located, enclosed space on a lake structure, used for permanent or temporary storage. Accessory storage closets shall not exceed 50% of the area of a lake structure or 120 square feet, whichever is less; shall have no utilities other than electrical that is inspected and approved by the county building inspector, shall not be rooftop located and shall not be used as living space.

Director Williams expressed that this needs to be defined in order to avoid issues and administrative confusion. Chair Nelson noted that right now, the construction of a storage building on a dock is not in the ordinances, and asked how staff has been dealing with them. Director Williams noted that this is the first time staff has had this issue occur because most of the time dwellings are present. Chair Nelson expressed that he does not think that it is necessary to have the dwelling rule for this. Director Williams expressed that he thinks that the purpose of imposing the dwelling requirement was to protect the prohibition against having a dwelling on the lake. Mr. Ellis noted that he agrees with Chair Nelson that the dwelling requirement may not be necessary, but today the Board is only discussing if the storage closet definition is necessary. Chair Nelson noted that if a structure is not over a slip, it is not a boathouse. Mr. Hillabush asked if the definition has square footage requirement and Director Williams answered yes. Mr. Ellis noted that a storage closet would need a roof and asked if the definition for boathouse needs to be amended to exclude storage closet. Chair Nelson expressed that he does not think so and Director Williams stated that it is clear that a storage closet is not a boat house.

Mr. Jonathan Hinkle, Marathon Builders, expressed that he does not disagree with intent of trying to clean up the ordinances and that he understands what staff is attempting to avoid. Mr. Hinkle noted that as far as the dwelling goes, it is referred to as a domicile and it used to be allowed that a dock could be present on a vacant property but not a boathouse. Mr. Hinkle added that it used to be understood that you cannot have electrical on covered dock. Mr. Hinkle explained that the ordinance evolved to prohibiting boathouses on a vacant lot, but domiciles are still prohibited. Mr. Hinkle expressed that the recommended definition of accessory storage is okay, but not applied clearly and should detailed that in an instance when trying to install a closet, the closet is not allowed to be more than x amount sq. ft., in an instance when you put a storage on a dock it cannot be more than x amount sq. ft. Mr. Hinkle expressed that he does not think that the definition goes far enough, and that it needs to be applied to docks and to covered slips. Mr. Ellis noted that he understands why Mr. Hinkle wants to have dock and slip included, but the proposed definition says lake structure which would include both. Mr. Hinkle noted that it is for clarity for future interpretation, when new staff or new architects are working on the lake. Mr. Ellis asked if you could put one of the storage closets on a pier, since it is a lake structure and Director Williams answered yes, with the proper regulations. Mr. Hinkle noted that it is his application that has been referenced and that his options were to apply for a variance or wait for the definition to be changed, but he

thinks he should have been able to construct the structure without either. Chair Nelson asked if this addition to the ordinances would take care of Mr. Hinkle's issue and Mr. Hinkle stated that it would take care of Director Williams's issue of being able to interpret it. Mr. Hinkle expressed that the key is trying to prevent domiciles which are already prohibited and recommended setting specific dimensional requirements. Mr. Ellis asked if "lake structure" should be replaced with "dock, pier, and slip," in the recommended definition. Mr. Hinkle recommended adding "storage accessory" after covered slip. Chair Nelson noted that he liked Mr. Ellis's suggestion for amending the recommended definition.

Board members discussed setting acceptable limitations. Director Williams recommended a 144 sq. ft. limit, like a shed would have and this size would not require permitting from the county. Mr. Ellis asked if these structures would need to be engineered and Director Williams noted that a lake structure has to be engineered unless it is under a certain size. Board members discussed dimensional limitations. Mr. Hinkle noted that he thinks that the board should define accessory storage closed and then regulations and limitations to the design and construction standards. Chair Nelson agreed that may be beneficial.

**Mr. Ellis made a motion to add "Accessory storage closet means an exterior located, enclosed space on a dock, pier, or covered boat slip, used for permanent or temporary storage" to Section 6-48 ("Definitions"); and to add a new subsection 8 to Section 6-51 ("Design and Construction Standards") to state "Accessory storage closets shall not exceed 50% of the area of a dock, pier, or covered boat slip or 144 square feet, whichever is less; shall have no utilities other than electrical that is inspected and approved by the county building inspector, shall not be rooftop located and shall not be used as living space" and to renumber the remaining subsections accordingly. Mr. Keenan seconded. All voted in favor.**

It was reiterated that the 144 sq. ft. limit was chosen because it will not require permitting from the County whereas a greater limit would.

