



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

**TUESDAY, JUNE 21, 2022
9:30 A.M.**

Present: Thomas McKay, Chairman
Dave Keenan
Charlie Ellis

Scott Doster, Town Council Liaison

Hank Perkins, Town Manager
William Morgan, Jr., Town Attorney

Liz Geary, Rumbling Bald

Absent: Randall Nelson, Vice Chair
Mac Hillabush

Staff: Michael Williams, Community Development Director
Rick Carpenter, Development & Environmental Review Specialist

The meeting was called to order at 9:37 a.m.

I. ROLL CALL

Board Chair Thomas McKay opened with a prayer and invocation. Mr. Randall Nelson and Mr. Mac Hillabush were absent.

II. APPROVAL OF THE AGENDA

Mr. Dave Keenan made a motion to approve the agenda, as presented. Mr. Charlie Ellis seconded. All members voted in favor.

III. APPROVAL OF THE MINUTES

Mr. Keenan asked what was provided during a Board training session. It was noted that some Board members missed training information. Director Michael Williams said that the purpose of a training session is to define planning and timeframes.

Mr. Ellis made a motion to accept the minutes, as presented. Mr. Keenan seconded and all voted in favor.

IV. PUBLIC COMMENT

There were no comments from the public.

V. OLD BUSINESS

- A. Need to be mindful of our Town's Comprehensive Plan (currently in 15th year of 20 year plan. As members of the Comprehensive Plan Steering Committee, the Zoning & Planning Board played an integral role in drafting the current Plan. A new plan will need to be developed within the next five years.**

Director Williams noted that the creation of comprehensive plan is being brought to the attention of the Board and noted that the existing comprehensive plan is set to expire in 2027. Mr. Ellis asked how many years the new comprehensive plan should span and when the Board should begin working on it. Director Williams noted that within the next couple of years, organization of a new plan should start. Director Williams also noted that the Zoning & Planning Board and a special committee crafted the existing comprehensive plan. Town Manager Hank Perkins stated that he has completed two comprehensive plans in his past and the process took about a year for each of the plans.

Director Williams shifted the discussion to that fact that the state historic preservation office had released a recommendation to allow the communications tower, but suggested a slick stick rather than the stealth pole. Director Williams stated that he had relayed this information to AT&T and explained that AT&T is not optimistic about the slick stick. Director Williams detailed that the change in tower type could impact the range and effectiveness for providers other than AT&T and could also impact financial viability. Williams noted that AT&T asked if the Town could back their antenna with sheaths on it. Director Williams stated that at this point, getting a tower is critical and the appearance of the tower not a priority. Chair McKay questioned why the state historic preservation had put the tower under scrutiny. Director Williams stated that Town Council will review

options for the tower at their upcoming meeting and hold discussion on how to best proceed. Director Williams noted that U.S. Fish and Wildlife had been involved in reviewing the tower, but have since granted approval with no issue.

Director Williams also reported that the Lodge on Lake Lure will likely open next month. Williams stated that the Lodge restaurant should open in July.

VI. NEW BUSINESS

A. New Town Code of Ordinances code numbers

Director Williams provided the Board with a display of the new numbering format for the Code of Ordinances and explained that the change in format was due to a recodification of the Code of Ordinances completed by Municode.

B. Review, discuss and potentially make a recommendation to Zoning Administrator of how the Town's Zoning Ordinance should be applied to building on lakes, other than Lake Lure, within the Town of Lake Lure boundaries. (Lake Structures Ordinance applies only to Town-owned Lake Lure, leaving lake structures at other lakes to come under zoning ordinances, including property line setbacks. Bald Mountain Lake and Lake Shumont are owned by Fairfield Mountains Property Owners.)

