

**MINUTES – REGULAR MEETING
BOONE BOARD OF ADJUSTMENT
January 7, 2021**

CALL TO ORDER

Members Present: Rich Crepeau-Chair, David Welsh-Vice Chair, Pam Williamson, Andy Brooks, and Virginia Roseman

Town Staff Present: Jane Shook-Director of Planning & Inspections, Christy Turner-Planner, John Ward-Town Manager, and Brenda Henson-Board Secretary

Others Participating or Present: Allison Meade-Town Attorney, Chelsea Garrett, Deron Geouque, and John Muter

Chair Crepeau called the Boone Board of Adjustment meeting, held via WebEx video conferencing, to order at 5:33 p.m. and provided a brief synopsis of the Board of Adjustment, its makeup and function.

APPROVAL OF MARCH 5, 2020 & OCTOBER 1, 2020 MEETING MINUTES

Ms. Meade suggested approval of the March 5, 2020 and October 1, 2020 meeting minutes be deferred to the next meeting in order to allow more time for the cases to be heard before the 8:30 p.m. cut-off of the meeting. She noted that Board Member Brooks needed to leave the meeting at 8:00 p.m.

MOTION

Board Member Williamson stated she had some changes she would like to make to the meeting minutes but was agreeable to defer them until the next meeting and made a motion to that effect. The motion was seconded by Vice Chair Welsh.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Pam Williamson, Board Member
SECONDER:	David Welsh, Vice Chair
AYES:	Welsh, Roseman, Crepeau, Brooks, Williamson

DISCUSSION PRIOR TO HEARING

Ms. Meade noted that Board Member Williamson had something to disclose.

Board Member Williamson explained that she had wanted to ask some questions to get a better understanding of the historic features and historic materials variances being requested for the Watauga County Courthouse and thought it would be a good idea to hear from the Chair of the Town of Boone Historic Preservation Commission. Based upon Rule 25 in the BOA Rules of Procedure that states, “Under State law, the Board Chair has the power to issue subpoenas upon the request of a party or member of the Board”, she had requested that the Chair issue a subpoena. However, Board Member Williamson stated this rule was in error and a Board member is, in fact, not allowed to subpoena a witness because the Board is not a party. She noted that her having made this request could give a possible appearance of partiality and in an abundance of caution and out of respect for the Board and all parties she requested to be recused from the variances being requested by Watauga County this evening.

Ms. Meade explained that the recusal of Board Member Williamson left the Board with only four members to proceed with hearing the variance requests and extended to the applicant the choice of proceeding with four Board members or postponing the hearing. Ms. Meade noted that the Town hoped to have a new Board member appointed prior to the next Board of Adjustment meeting so the February hearing would likely be able to be conducted with five members, absent Board Member Williamson. She stated that, should the applicant wish to proceed tonight and should there be a need to carry the cases over to a subsequent meeting, the same Board members would need to be present to complete the hearing of the cases.

Ms. Shook noted that all four Board members would need to vote in the affirmative on each vote in order for a variance to be granted.

Chelsea Garrett, attorney representing Watauga County, stated they wished to proceed with hearing the variance requests tonight with the four members present.

Board Member Williamson indicated she would like to watch the meeting even though she was not participating and Ms. Meade asked if there were any objections to Board Member Williamson watching the meeting. There were no objections.

CASES Z04363-111920, Z04425-122320, AND Z04426-122320 WATAUGA COUNTY COURTHOUSE - VARIANCES

Watauga County has requested the following three variances from the Town of Boone Unified Development Ordinance (UDO) in order to construct a pitched metal roof over the existing flat roof of the Watauga County Courthouse at 842 West King Street:

1. Variance to UDO Subsection 16.08.04(A)(2) to exceed the maximum building height in the B1 Central Business District by up to 17' 8".
2. Variance to UDO Subsection 18.02.02(C)(1)(d) to modify historic features, materials, and spatial relationships that characterize the property; and
3. Variance to UDO Subsection 18.02.02(C)(2)(a) to modify acceptable historic building materials

Chair Crepeau asked Ms. Garrett if there were any concerns or objections to the contents of the Board packet and she replied that there were no objections.

Chair Crepeau asked Ms. Garrett to proceed with her opening statement.

Ms. Garrett stated the variances were related to the installation of a new roof on the Courthouse that would be pitched metal instead of flat membrane and would increase the height of the building. Ms. Garrett thanked Ms. Turner and Town staff for being as accommodating as possible when discovering and facilitating the additional variances that were needed. Ms. Garrett stated this was a relatively ugly building that was built 52 years ago and just met the 50 year threshold to make it an historic building although it did not look historic. She stated that the neighboring County buildings currently have pitched metal roofs and adding a pitched metal roof to the Courthouse would be harmonious with those buildings. Ms. Garrett noted that the current membrane roof leaked and was difficult to maintain and prohibited efficient operation. Allowing a pitched roof would remedy those issues as well as allow them to cover the rooftop HVAC units.

