



Lake Structure Appeals Board Regular Meeting

November 15, 2022

Call to order

Vice Chair Wyn Hardy called the Lake Structure Appeals Board regular meeting to order at 1:31 p.m.

I. Roll Call

Board Members Present:

Mr. Wyn Hardy, Vice Chairman

Mr. Greg Gardner

Mr. Al Joyner

Mrs. Kimberly Sayles, Alternate (Serving on Variance Request)

Mr. Mark Windfeldt, Alternate (Serving)

Mr. Rick Spruill, Alternate (Serving)

Absent:

Mr. Neil Gurney, Chairman

Mr. Melvin Owensby

Richard Carpenter, Development and Environmental Review Specialist

Town Council Members and Town Representatives present:

Commissioner David DiOrio, Council Liaison

Michael Williams, Community Development Director

II. Approval of Agenda

The agenda for the November 15, 2022 Board Meeting was reviewed. **Mr. Rick Spruill made a motion to approve the agenda, with the addition of the adoption of the 2023 Lake Structure Appeals Board Schedule. Mr. Greg Gardner seconded. All present members voted in favor.**

The 2023 Lake Structure Appeals Board Meeting Schedule was adopted as follows:

2023

BOARD OF ADJUSTMENT / LAKE STRUCTURE APPEALS BOARDS

REGULAR MEETING SCHEDULE

FILING DEADLINE (21 DAYS OR MORE PRIOR TO MEETING)	LETTER'S MAILED TO ADJACENT PROPERTY OWNERS (14 DAYS PRIOR TO MEETING)	PUBLIC NOTICE <i>NEWSPAPER</i> PUBLICATION DATE (CUPs ONLY) <i>MUST BE SUBMITTED 2 DAYS PRIOR TO PUBLICATION DATE</i>	PACKETS MAILED (BOARD MEMBERS, & LIAISON)	MEETING DATE**
January 3	January 10	January 11	January 17	January 24
February 7	February 14	February 15	February 21	February 28
March 7	March 14	March 15	March 21	March 28
April 4	April 11	April 12	April 18	April 25
May 2	May 9	May 10	May 16	May 23
June 6	June 13	June 14	June 20	June 27
July 4	July 11	July 12	July 18	July 25
August 1	August 8	August 9	August 15	August 22
September 5	September 12	September 13	September 19	September 26
October 3	October 10	October 11	October 17	October 24
November 7	November 14	November 15	November 21	November 28
November 28	December 5	December 6	December 12	December 19

**ALL BOARD OF ADJUSTMENT MEETINGS ARE AT 1:00 P.M. UNTIL FURTHER NOTICE

**ALL LAKE STRUCTURE APPEALS BOARD MEETINGS ARE AT 1:30 P.M. UNTIL FURTHER NOTICE

III. Approval of the minutes

The minutes for the October 25, 2022 Board meeting were reviewed. It was noted that Mr. Joyner was present at the October 25th Lake Structure Appeals Board Meeting, and Mr. Spruill was absent. **Mr. Gardner made motion to approve the minutes, as amended. Mr. Al Joyner seconded and all voted in favor.**

IV. **Public Comment**

There were no comments for the public.

V. **New Business**

- A. **Lake Structure Variance #2022003: Request to Keep a Lake Structure Built 18' Height in Exception to Ordinance Requirement of 15' Maximum Height. Property Address: 179 Dogwood Drive.**

Vice Chair Hardy asked if anyone would like to be sworn in for the hearing. The following individuals were sworn in:

Michael Williams, Community Development Director
Michael Harris, Property Owner
Shannon Harris, Property Owner
Dave Odom, Odom Engineering
Larissa Coles, Odom Engineering

Vice Chair Hardy explained the procedures for a quasi-judicial hearing.

Vice Chair Hardy asked if there were any conflict of interest. Mr. Joyner disclosed that he had engaged in ex parte communications with the property owner prior to the case. Mr. Joyner recused himself from the case at 1:39. Mrs. Kimberly Sayles joined the Board as an alternate at 1:39. There were no other legitimate conflicts of interest.

Vice Chair Hardy asked if any party members had an issue with board members making an impartial decisions. There were no issues expressed.

Director Williams explained that Mr. Michael Harris had submitted the request for variance #2022003 to keep a lake structure that was re-built at height of 18 ' following storm damage to the original conforming lake structure Director Williams summarized that the request is to increase of the maximum allowed height from 15 ' to 18'. Director Williams explained that the variance request affects the property located at 179 Dogwood Drive (Parcel #1633621).