Director Williams explained that the Community Development Department had recently identified issues with managing lake structure on bodies of water in Town limits, other than Lake Lure. Director Williams cited Section 6-47 of the Code of Ordinances which clarifies that the waters of Lake Lure are covered within 995 level, but Williams explained that there are other lakes including Shumont and Bald Mountain, that are not addressed. Director Williams explained that because these lakes are not addressed, it is difficult to manage regulations for structures on those lakes.

Director Williams explained that he could make an administrative decision regarding lake structures on the lakes other than Lake Lure, but suggested that an amendment to the Code of Ordinances might be necessary. Chair McKay asked for clarification regarding various definitions. Development and Environmental Review Specialist Richard Carpenter clarified Section 6-47 of the Code of Ordinances, which outlines the intent and applications of Lake Structures. Mr. Carpenter noted that the existing zoning map classifies Lake Shumont and Bald Mountain Lake as being in a R3 zoning district, whereas Lake Lure is in a L1 district. The Board discussed setbacks in R3 and L1 districts. Director Williams noted that the Town has authority to permit lake structures on bodies of water besides Lake Lure. It was noted that there had been discussion with

representatives from Rumbling Bald regarding the standards of structures on Shumont and Bald Mountain, because both other lakes located in Rumbling Bald.

Director Williams explained that an issue had occurred due a structure being built over a property line and questioned how this might be fixed. Director Williams stated that he had held discussion with Town Attorney William Morgan who ultimately determined that if an easement is executed, the Town could proceed with permitting. It was noted that this applies to all structures.

Liz Geary, representing Rumbling Bald, joined the conversation and explained that the current rules and regulations for Rumblind Bald regarding lake structures detail that any docks or structures have to have prior Architectural Control Committee (ACC) approval. Ms. Geary explained that there had issues had still occurred with lake structures being erected and noted that Rumbling Bald had since formulated a draft specific to guidelines for the Lake Shumont and Bald Mountain Lake. Chair McKay asked how Rumbling Bald is formulating the guidelines. Ms. Geary explained that overall footage for a platform is reviewed. Chair McKay expressed concern that there are eclectic scenarios on the two lakes that have been standardized and that some issues are not defined within ACC regulations. Ms. Geary agreed with Chair McKay. Chair McKay asked if a linear line is being considered for the side setbacks and Ms. Geary answered that such guidelines were not addressed in the past, but Rumbling Bald is now referring to plat setbacks. Mr. Keenan expressed that Rumbling Bald seems to be regulating the two lakes in line with Lake Lure standards. Ms. Geary explained concerns from Rumbling Bald regarding boat houses on Shumont and Bald Mountain, due to the small sizes of the lakes. Director Williams noted that the Army Corps of Engineers rules that structures cannot surpass 1/3 of the distance from shore to shore and explained that Rumbling Bald would have to follow this rule.

Mr. Ellis asked if the Town has any interest or authority in regulating lake structures for private landowners. Director Williams noted that the two lakes in discussion are technically within the Town limits. Mr. Ellis asked if the two lakes could be exempt from existing lake structure regulations, since Rumbling Bald is crafting specific rules for the lake and the federal regulations would be followed.

Chair McKay noted that he may need to be recused due to his proximity with properties around the two lakes. Chair McKay also provided the Board with the history of riparian buffers and staff review of buffers.

Mr. Carpenter explained that a proposed lake structure on Shumont and Bald

Mountain would be considered an accessory structure, per the existing R3 zoning regulations, and that the structure would be subject to setback requirements. Mr. Carpenter noted that, as stands, the requested structure in discussed did not meet setback requirements. Mr. Carpenter explained that if he were to permit the requested structure under R3 zoning, a variance would need to be granted by the Board of Adjustment.

Mr. Ellis asked if the lake structures ordinance address setbacks. Mr. Carpenter answered yes and explained that such setbacks are specific to L1 district zoning regulations. Mr. Ellis asked if a text amendment could be made to the Code of Ordinances which exempts bodies of water other than Lake Lure from the L1 setback regulations. It was noted that another option is to differentiate an R3 property line from shoreline. Mr. Ellis suggested defining shoreline as a property line in R3 zoning for the purpose of avoiding setback issues, since the R3 lakes owned by Rumbling Bald Property Owners' Association.