Christy Turner, Senior Planner with the Town of Boone, was sworn in. Ms. Turner stated the reason staff chose to consider the roof as an addition instead of a renovation when looking at the historical features and materials variances was because they felt pitching the roof was more of an addition than a renovation in terms of the Webster's dictionary definitions.

Jane Shook, Director of Planning & Inspections, was sworn in. Ms. Shook wished to clarify that the UDO allowed the choice between renovation and addition for this type of construction and staff chose addition because renovation implied that there would be a returning of something to its former condition. Ms. Shook stated that an addition implied something new would be added and staff determined that a new pitched metal roof would be something new. She noted that whether addition or renovation was chosen the variances would still be required. The only difference would be for the historical features variance where an addition would take into consideration a comparison of features on buildings on the same block and block across the street and a renovation would take into consideration the building itself.

Ms. Meade asked if there was any objection to the determination that the roof would be considered an addition. Ms. Garrett replied there was no objection.

Ms. Garrett asked that John Muter and Deron Geouque be sworn in. Chair Crepeau swore Mr. Muter and Mr. Geouque in.

Ms. Garrett asked Mr. Muter who he hired to draw the renderings for the building. Mr. Muter replied that Bill Dixon was hired to provide renderings so they could get a feel for what the building would look like from the street level in the front and back. Ms. Garrett asked Mr. Muter if he was the owner of Muter Construction. Mr. Muter stated his wife was the owner and he was president of the company. Ms. Garrett asked Mr. Muter if he responded to an RFQ for this project and he replied that they did.

Ms. Garrett asked Mr. Muter if he proposed the metal roof and he replied that the pitched metal roof was listed in the request for qualifications from the County. Ms. Garrett asked what the reasoning was for the pitched metal roof versus the flat membrane roof. Mr. Muter stated the pitched metal roof would be a huge maintenance savings although the upfront cost would be more. He stated a flat roof had a lifespan of about 15 years versus an approximate 60 lifespan of a metal roof and the pitch would also provide shelter for the HVAC units. Ms. Garrett asked if the HVAC units were visible from the Queen Street side of the building. Mr. Muter stated that was where they were most visible. Ms. Garrett asked if the color and material would be the same as the neighboring County buildings and Mr. Muter replied that was correct. Ms. Garrett asked how the pitch for the roof was determined. Mr. Muter explained that the items on the roof required a steeper pitch than a low profile pitch but noted they kept the pitch as low as possible. Mr. Muter noted that the building was already higher than allowed by the existing UDO requirements.

Ms. Garrett asked Mr. Muter if he had installed any flat membrane roofs. Mr. Muter stated that he had installed a lot of membrane roofs. Ms. Garrett asked if all membrane roofs were made of the same materials. Mr. Muter explained that there were different types of membrane roofs including EPM which looked like a black rubber, TPO or PVC, or a modified membrane roof and they all tended to be single ply. Ms. Garrett asked what type of membrane roof was currently on the Courthouse building. Mr. Muter stated he was pretty sure it was a TPO membrane and could be easily retro-fitted.

Ms. Garrett asked Mr. Muter if he was familiar with some of the maintenance issues the Courthouse had experienced over the years. Mr. Muter stated that because there was no pitch the flat roof would pond water and the freezing and thawing opened up joints that were undetected until leaks came into the building. Ms. Garrett asked if it would be more difficult to repair a membrane roof than a metal roof. Mr. Muter replied that you didn't really have to replace metal roofs that often. He explained that they were seamed with what was called a standing seam that prevented leaks. Mr. Muter stated that the ability to repair a membrane roof depended on the age of the roof and the ability to match the membrane type. Ms. Garrett asked if there was a benefit to having rooftop HVAC units covered. Mr. Muter felt there were huge benefits. He stated that workers providing maintenance could do so out of the elements and the units would last longer out of the weather. Ms. Garrett asked if retro-fitting meant putting another roof on top of the existing roof. Mr. Muter stated that was correct. Ms. Garrett asked where the access to the roof would be. Mr. Muter stated there would be several access points, one of which would be an internal access through the building. Mr. Muter added that the pitched metal roof would cost 1½ to 2 times more than replacing the flat membrane roof.

Ms. Garrett called Mr. Geouque to testify. Ms. Garrett asked Mr. Geouque how long he had been County Manager for Watauga County. Mr. Geouque replied he had been County Manager for nine years and was Assistant County Manager for 11 years prior to that. Ms. Garrett asked Mr. Geouque if he worked closely with the staff that maintained County facilities and he stated that he did.

