

Organizing for Effective Community Action: The Lake Louise Story

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THE CONTEXT OF APPALACHIAN HISTORY

In the late 18th century, Cherokee life in this part of Appalachia was overwhelmed by European immigrants moving south down the Great Philadelphia Wagon Road and west from the Piedmont. Their family names are common on mailboxes today: Shelton, Norton, Dillingham, Penland and Weaver.

There wasn't much cash in their rural, largely barter economy. Big capital came after the Civil War. The arrival of the railroad in Asheville in 1880 brought a timber boom that destroyed the forests within 35 years. Well-funded entrepreneurs from Scotland, Ohio and Maine purchased and clear-cut hundreds of thousands of acres, which in turn led to well-funded conservation movements buying up those acres for public and private forests, parks and parkways. Other ventures, from magnetite mining in Madison County and feldspar in Mitchell County to cotton mills in Alexander, Marshall and Burnsville, enriched investors, while impoverishing many mountain families and communities.

Today, renewed land speculation in Western North Carolina is overwhelming the means of many long-time local residents. Land development is by no means new to Western North Carolina, but it is intensifying as, yet again, well-funded entrepreneurs are investing and realizing millions of dollars. Recent events in Weaverville may be instructive for other Appalachian communities.

THE SETTING

Weaverville is a small town north of Asheville It began in the 1780s as a market center for surrounding farms. By 1890 it provided comfortable destinations, such as the Dula Springs Hotel and Blackberry Lodge, where Low Country well-to-do might escape the malarial heat of Southern summers. Lake Louise was gifted to the town in 1936. It was connected to Asheville

by a trolley car which, for 35 cents for a 45-minute trip, brought picnickers to the lake. Weaverville remained a small town of 2,000 until 1990, when it attracted the eyes of housing tract developers. By 2018 its population had more than doubled to almost 5,000 today.

Today, there is “Old Weaverville” with an historical memory of wood frame houses spread about small farms on surrounding hills and a “New Weaverville” of high-end development, fueled by retirees, who, having sold real estate in Boston, Florida or California, have brought enough capital to inflate the housing market and increase property taxes by 30% in 2017. New Weaverville dines at The Well-Bred Café. Old Weaverville eats at Tommy’s Family Restaurant. It sees New Weaverville as undermining their traditional way life, as epitomized by the transformation of Hamburg Mountain, where they played and rode horses in their childhood, into the gated mansions that look over the town today.

Lake Louise Park has been key to bringing these two groups together. It has a walking and running loop around the lake, a playground, an outdoor gym, picnic pavilions, and ducks and geese. It is used by Blacks, whites and Hispanics, rich and poor, and young and old. It is the most diverse and well-used park north of Asheville.

Most of the houses surrounding the park are Old Weaverville. Thomas and Sarah own the old boarding house. Thomas installs windows for a living and his wife works an office in Asheville. His neighbor, Jim, drove a bread truck for 26 years and now does custom carpentry in his garage woodshop. Conley and his brother’s family have lived by the lake for 60 plus years. Mike, a retired Southern Railroad engineer, lives down the road from Conley. Early on in our discussions, these men repeatedly expressed a sense of being disrespected and dismissed by elected or appointed officials and staff in the Town Hall.

THE PROPOSAL

In the Spring of 2016, these families and several others living close to the lake received notification of a hearing on a developer’s proposal to build 21 houses on a three-acre tract

bordering Lake Louise Park. Much of the land was steep, allowing less than two acres for building. Residents immediately recognized three things: 1) building so many houses on that parcel was highly problematic, if feasible at all. 2) 21 new houses would bring 40+ cars which would create a hazard for the foot traffic that already filled the road. 3) The town was gun shy of the developer, who had successfully sued Weaverville a decade earlier to build a shopping center in an area planned for housing. It had been an embarrassing and expensive loss for the town, creating staff reluctance to tangle with him again.

The Weaverville “Zoning Board of Adjustment” (ZBA) hearing occurred in late May 2016. It was expected to be a routine matter, with few questions or opposition. The board chair opened the meeting by expressing surprise at the size of the resident audience. He then asked, “where is this (parcel) anyhow?” When residents tried to answer his question, they were silenced by the developer’s attorney, who argued they lacked the **legal standing** to speak. Residents were granted standing after board members looked up the requirements (e.g. having property within 1500 feet of the site). It turned out not to matter as the Board dismissed questions and approved the developer’s plan. At the last minute, one board member, apparently unsettled by the cursory approval, stopped it by requesting additional detail on parking space design. In doing so, he gave residents a month in which to organize.

The morning after the meeting the window installer went to Town Hall requesting additional information. Town staff found his questions sufficiently threatening to call the police. He was ejected from the building. His neighbors’ response to the incident was “well, that’s how they treat us. Like dirt.”

ORGANIZING

First, residents had to educate themselves. They learned the difference between a “Unified Housing Development (UHD)” proposal and a Conditional Housing Proposal. An UHD is presented to a “Zoning Board of Adjustment,” which is a *quasi-judicial* body, operating like a court. Conditional Housing plans are presented to a *legislative* body, such as a Town Council. Any member of the public can give an opinion at a Town Council meeting, but quasi-judicial

hearings are limited to attorneys, their expert witnesses and citizens with legally defined “standing.” Developer’s prefer the ZBA system, because their attorneys can and will challenge/intimidate any problematic witness. Furthermore, NC law allows these permit hearings by the ZBA to be done without public review. In effect, they can be held in secret. Secondly, residents had to organize into an effective, diverse and inclusive group: blue collar and white collar, male and female, newcomer and old-timer. They assigned specific tasks under single leaders:

1. Land valuation: bread truck driver
2. Traffic count and flow: window installer
3. Facebook page: local artist
4. Webpage: computer science teacher at a nearby college
5. Press and relations with town government: former journalist and retired sociologist.
6. Legal research: retired social worker
7. Yard sales, flea markets and fundraisers: Truck driver’s wife.
8. Finances and 501c3 status: an accountant who had previously served on the Town Council.