Director Williams asked Attorney Morgan for advice. Attorney Morgan stated that the two option include establishing building rules for lakes other than Lake Lure or exempting the two lakes and let Rumbling Bald dictate regulations.

Attorney Morgan stated that Chair McKay should be recused if any decision regarding a recommendation is made, but can remain in the conversation for the time being.

Attorney Morgan questioned the sizes of the lakes in Rumbling Bald and suggested considering the sizes of the lakes if any recommendations ordinances or amendments are made.

Town Manager Perkins recommended having a written ordinance that will relieve any conflict with structures on the two lakes in the future.

Mr. Ellis noted that the ACC for Rumbling Bald will likely implement additional rules and suggested that the Committee present their suggestions.

Director Williams recommended that lake structures aside from waters of Lake Lure be exempt from setbacks.

Commissioner Scott Doster asked if there is any safety enforcement on the two lakes in Rumbling Bald. Ms. Geary stated that there are safety rules in place, but no legal monitoring.

Mr. Ellis asked for Mr. Carpenter's opinion on the matter. Mr. Carpenter expressed his opinion that permits should still be required for structures on Shumont and Bald Lake, but support a solution being made to exempt lake structure setbacks for the lakes.

Mr. Ellis asked how long the ACC will take to finish their rules and regulations. Mr. Geary explained that they are in the process of creating the rules and regulations. It was noted that the Town can alter ordinances prior to ACC completion of rules and regulations. Ms. Geary noted that the current ACC draft standards are being followed. Ms. Geary docks would be considered an accessory if changes are made. It was explained that the lakes would be considered unimproved lots. There was consensus for the Town to take action before the ACC finalizes the rules and regulations.

It was discussed that the Town would need to exempt setbacks and review definitions, including accessory structures. Director Williams asked Attorney Morgan if a text amendment adding regulations of lake structures not on water of Lake Lure would be beneficial, rather than making exemptions or administrative determinations and Attorney Morgan answered yes.

C. Consider whether there is a need to develop a recommendation to Town Council for text amendments to address development on those lakes.

Attorney Morgan recommended drafting a proposed text amendment change regarding the matter and have the Zoning and Planning Board formally review the suggested changes before a formal recommendation is made to Town Council.

Ms. Geary asked if building permits can be issued before a recommendation is made and it was determined that they cannot. It was noted that the ACC can approve buildings, but the Town will not be able to permit prior to a recommendation.

VII. MAY DEPARTMENT REPORT

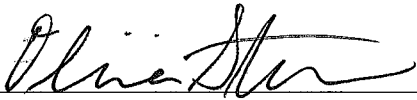
Director Williams reported that permits increased in May. Chair McKay asked how the Highlands project is progressing and Director Williams explained that it is in progress. Chair McKay recommended sending updates to the community and realtors periodically.


VIII. ADJOURN

Mr. Ellis asked about the sewer moratorium that is in place. Town Manager Perkins explained that single family residential units are exempt from the moratorium, but commercial or other classifications must send an application before any connection to the system is permitted. Mr. Perkins explained that the applications are submitted to the Town, but North Carolina Department of Environmental Quality (DEQ) has the ultimate authority as to whether or not a permit will be granted. Mr. Ellis asked if there is a timeline in which DEQ must respond to an application and the answer was unknown. It was asked how the moratorium impacts the retirement community and it was explained that it will not impact the retirement community because it is grandfathered in. The Board discussed having local realtors attend a meeting in the future to discuss the moratorium.

Mr. Keenan made a motion to recess the meeting until Wednesday, June 29th at 10:00 a.m. Mr. Ellis seconded and all voted in favor. The meeting recessed at 11:28 a.m.

ATTEST


Olivia Stewman, Town Clerk


Thomas McKay, Board Chair