Ms. Garrett asked Mr. Geouque to speak about maintenance issues the County had experienced with the membrane roof. Mr. Geouque stated that the County had experienced issues with membrane roofs on County buildings for some time but were financially unable to replace them with something else. He explained that over the past 3-4 years the County devised a plan to replace all membrane roofs on County buildings with metal roofs. Mr. Geouque noted the East Annex, Administration building, Cooperative Extension, and Library building roofs have all been replaced with metal roofs and the Health Department building was constructed with a metal roof. He stated that the

metal roofs provide better protection of the building envelopes. Mr. Geouque noted there were important historical documents housed in the Courthouse and it was crucial to preserve those.

Ms. Garrett asked about leaks in the Courthouse. Mr. Geouque stated there had been leaks in the large courtroom. Ms. Garrett asked if there had been leaks in any of the vaults containing vital records. Mr. Geouque replied there had been some leaks but noted that vital records had been moved to the courthouse addition that was built approximately 10 years ago. Ms. Garrett asked if the metal roof would allow for more efficient heating and cooling. Mr. Geouque referred that question to Mr. Muter but noted the new roof would allow them to conceal the units which, he assumed, would preserve the life of the units. He noted that penetrations to the roof were where the HVAC units were and enclosing them under the metal roof would prevent water leaks from forming at those penetrations.

Ms. Garrett asked Mr. Geouque if other options for the roof were considered that would eliminate the need for variances. Mr. Geouque stated in his 20 years with the County the flat roofs had been nothing but maintenance nightmares and no other product could provide the level of service that a metal roof could provide. Ms. Garrett asked if the metal roof would extend the longevity of the building so the County would not have to look at alternative locations for years to come. Mr. Geouque replied that was correct. He felt the County would like to maintain its presence in the current location into the foreseeable future.

Vice Chair Welsh asked if anything would be happening to the exterior of the building or would it be the roof only. Mr. Geouque replied that this was probably the ugliest Courthouse building in North Carolina with its "pebble-tech" siding but at this time they were proposing the roof addition only. He felt if they got approval to replace the roof they would be more inclined to pursue changing the siding.

Ms. Garrett asked if there had been work done to the façade recently. Mr. Geouque stated that was correct, noting there had been extensive damage in the tax office due to leaks in the seams of the siding.

Ms. Garrett asked Mr. Muter how long he had been doing roofs. He replied that he started doing roof work in 1978. Ms. Garrett asked Mr. Muter if he had ever retro-fit a metal roof over a membrane roof and he stated he had, noting that last year they had retro-fitted roofs for Johnston County schools. Ms. Garrett asked if it was correct that you would not be able to see the new roof a great deal from the King Street side of the building. Mr. Muter stated that was correct. Ms. Garrett asked Mr. Muter if there were other options instead of going from membrane to metal. Mr. Muter felt there were no other materials that would work better.

At 6:37 p.m. Ms. Shook noted there was no one from the public that wished to speak to the variances.

In closing, Ms. Garrett stated that this was a unique situation. She stated that none of the variances affected the safety of the community and the addition of a pitched metal roof would be an improvement to the building. Ms. Garrett stated there were a lot of leaks and unsightly HVAC units at this existing building. She said the roof addition would not destroy the historic nature of the building and would provide long term maintenance improvements. Ms. Garrett noted the building would be uniform with the surrounding buildings and add to the aesthetics and harmony of the area.

The Town did not wish to provide a closing statement.

Chair Crepeau opened the floor for discussion among Board members.

Ms. Meade wished to note that the case was presented as a whole but Board members would need to vote for each individual variance. She then read UDO Section 6.03 regarding variance requirements.

Chair Crepeau stated they would first discuss the height variance listed as Case Z04363-111920.

Board Member Roseman asked Mr. Muter if there was any way the roof pitch could be less. Mr. Muter replied that what they proposed was the lowest they could pitch the roof and still make everything work. Board Member

Roseman wished to clarify that the roof would either have to be the pitch that was requested in the variance or it would have to remain a membrane roof. Mr. Muter stated that was correct.

Board Member Brooks stated that there was damage occurring to areas containing important documents and that the new pitched roof would provide better protection for the documents and be a safer working environment for the maintenance workers as well as the workers inside the Courthouse. He added that Statesville had an uglier Courthouse.

Board Member Roseman noted that no one spoke against the variance requests. She felt the new roof would be a cohesive roof type that would be in harmony with the community.

VOTE 1

Board Member Brooks made a motion that an unnecessary hardship would result from the strict application of the ordinance because of the need the building has as far as repairs and the nature of the building itself due to the documents stored within. The motion was seconded by Vice Chair Welsh.