It was noted that the text amendment will require a public hearing and the recommendation will be reviewed by Council at their next work session.

***B. Review right-of-way setback requirements as provided in Zoning Section 36-5 "Setback" definition and Section 36-70 Dimensional Requirements Chart for suggested text amendment to correct contradictory language.***

Director Williams noted that he has rescinded his past recommendation on this topic and provided the Board with an ordinance that calls out zoning district setbacks. It was noted that the table is not consistent. Director Williams explained that zoning districts refer to setback from the street and the street right of way, and sometimes from the center from the street. Specialist Carpenter has been trying to get in contact with a colleague from the NCDOT to get information from them about buffers. It was detailed street buffers are established according to safety standards from the NCDOT and that the Town has made them stricter. Chair Nelson asked if staff is consistent on what basis to use when looking at a setback. Specialist Carpenter answered that the only time staff is not consistent is in Government Use (GU) district because

it is a bit different from the other districts. Specialist Carpenter added that aside from GU, other district setbacks are measured from center line of the road. Specialist Carpenter noted that if they are measured from right of way, they should be equitable from measuring from center line, so staff chooses to be equitable and to stick with the less restrictive measurements. Director Williams reiterated that he is rescinding recommendation that was previously made on this topic. Staff will work on re-writing a recommendation for the Board to review at a later meeting.

**C. *Consider Text Amendment for Section 36-64 (F) (5)***

Specialist Carpenter explained that the Town's zoning is Euclidean based, while some communities are based on use/performance. It was discussed that commercial districts include language in regard to required buffers. It was further discussed that the ordinances state that a Commercial General lot that abuts upon property used for residential purposes must provide a buffer strip. Mr. Ellis expressed that he thinks that "used for residential purposes" should be replaced with "zoned for residential purposes." Mr. Ellis noted that this topic had been relevant as of late and that if it is not changed, issues could begin to emerge as ownerships and uses change.

**Mr. Ellis made a recommend to replace "used for" with "zoned for" in Section 36-64 (F) (5) in the Code of Ordinances.**

Board members discussed that the commercial town center district is different and should not be amended. Board members determined that only CG should be amended at this time. It was noted that it is untypical of allowing residential uses in commercial zoning. Mr. Ellis expressed that he thinks having malleable use is administratively difficult, not fair, and should be avoided.

**Mr. Keenan made a motion to accept Mr. Ellis's previous recommendation. Mr. Ellis seconded. All voted in favor.**

**D. *Discuss "Contractor's Forum" being proposed for the March Zoning and Planning Board meeting.***

Director Williams noted that he has been speaking with contractors, property owners, and those who have issues with some of the ordinances that the Town has. Director Williams added that there have been discussions about holding a forum and allowing these individuals an opportunity to allow them to join together, communicate, and ask questions. It was noted that the forum will also allow Town staff to communicate what is required during the building processes. Director Williams expressed that he hopes that this can help towards making improvements. Director Williams stated that Ms. Kimberly Martin compiled a list of people who would be appropriate to join the meeting and will send out an invitation to the forum. Mr. Keenan stated that he would not be able to attend the next meeting when the forum will be held. Mr. Hillabush recommended that to keep the forum orderly, it would be wise to draft a list of questions for the contractors and others involved in building process to complete ahead of the meeting. Mr. Hillabush added that contractors should detail their top three issues that they would like to discuss with the board, and they should identify specific inconsistencies in the ordinances. Mr. Hillabush noted that he is

