

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

**TUESDAY, JANUARY 17, 2023
9:30 A.M.**

Present: Thomas McKay, Chairman
Randall Nelson, Vice Chair
Dave Keenan
Mac Hillabush

Scott Doster, Town Council Liaison

Absent: Charlie Ellis

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

Board Chair Thomas McKay opened with the pledge of allegiance and invocation.

II. APPROVAL OF THE AGENDA

Mr. Randy Nelson motioned to approve the agenda, as presented. Mr. Dave Keenan seconded. All voted in favor.

III. APPROVAL OF THE MINUTES

Commissioner Scott Doster noted that the minutes listed all present under Section I "Roll Call" when Mr. Hillabush was absent.

Mr. Keenan made a motion to approve the minutes from November 15, 2022 regular Zoning and Planning Board meeting, with the recommended amendment. Mr. Nelson seconded and all voted in favor.

IV. PUBLIC COMMENT

There were no comments from the public.

V. OLD BUSINESS

Director Michael Williams recalled that past discussions and questions had led to the conclusion that the Zoning and Planning Board is responsible for making recommendations for lake structure ordinances.

VI. NEW BUSINESS

A. Board Membership and Elections

Commissioner Doster asked if Mr. Nelson and Mr. McKay are interested in reapplying for the board when their terms expire in March 2023. Mr. Nelson noted that he would like to reapply. Mr. McKay noted that he does not wish to reapply but appreciates his time on the board. Commissioner Doster explained that at the February meeting, a new chair will be elected and there will be review of new applications. Commissioner Doster expanded that Council has the final decision regarding board appointments, but decisions will likely be made per recommendations by the Board.

Board members discussed the importance of the Zoning and Planning Board and the knowledge that the members should hold. Commissioner Doster recommended that Chair McKay contact the new applicant. Chair McKay recommended that current members search for people who would be valuable on the Board.

Board members discussed identifying history and assets for current and future board members. Director Williams noted that new staff should be able to help with compiling history and assets, and there should be a job offer sent this week.

Board members discussed need to follow the Comprehensive Plan.

B. Review Proposal to Recommend Text Amendments Regarding Inflated Permit Fees for Permits Issued after Work has begun

Director Williams explained that Town Council held a planning retreat and Community Development fees and permitting were discussed. Director Williams expanded that there was discussion regarding issues with people not obtaining permits for work and applying for variances after work is completed. Director Williams noted that one suggestions was to enforce an extra fee when work is initiated prematurely without a permit, such as doubling the cost of a permit if work is initiated prior to obtaining the required permit. Director Williams expressed that the hope is to provide an additional level of enforcement to decrease work without permits and variance requests after work has already taken place.

Mr. Keenan expressed concern regarding excessive permit requirements, as discussed with Mr. Jonathan Hinkle during the November meeting. Director Williams expressed

that he anticipated changes to some of the ordinances and requirements discussion during the November meeting. Director Williams also expressed that he thinks there can eventually be lower level permit for lower level work. Director Williams noted that this had not yet been addressed, but the purpose of the fine discussion is to work towards addressing major issues with non-compliance, lack of permit, straying from approved plans, and after-the-fact variances requests.

Board members discussed fees. Mr. Nelson expressed that it will be crucial to advertising this any changes. Mr. Hillabush expressed support. Development and Environmental Review Specialist Richard Carpenter explained that the goal to deter developers from starting a project without an approved permit, straying from approved plans, or any other discrepancies. Mr. Hillabush noted that it may be a deterrent, but some non-compliances may still occur. Commissioner Doster noted that a public hearing would be required for the proposed changes. Commissioner Doster recommended that if there is an individual who continuous does not comply, they should eventually not be allowed to build on the lake. Mr. Nelson suggested that legalities be discussed with the town attorney.

Mr. Nelson noted that information needs to be available for both builders and homeowners. Specialist Carpenter noted that it is multifaceted and that anyone can pull a permit typically, but there are occasional issues with county code enforcement that result from unqualified people developing what should be developed by a professional.

Director Williams expressed that he is hopeful that this will improve current issues.

Mr. Nelson noted that the existing recommended text amendment wording may be too permissive and Board members agreed. It was recommended to incorporate language that the required permit shall be obtained at double the cost.

Board members and Community Development staff discussed a proposed fine for up to \$500 for failure to apply for a permit. Mr. Nelson asked if the fine would be in addition to the doubling of the permit costs previously discussed. Director Williams answered maybe, but noted that the department does not have to issue a lot of fines and not all fines will be \$500. Director Williams clarified that doubling the permit costs would be a penalty fee, not a fine. Mr. Nelson asked if Director Williams is comfortable with having the discretion of determining the cost of the fine for failure to apply for a permit and Director Williams expressed that he is comfortable. Mr. Nelson recommended adding language that the required permit shall be obtained at double the cost to this section as well. Mr. Hillabush noted that imposing fines on top doubling the permit fee will enhance enforcement. Director Williams noted the effectiveness of stop work orders, as well.