Director Williams explained that a permit was issued on January 11th for approved plans that met the 15' height limit. It was noted that Odom Engineering had submitted the plans. Director Williams explained that upon Community Development inspection, it was identified that the applicant did not adhere to approved plans and built an 18'.

Director Williams noted that two adjacent property owners had expressed support for allowing the structure to remain

Director Williams reviewed the staff analysis. It was noted that there were no extraordinary or exceptional conditional issues due to topography and no hardships. Director Williams noted that the staff position holds that the property is located in district L1 and each in L1 structure must meet height requirements established under Code of Ordinances Section 6-51(5). Director Williams noted that the staff position is based on literal interpretations and that the Board has the ultimate authority to make decisions. It was noted that any special circumstances are a direct result of the applicant and contractor who deviated from submitted and approved plans, so any hardship is self-created. Director Williams displayed approved plans and reviewed the application.

Vice Chair Hardy asked how the issue was identified and if it was from a survey. Mr. Windfeldt asked how high the original structure was and it was noted that it was a lean-to.

Director Williams noted the justification for variance that was provided by the applicant is that the contractor was not aware of the height limitations.

Vice Chair Hardy provided board members with a photograph of the structure.

Mr. Spruill asked if the contractor knew he was deviating from the plans and Mr. Michael Harris answered yes.

Director Williams reviewed the permit application. It was noted that there were no extraordinary circumstances and a variance grant will not affect lake views. Mr. Gardner explained the meaning behind affecting other residents. It was also noted that the boat house and boat lift are not constructed together.

Mr. Windfeldt asked Director Williams if there are other situations such as this on the Lake. Director Williams answered that there are boat structures that are higher than 15 feet that have been granted variances, but not to the extent of 3' over limit. Mr. Gardner recalled a case in which a variance was granted for a structure a couple of inches higher than the limit. It was noted that there was no precedent to allowing a structure 3' over the height limit.

Mrs. Sayles asked if the boat fits under the cable and it was answered yes.

Property owner Michael Harris explained that he had made a mistake when anticipating the T-top and antennas at maximum height. Mr. Harris expressed that he was unaware of the 15' height limit. Mr. Harris noted that his concern was fitting his boat in the structure full pond without hitting the ceiling. Mr. Harris expressed problem with lowering the structure is that LBL beams are installed and that they are virtually impossible to remove. Mr. Harris noted that a County engineer had noted concerns with removing three feet from the structure. Mr. Harris noted that the T-top, antenna, and stern light conflict. Mr. Hardy asked how long the antenna extends past the boat and Mr. Harris answered about four feet. Mr. Hardy noted that the height of the boathouse is not determined by height of the boat.

Mr. Gardner explained hardships and established that this case is a self-created hardships in this situation.

Mr. David Odom explained that when Odom Engineering crafts plans for structures such as the one in discussion, there are often modifications and that the height modification was not caught prior to erecting the structure. Mr. Odom expressed that the impact of the structure is low.

Ms. Larissa Coles explained there is no way to reduce height without dismantling entire roof. Ms. Coles expanded that the lift is tied into the main structure and if it were modified, it would create a potential hazard. Board members asked who built the boathouse and it was Young Guns Construction.

Director Williams noted that there was a lake structure variance requested in 2013 for the former structure regarding a side yard setback, but the height of the former structure was in compliance.

Mrs. Shannon Harris asked if there are any options aside from disassembling the structure, if the variance is not granted. Director Williams expressed that he did not think so.

Mr. Harris noted he had recorded various other lake structures above 15 feet.

Mr. Hardy asked if there is an estimate to replace and rebuild the structure and Mr. Harris estimated \$100k to \$125k.

Ms. Sayles asked if the LBL beams are required for the boat lift or for the roof. Ms. Coles answered for the roof.

Vice Chair Hardy closed the hearing at 2:22 p.m.

Mr. Gardner expressed it is a self-created hardship and granting the variance is not justified. Mr. Windfeldt expressed that he agreed.

Vice Chair Hardy explained that if there are no hardships, there are no justifications for granting a variance. Vice Chair Hardy asked all board members to review the six points of hardships and determine if there are any present in the case. No hardships were identified by Board members.


Mr. Hardy asked for any other comments or a motion.

Mr. Gardner made a motion to deny Lake Structure Variance #2022003. Mr. Spruill seconded and the motion carried unanimously.

VI. Adjournment

Vice Chair Hardy asked for a motion to adjourn the Lake Structure Appeals Board meeting at 2:33 p.m. Ms. Sayles made motion to adjourn and Mr. Gardner seconded. All voted in favor.

ATTEST:


Olivia Stewman, Town Clerk


Wyn Hardy, Board Vice Chair