impressed with Mr. Hinkle's knowledge of the ordinances, and that he expects other contractors to have the same knowledge which is why he would like to hear specifics for them ahead of the forum. It was discussed that a goal of the forum is to fix issues that contractors are dealing with. Mr. Hinkle recalled past an educational based program that was similar and went well. Mr. Ellis expressed that the program in reference was education and that this would be more interactive. Commissioner DiOrio noted that all questions could be sent to the clerk ahead of time. Specialist Carpenter stated he wants to avoid discussing land disturbance because that topic is based on state statutes. Mr. Ellis noted his goal is to address major concerns in the community for developers. Mr. Hinkle noted that this could be looked at as a form of continuing education for contractors in the community. Chair Nelson expressed that this will be an interaction between staff, the board, and contractors on issues that need to be addressed. Chair Nelson noted that he liked Mr. Hillabush's recommendations and that it may help towards being able to see trends in concerns. Board members discussed that they will have to address concerns throughout the process. Mr. Hillabush noted that staff should also present their top concerns. Director Williams noted compliance is the main issue, along with receiving incorrect and incomplete applications. Specialist Carpenter stated that the main concern for him is an open line of communication because his issues are with contractors who do not communicate. It was discussed that it will be an open meeting that any member of the public can attend, but those involved in the building process should be invited directly including architects, engineers, plumbers, etc. It was determined that the forum will be held during the March 19<sup>th</sup> regular Board meeting. Chair Nelson noted that if any Board members have further requests or comments, they can be sent to him and he will relay them to Director Williams and Commissioner Doster. Chair Nelson noted that this will be good for communication and identifying issues that need to be addressed. Mr. Ellis asked who will be moderating the forum and Board members discussed that it would be moderated by Director Williams, Chair Nelson, and Commissioner Doster. Mr. Ken Williams asked if the forum should be limited to a certain amount of time and it was discussed that speakers will be given a time limit and that the meeting should last until 11:30 a.m.

***E. Comprehensive Plan discussion and distribution of copies of 2007-2027 Plan.***

Director Williams noted that Board members were provided copies of the comprehensive plan. Director Williams explained that having a comprehensive plan is required of Town's that have zoning. Director Williams provided an article from the School of Government (SOG) about why a comprehensive plan is needed, what the minimum requirements should be, and more. It was noted that the plan must be reasonably maintained. Chair Nelson asked if there have been a lot of change and growth since 2007. Mr. Keenan noted that the Ingles and doctors office were major changes. Commissioner DiOrio noted that the main use of the plan when it was created was to update the zoning, which is the bulk of action items, and the concept that the Town will take moving forward is to review separate existing plans and incorporate them into the comprehensive plan and fill in any gaps. Commissioner DiOrio noted that there are a number of updates to be made and there may be some review dispersed to the advisory boards. Mr. Ellis noted that the plan was last updated in 2015. Mr. Ellis added that a lot of public input, outside sources, and many hours went into the 2015 updates. It was discussed that the Town will look at plans, see what needs to be incorporated or removed from the comprehensive plan, and will later possibly work with a firm to update it. Chair Nelson noted that in terms of a target date, the new comprehensive plan does not need to be adopted until December 2027. Commissions DiOrio noted that in the upcoming budget, the Town is accounting for a consultant firm to work on the update, but

advisory boards will also be working in the process. Commissioner DiOrio noted he does not want to outsource what the Town should be doing. Board members discussed that community meetings and input will be necessary. Mr. Ellis noted that Kathleen Osta administered the last update and recommended looking at contracts and information from this. It was noted that work for the original plan took about two years to complete. Mr. Ellis questioned if there needs to be another update to the existing plan and then the adoption of a new plan in 2027. Commissioner DiOrio noted that Board can begin reading the plan and identifying what may need to be changed. Chair Nelson noted that he would like to have some sort of time frame for the Board review the plan.

**VII. FEBRUARY DEPARTMENT REPORT**

Board members reviewed the February Department Report that was available in the meeting packet.

Director Williams noted that a building permit has been pulled for the cell tower and all Town permits have been issued. Director Williams estimated that the tower will be ready by the end of May. It was noted that it will be a monopole with antennas.

Commissioner DiOrio noted that Mr. Hillabush was re-appointed for another three year term on the Board.

**VIII. ADJOURN**

**Mr. Ellis made a motion to adjourn the meeting. Mr. Keenan seconded and all voted in favor. The meeting was adjourned at 11:41 a.m.**

**ATTEST**



Olivia Stewman, Town Clerk



Randall Nelson, Board Chair