



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

TUESDAY, NOVEMBER 15, 2022
9:30 A.M.

Present: Thomas McKay, Chairman
Randall Nelson, Vice Chair
Dave Keenan
Charlie Ellis

Scott Doster, Town Council Liaison

Absent: Mac Hillabush

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 a prayer and invocation.

II. APPROVAL OF THE AGENDA

Mr. Randall Nelson motioned to approve the agenda, with the addition of New Business Item B for the 2023 meeting schedule. Mr. Charlie Ellis seconded. All voted in favor.

III. APPROVAL OF THE MINUTES

Mr. Nelson asked if the motion he made regarding the recommendation of the mobile food truck vendor subject to amendments should be enumerated. Community Development Director suggested that all amendments were accounted for in the recommendation.

Mr. Ellis made a motion to approve the minutes from October 24, 2022 special Zoning and Planning Board meeting, as presented. Mr. David Keenan seconded and all voted in favor.

IV. PUBLIC COMMENT

Jonathan Hinkle, Marathon Builders, 1804 Memorial Hwy, noted he had grievances in the past with changes to Town regulations. Mr. Hinkle expressed that he thinks that the interpretations made by staff are accurate, but different than interpretations made in the past and it is making it more difficult to obtain permits and remain in regulation. Mr. Hinkle cited the Lake Structure Ordinances because they are not stringent, black and white, and make the most minimal repairs a lengthy and unnecessary process. Mr. Hinkle provided an example that installing an electrical outlet in a boat house would require a North Carolina permit, lake structure permit, a set of plans including shore line length and a survey, an architect and engineer certification. Mr. Hinkle noted that the cost would be over \$3,000 for permitting and plans for \$150 dollar outlet. Mr. Hinkle explained that there had been past staff members who did not enforce the process and that he had spoken with current staff who do enforce and there has been agreeance that the process is overly strenuous. Mr. Hinkle expressed concerns with running out of resolutions to discuss due to limited council and board public comment time. Mr. Hinkle also expressed that Kim Warner, his engineer, agrees with his concerns and has provided a letter. Mr. Hinkle noted that issues will increase when the lake is dropped each year, but an improved process will result in an increase of people obtaining permits and staying in compliance. Mr. Hinkle expressed the intent is to keep the lake structures safe because they are on Town property, but recommended having all contractors gather and have a conversation on needs because existing interpretations are not working. Mr. Hinkle asked if Director Williams had any perspective and Director Williams answered that there had been conversations and the Town is working on improving ordinances by focusing on main issues. Director Williams expanded that it is not an easy process and noted that one size does not fit all in different situations and that a middle-ground would be beneficial. Mr. Hinkle noted that past staff used personal judgement rather than literal language of the ordinances. Mr. Hinkle explained that he and Director Williams were going through a permitting process recently and Director Williams was able to fix an issue, but expressed that improving the ordinances would increase compliance.

Mr. Nelson asked when the lake structure ordinances were last amended and Director Williams noted that it had been a while. It was discussed that lake structure ordinances would ultimately be a Council decision, but recommended by the Zoning and Planning Board. Board members and Mr. Hinkle discussed shift in lake structure ordinances responsibilities between Marine Commission and Town Council. Mr. Hinkle provided additional examples regarding the lake structure permitting process. Director Williams noted that the detailed process is due to the structures being built on town property which results in an increased scope of potential regulations.

Commissioner Scott Doster noted that having all requirements for all situations seemed overboard. Mr. Hinkle requested that the Board to make a recommendation to Town Council to hold a meeting with Town staff and local contractors.

Discussion continued in regard to whether the lake structure ordinances are determined by Town Council or Marine Commission. Mr. Ellis noted that fundamental changes are that a stand-alone ordinance was now included in the code of ordinances and that staff had changed and applies the ordinances differently. Board members expressed that they would like the Town Attorney to confirm who has authority to make recommendations and pass lake structure ordinances.

Mr. Ellis asked if a text amendment to the lake structure ordinances can fix issues insinuated by Mr. Hinkle and Mr. Hinkle answered yes. Director Williams noted that the ordinance can be reviewed and amended based on town needs and what the town wants to accomplish. Mr. Ellis expressed that some elements of the ordinances are justified, but some are not.

Mr. Hinkle noted that a tree removal license is required to remove a tree and recommended that people building structures should also be required to have license to build.

Mr. Hinkle noted that he had two received two notices of violation and asked that town staff review all other members of the town who are not in compliance. Commissioner Doster noted that it would be a town manager purview.

Board members discussed that the needs for ordinances are ever-changing and that enforcement of existing ordinances is crucial. Mr. Hinkle expressed that contractors and residents need to know exactly what is being regulated and enforced.

V. OLD BUSINESS

A. Report on Town Council action on Zoning & Planning Board's text amendment recommendations for Section 36-72(5) regulating food trucks (Mobile Food Vendors) and 36-215, 216, 231 and 295 regarding gatehouses, guardhouses and security gates.

Director Williams reported that the recommended mobile food vendor ordinance and associated fee schedule amendment had been approved by Town Council. Director Williams noted that the recommended gatehouse, guardhouse, and security gate ordinance was also adopted.