RESULT:	APPROVED [4 TO 0]
MOVER:	Andrew Brooks, Board Member
SECONDER:	David Welsh, Vice Chair
AYES:	Welsh, Roseman, Crepeau, Brooks
RECUSED:	Williamson

VOTE 2

Board Member Brooks made a motion that the hardship results from conditions that are peculiar to the property, such as location, size or topography because of the unique public use of the property and the active damage that is occurring to it. Board Member Roseman wished to amend the motion to include that the building was currently to a point where the variance was needed in order to make the necessary improvements. Board Member Brooks accepted the amendment. The motion was seconded by Board Member Roseman.

RESULT:	APPROVED [4 TO 0]
MOVER:	Andrew Brooks, Board Member
SECONDER:	Virginia Roseman, Res. Board Member
AYES:	Welsh, Roseman, Crepeau, Brooks
RECUSED:	Williamson

VOTE 3

Board Member Roseman made a motion that the hardship did not result from actions taken by the applicant or the property owner because the membrane roof was installed years ago under a different county administration when different roof construction techniques were available, and a variance is now required to improve the condition of the building. The motion was seconded by Vice Chair Welsh.

RESULT:	APPROVED [4 TO 0]
MOVER:	Virginia Roseman, Res. Board Member
SECONDER:	David Welsh, Vice Chair
AYES:	Welsh, Roseman, Crepeau, Brooks
RECUSED:	Williamson

VOTE 4

Chair Crepeau made a motion that the requested variance is consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured and substantial justice is achieved and the issues with the structural integrity of the building can be improved with the new roof. Board Member Roseman wished to add that the spirit is to keep the community as cohesive as possible and the new roof will advance the beauty of the community. The motion was seconded by Board Member Roseman.

RESULT:	APPROVED [4 TO 0]
MOVER:	Richard Crepeau, Chair
SECONDER:	Virginia Roseman, Res. Board Member
AYES:	Welsh, Roseman, Crepeau, Brooks
RECUSED:	Williamson

DISCUSSION

Given the similar nature of the variances for historical features and materials, Chair Crepeau asked if Cases Z04425-122320 and Z04426-122320 could be consolidated for voting purposes. Ms. Garrett stated they would be okay with that. Chair Crepeau asked if there was any discussion regarding these variances.

Board Member Roseman stated that the County had been planning this project for 3-4 years, which would have been prior to the building being 50 years old. She felt that there was now an advanced ability to provide better and safer products for roofing.

Board Member Brooks felt the roofing material and features would be durable and economical.

Vice Chair Welsh felt the new roof would be aesthetically more pleasing and cohesive and would be better than seeing HVAC units on the rooftop.

VOTE 1

Chair Crepeau made a motion that an unnecessary hardship would result from the strict application of the ordinance because of the aforementioned items. The motion was seconded by Board Member Roseman.

RESULT:	APPROVED [4 TO 0]
MOVER:	Richard Crepeau, Chair
SECONDER:	Virginia Roseman, Res. Board Member
AYES:	Welsh, Roseman, Crepeau, Brooks
RECUSED:	Williamson

VOTE 2

Board Member Brooks made a motion that the hardship results from conditions that are peculiar to the property, such as location, size or topography because the building is only historic by two years and a historic comparison cannot be apples to apples due to the architectural style of the building. The motion was seconded by Board Member Roseman.

RESULT:	APPROVED [4 TO 0]
MOVER:	Andrew Brooks, Board Member
SECONDER:	Virginia Roseman, Res. Board Member
AYES:	Welsh, Roseman, Crepeau, Brooks
RECUSED:	Williamson

VOTE 3

Board Member Brooks made a motion that the hardship did not result from actions taken by the applicant or the property owner because the hardship results from the age and limitations of the construction itself. The motion was seconded by Vice Chair Welsh.

RESULT:	APPROVED [4 TO 0]
MOVER:	Andrew Brooks, Board Member
SECONDER:	David Welsh, Vice Chair
AYES:	Welsh, Roseman, Crepeau, Brooks
RECUSED:	Williamson

VOTE 4

Board Member Brooks made a motion that the requested variances were consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured and substantial justice is achieved. The motion was seconded by Chair Crepeau.

RESULT:	APPROVED [4 TO 0]
MOVER:	Andrew Brooks, Board Member
SECONDER:	Richard Crepeau, Chair
AYES:	Welsh, Roseman, Crepeau, Brooks
RECUSED:	Williamson

CLOSE PUBLIC HEARING

Chair Crepeau closed the public hearing for these cases at 7:18 p.m.

ADJOURNMENT

With no further business, Chair Crepeau adjourned the meeting at 7:19 p.m.

Brenda Henson, Board Secretary

Rich Crepeau, Chairman