Mr. Nelson expressed that enforcement is key. Mr. Hillabush and Commissioner Doster suggested that the board might entertain discussions with local contractors. Chair McKay agreed. Mr. Nelson noted that a meeting with contractors would be under the purview of the town manager and expressed that he thinks the meeting should be between staff and forum, instead of being hosted by the Board. Mr. Hillabush noted that the majority of complaints that he has heard from contractors is uncertainties regarding what is needed

for permitting and the timeliness of the process. Director Williams noted that his plan is to have additional information added to permit applications to further communicate what is expected.

Board members reviewed land disturbance permit highlights. Mr. Nelson expressed support. Director Williams added that under Section 22-39, permit fees shall be doubled if work begins prior to obtaining a permit, like previously discussed for lake structures. Commissioner Doster asked what the fee is for land disturbance permits and Director Williams said \$160 for each 10,000 sq. ft. Commissioner Doster asked if people are informed of land disturbance permits when they apply for a building permit and Director Williams answered yes.

Director Williams reviewed the zoning compliance section and noted that the same concepts as previously discussed are being applied to this section.

Director Williams reviewed remedies.

Director Williams questioned doubling the vacation rental permit if the property is not in compliance due to lack of permitting.

C. Review Proposal to Recommend Text Amendment Regarding VROP Update Fee

Director Williams explained that vacation rental permits are currently \$300 and are permanent to the property even when sold, but when a property is sold it may be beneficial to have administrative transfer fee because property owner information needs to be updated. Director Williams noted that updated information is important in ensuring that taxes are being collected correctly. Director Williams also noted that new staff will be working on updating records. Chair McKay expressed uncertainty and noted that there are not many vacation rental transfers. Chair McKay recommended having new staff work towards identifying all vacation rentals through reviewing advertisements and marketing. Chair McKay noted issues surrounding subsidizing and expressed hope that staff can identify rentals and collect taxes. Director Williams discussed occupancy taxes and noted that Lake Lure is likely the main contributor to the Rutherford County Tourism Development Authority (TDA) occupancy tax collections. Director Williams reviewed the costs versus revenues from vacation rentals that are dispersed to the Town. Chair McKay expressed concerns regarding burdening property owners and disrupting bundle of rights.

Director Williams asked if there should be administrative fee update for VROPs. Chair McKay reiterated concerns with identifying and collecting all vacation rental information, but is not opposed to an administrative fee. Commissioner Doster noted that the Town cannot change vacation rental permit fees, but can impose an administrative fee.

D. Review Proposal to Recommend Text Amendments Regarding Adding Permit Requirement for Lake Structure Demolitions

Mr. Nelson asked who is currently enforcing lake structure demolitions and Specialist Carpenter answered that there is currently no oversight and a text amendment could give Town staff the ability to oversee lake structure demolitions. Director Williams provided an example regarding issues with asbestos and that the Town could require asbestos abatement reports in a demolition permit. Director Williams noted that asbestos is not mentioned in the current recommended text amendment, but recommended that it should be. Director Williams cited Section 6-49(a) of the Code of Ordinances. Mr. Hillabush noted that asbestos became illegal in 1978, so the concern should be in regard to structures built before 1978. Mr. Hillabush recommended having a prior date clause for an asbestos check suggested anything prior to 1980. Commissioner Doster noted that if the property owner doesn't know the build date, they should also be required for an asbestos check. Mr. Nelson asked if staff will be involved with the process up to where the asbestos is disposed and Specialist Carpenter answered yes. Specialist Carpenter explained that counties are typically responsible for such procedures, but explained that Rutherford County is not responsible for lake structures. Director recommended tabling the conversation until next month to review and amended the recommended text.

Mr. Nelson made a motion to table any actions involving staff recommended text amendments regarding permits issued after work has begun, VROP update fee, and adding permit requirements for lake structure demolitions. Mr. Keenan seconded and all voted in favor.


VII. JANUARY DEPARTMENT REPORT

Director Williams provided the board with the monthly report. Director Williams noted that he has an upcoming meeting with those involved in the cell tower construction, but indicated that the project is now moving forward.

VIII. ADJOURN

Mr. Nelson made a motion to adjourn the meeting. Mr. Hillabush seconded and all voted in favor. The meeting was adjourned at 11:26 a.m.

ATTEST


Olivia Stewman, Town Clerk


Thomas McKay, Board Chair