VI. NEW BUSINESS

- A. Review Section 36-72(1) of Code of Ordinances regarding permitting residential vacation rentals as a use within the planning jurisdiction of the town. Specifically considering the purpose and intent of the Residential Vacation Rentals ordinance, effectiveness in addressing that purpose and intent, and ordinance's consistency with State-authorized development and zoning compliance.**

Director Williams reported that vacation rentals have been an ongoing issue and there was a court case (Schroeder v. City of Wilmington) that limited the way that some jurisdictions are currently regulating vacation rentals. Director Williams expanded that the court ruled that local government can define land uses and where they are permitted, including vacation rentals. Director Williams noted that vacation rentals need to be treated as a use, and that he wanted the Board to be aware of the case. Director Williams expressed that he does not think that the case will limit how the Town is currently regulating vacation rentals. Director Williams noted that it is an ongoing hot-topic and enforcement is important, so the Community Development Department should know where vacation rentals are located. Director Williams expressed that the Town needs to look into why they are regulating vacation rentals and noted that it is important to be able to reach vacation rental operators if any issues arise.

Mr. Ellis noted importance of tax revenues from Tourism Development Authority through vacation rentals.

Director Williams noted that enforcement of vacation rentals will increase with an upcoming new staff member. Director Williams also noted that he is working with the Parks, Recreation, and Lake Department because a vacation rental requires a specific permit if a boat is included.

Chair McKay asked if Director Williams is working with the County, as well, and Director Williams answered yes. Chair McKay asked how the system is working currently and Director Williams answered that it is working relatively well, but management could be improved as it is currently done through a spreadsheet with a permitting program to cross reference. Director Williams noted that there are issues associated with vacation rentals, such as taxes coming through the county. Chair McKay noted the importance of maintaining and enforcing the list of vacation renters. Director Williams noted there are tools the Town can use to determine vacation renters and encouraged that people notify the town of any vacation rentals not permitted.

Mr. Nelson asked if there are location requirements in issuing permits for vacation rentals and Director Williams said yes. Mr. Nelson asked if staff has denied any vacation rental permits and Director Williams said yes and recalled lack of off-street parking being an issue. Chair McKay noted that town had issues involving vacation rentals in the past and that current regulation of vacation rentals were decided using the determinations of safety, rules and regulations, and peace.

Mr. Ellis asked the distinguishing line between registration program and zoning permits, which are highlighted in case. Director Williams noted that it is unclear, but his interpretation is having everyone listed and inspected with no zoning requirements. Mr. Ellis asked if vacation rentals are defined as a permitted use and Director Williams answered yes. Mr. Ellis asked if such permitted uses are defined to certain zones and Director Williams said yes.

Director Williams noted that the town is meeting the standards detailed in the case, but that the town could address or update some aspects such as inspections defined under Section 36-72(1) (d) of the Code of Ordinances. Director Williams expanded that vacation rentals can be but are currently not being inspected. Mr. Ellis noted that town should be inspecting because the ordinance states that shall be inspecting.

Director Williams expressed that wanted to bring this issue to the attention of the board for awareness because questions have emerged that refer to Schroeder. Director Williams noted that houses can be rented without a permit if they are rented for less than two weeks total, but otherwise vacation rental permits are required. Commissioner Doster asked if the standards are different if a property owner is allowing someone stay there on their property without payment, not as a rental or business, and Director Williams answered yes. Director Williams read the definition of vacation rental.

Mr. Nelson asked if Town Attorney William Morgan had reviewed the town's existing regulations in relation to Schroeder and Director Williams confirmed that Attorney Morgan had briefly reviewed existing regulations, but the town can partake in additional review and apply outcomes of Schroeder as needed.

Director Williams advised the Board to keep in mind that a vacation rental use permit for a property does not expire, but information needs to be updated if the property is sold to a new owner, for the purpose of correct tax information.

B. Adopt 2023 Zoning and Planning Board Meeting Schedule

Chair McKay asked if there were any changes or issues. Mr. Keenan made a motion to approve the 2023 Zoning and Planning Board Meeting Schedule, as presented. Mr. Nelson seconded and all voted in favor. The 2023 schedule was adopted as follows:

**2023 ZONING & PLANNING BOARD
REGULAR MEETING SCHEDULE**

January 17	9:30 A.M.	Municipal Center
February 21	9:30 A.M.	Municipal Center
March 21	9:30 A.M.	Municipal Center
April 18	9:30 A.M.	Municipal Center
May 16	9:30 A.M.	Municipal Center
June 20	9:30 A.M.	Municipal Center
July 18	9:30 A.M.	Municipal Center
August 15	9:30 A.M.	Municipal Center
September 19	9:30 A.M.	Municipal Center
October 17	9:30 A.M.	Municipal Center
November 21	9:30 A.M.	Municipal Center
December 19	9:30 A.M.	Municipal Center

VII. NOVEMBER DEPARTMENT REPORT

Director Williams provided the board with the monthly report. No significant updates for the cell tower were reported. Mr. Nelson asked if there is any federal money involved in the tower and Director Williams answered that AT&T had been involved in discussions in regard to federal emergency needs, which the town qualifies for. The Board discussed impediments in the progress of the tower. Director Williams also noted that there is federal law that states that each state must have preservation society, which is the agencies that still has to approve the tower.

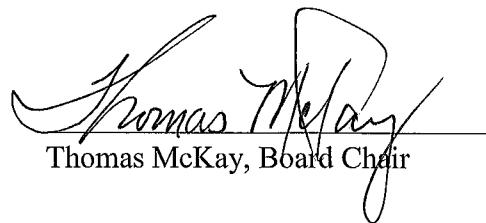
VIII. ADJOURN

Mr. Keenan made a motion to adjourn the meeting. Mr. Nelson seconded and all voted in favor. The meeting was adjourned at 11:24 a.m.

ATTEST



Olivia Stewman, Town Clerk



Thomas McKay, Board Chair