



## **Board of Adjustment Regular Meeting**

**May 23, 2023**

### **Call to order**

Board Vice Chair Neil Gurney called the Board of Adjustment regular meeting to order at 1:00 p.m.

### **I. Roll Call**

#### **Board Members Present:**

Mr. Neil Gurney, Vice Chair  
Mr. Wyn Hardy  
Mr. Al Joyner  
Mr. Melvin Owensby  
Mrs. Kimberly Sayles, Alternate  
Mr. Rick Spruill, Alternate  
Mr. Mark Windfeldt, Alternate (serving)

#### **Absent:**

Mr. Greg Gardner, Chair

#### **Town Council Members and Town Representatives present:**

Michael Williams, Community Development Director  
Richard Carpenter, Development and Environmental Review Specialist  
Kimberly Martin, Community Development Administrative Support Specialist  
Commissioner David DiOrio, Council Liaison

### **II. Approval of Agenda**

The agenda for the May 23, 2023 Board of Adjustment meeting was reviewed. **Mr. Melvin Owensby made a motion to approve agenda, as presented. Mr. Al Joyner seconded. All voted in favor.**

### **III. Approval of Minutes**

The minutes from the April 25, 2023 Board meeting were reviewed. **Mr. Wyn Hardy made a motion to approve the March 28, 2022 meeting minutes, as presented. Mr. Joyner seconded and all voted in favor.**

### **IV. Public Comments**

There were no comments from the public.

**V. Old Business**

There was no old business to discuss.

**VI. New Business**

**A. *Variance Request: ZV2023005 regarding 1020 Memorial Drive (The Lakehouse Restaurant) for lake front yard setback variance to replace stairs that exceed the maximum 4' access structure width.***

Mr. Gurney explained the quasi-judicial process and procedures.

The following individuals were sworn in:

Michael Williams, Town of Lake Lure Community Development Director  
Richard Carpenter, Town of Lake Lure Development and Environmental Review Specialist  
Harold Harper, representing Lewis Bentley with the Lake House Restaurant

There were no conflicts of interest and no challenges from the applicant.

Director Williams explained that there were 8 ft. legally non-conforming stairs that extended from the restaurant to the dock and the legal non-conforming stairs were removed when a seawall was repaired. Director Williams reviewed the ordinance in relation with the variance request. Director Williams explained that the applicant has expressed that replacing the 8 ft. stairs is necessary. It was detailed that the applicant is currently applying for a permit for 4 ft. stairs as an interim solution and that they hope to add the other half of the stairs if approved by the Board.

Director Williams recommended reviewing variance conditions and determining if there are hardships and reasons to grant the variance. Director Williams displayed the plan visuals. It was noted that the correct permitting process has been followed thus far. Director Williams stated that there had been no comments from neighbors. Mr. Joyner asked if the stair replacement was in conjunction with the seawall repair and Director Williams explained that the seawall repair resulted in the need for the stairs replacement.

Mr. Harold Harper expressed that Mr. Lewis Bentley's concern is that there is a large crowd of people who use the stairs and having 8 ft. stairs allows for safe ingress and egress. Mr. Harper added that this is likely the reason that the original steps were 8 ft. It was noted that the Lake House employees also utilize the steps for delivering food and beverages to patrons. Mr. Hardy asked if the requested extension would be the same as the former stairs and Mr. Harper answered yes.

Mr. Joyner asked Director Williams why it is an issue for stairs to exceed 4 ft. Director Williams cited the ordinance that details the regulation. It was noted that there is no distinction of this between commercial and residential in regard to this regulation. Mr. Windfeldt expressed that there should be a difference because commercial is much busier than residential. Mr. Gurney asked if the variance could approve it based on the footprint and Director Williams answered yes.

The board started deliberation. Mr. Joyner expressed support due to the safety aspect and expressed no issues with it. Other Board members agreed.

Board members reviewed the variance guidelines.

*1. Extraordinary or exceptional conditions*

Board members determined that there is extraordinary or exceptional conditions because it is a commercial property and there is occupancy ingress and egress.

*2. Granting the variance will not confer upon the applicant any special privileges that are denied to other residents of the district.*

Board members determined that granting the variance will not confer upon the applicant any special privileges that are denied to other residents of the district.

*3. Literal interpretation of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other residents in the district*

Board members determined that the literal interpretation of the provisions of this chapter depriving the applicant of rights commonly enjoyed by other residents in the district is not applicable because it is a commercial establishment, not residential.

*4. The variance will be in harmony with the purpose and intent of this chapter and will not be injurious to the neighborhood or to the general welfare*

Board members determined that the variance will be in harmony with the purpose and intent of this chapter and will not be injurious to the neighborhood or to the general welfare because it will increase safety.

*5. Special circumstances that are not the results of the actions of the applicant*

Board members determined that special circumstances are not the results of actions of the applicant.

**Mr. Joyner made a motion to approve the Variance Request: ZV2023005 regarding 1020 Memorial Drive (The Lakehouse Restaurant) for lake front yard setback variance to replace stairs that exceed the maximum 4' access structure width, restricted to footprint. Mr. Hardy seconded and all voted in favor.**

- B. Review Council approved text amendment to allow a fee penalty for "failure to obtain a required permit prior to commencing work" when a zoning, lake structure or land disturbance permit is required by Town ordinances.***

Director Williams explained that the Zoning and Planning Board made a recommendation to Town Council in regard to a fee penalty for failure to obtain required permitted prior to commencing work and Council adopted the recommendation. Director Williams explained that the purpose of the fee penalty is to mitigate ongoing issues with project started without permitting. Mr. Joyner asked how this new ordinance will be communicated. Director Williams answered that there will be details on the Town's website and he that he had spoken with local contractors about it. Mr. Owensby asked if lack of permitting can be considered during cases and Director Williams answered that it could be considered, but it would not be a part of the criteria to determine if granting a variance is warranted. Specialist Carpenter added that in some cases, failure to obtain a permit could result in a self-inflicted hardship. Mr. Joyner expressed that the Board must base their decisions solely on details of variance requests.


**VII. May Department Report**

Director Williams provided the Board with a department report for the month of May. Director Williams detailed that an audit for soil and erosion had been completed and the Town is on a continued review status improvement is needed and staff learned a lot.

**VIII. Adjournment**

**Vice Chair Gurney asked for a motion to adjourn the Board of Adjustment regular meeting at 1:35 p.m. Mr. Joyner made motion to adjourn and Mr. Owensby seconded. All members voted in favor.**

ATTEST:

  
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Olivia Stewman, Town Clerk

  
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Neil Gurney, Board Vice Chair