In June, they incorporated as the Lake Louise Preservation Association (LLPA). The LLPA hired an attorney, who in turn hired an environmental planner. The LLPA educated area residents and recruited LLPA members, developing a rapid response email list of 65 families. The process demanded a marathon of detail and persistent questioning. They published a view book of the park and their logo appeared on posters throughout the town. Notebooks of data, photographs, maps and graphs were generated to outline elevation and water drainage, parking areas, lots and lot setbacks, differences in project definition (is this a cluster, multi or single-family dwelling development?). They peppered town officials with serious questions that had not been asked: Would the American Disabilities Act apply for this multi-family housing? Would there be enough space for baby carriages or wheelchairs on sidewalks between the front steps of homes and parking areas? (There wasn’t.) Would the graded slopes be too steep for proposed recreation areas? Did road conditions allow for increased car and pedestrian traffic? Would the proposed development meet a need for a specific kind of housing? Did the

design blend in with the surrounding neighborhood? LLPA members spent some 20 hours in meetings with attorneys and environment experts “getting their minds around” a myriad of detail before making their case before the town board.

LLPA members had to overcome their neighbors’ cynicism and the oft heard question: “Why fight?” There was endemic pessimism about citizen ability to challenge local government and its relationship with well-funded entrepreneurs.

The LLPA responded with months of community education activity: yard sales with maps and posters of the development, flea markets and bake sales, and an auction. LLPA flyers, petitions and posters encouraged attendance at ZBA and Town Council meetings throughout the summer. Board and council members faced a sea of people wearing LLPA shirts and ball caps. Letters to the editor sparked media coverage.

FIGHTING THE CASE

In June’s ZBA meeting, the LLPA attorney bought another month of time by demanding proper signage for on the building site 30 days before matters could proceed.

At the July meeting, the LLPA suggested the Town of Weaverville join it in opposing the development. The town, it was argued, owned the park, which adjoins the development site. As such, it had legal standing in the case and should take appropriate legal action to defend the park and its uses. Town officials refused.

That same month, the ZBA board member who had blocked the initial project approval in May was forced off the ZBA by being reassigned to another Town committee. This flagrant manipulation led to an emotional public explosion, with the town mayor bursting into tears of protest in a council meeting. A male councilman tried to shout her into silence. People took notice and public attendance at town council meetings increased.

By its August meeting, the Town Council had had enough. It voted to take authority away from the ZBA and give it to itself—to take authority away from a judicial/legal system controlled by

lawyers and “experts” and give it to a democratic, public venue where “the sun can shine in.” This was a central, key victory. *Unified Housing Development* proposals destined for the quasi-judicial ZBA would henceforth be proposed as *Conditional Housing Proposals* and presented in open session to the Town Council.

In September, the LLPA returned to the ZBA with an urban planner who described numerous violations in the developers’ proposal. One problem in particular caught the ZBA and town attention: a drainage system that would connect to the town’s and overwhelm it. Ironically it was the new ZBA member brought into replace the man forced off the board became the project’s most serious critic. He argued that the width of the access road to the site was inadequate and that corrective action would take most of Conley’s front yard.

On October 12 the ZBA met for 7 hours, adjourning at 2:30 am. It reconvened a week later for another three hours before rejecting the developer’s application outright.

The LLPA had won. Its members went jubilantly into the night.

As they did so, the town attorney stopped the LLPA president in the Fire Department parking lot to ask when he would be willing to negotiate with the developer. The president was stunned. “But we just won the case,” he said. “There’s always negotiation,” she said. He walked away.

On November 13, a Town Council member invited the LLPA President to have coffee and proposed possible negotiation between the LLPA and the developer. He suggested the developer might be willing to 1. reduce the number of houses in the proposal, 2. give the town the smaller of the two plots of land and 3. Use the main plot to provide the land needed to widen Quarry Street, thus saving Conley’s front yard. The president responded by pointing out that 1. he could not speak *for* the LLPA, 2. negotiating seemed questionable in that the ZBA had made a legal ruling as a quasi-judicial body and 3. if the developer wanted to amend his proposal, why not submit his revised plan to the Town Council after the required three-month waiting period.

In late November, the town manager told the LLPA that the developer was suing the Town, the LLPA and individual parties. A town board member approached the LLPA president with an offer from the developer. The president refused to talk with him but invited him to attend the next LLPA meeting. He did and encountered incredulous citizen rage.

In early December, the LLPA president was asked to talk with staff at Town Hall. He refused, insisting that the LLPA membership be invited. The group was invited to Town Hall on March 14. They arrived with their attorney and the town manager pointedly called for a police presence. She explained the town had made a compromise deal (called a "Consent Order") with the developer: He had agreed to build 7 fewer houses on the site and to gift the .87-acre plot to the town for an extension to the park. In exchange for this land, the town would widen Quarry Road with already-designated funds. This agreement kept Conley's front yard intact by taking land from for the road from the development site.

The LLPA attorney challenged the agreement, saying the consent order was illegal, that the town did not have the authority to bypass the ZBA decision. The town attorney countered that the town could not risk the cost of a court appeal and that she would not defend the ZBA decision in court. In reply, the LLPA lawyer argued that all municipalities have insurance to cover legal expenses such cases. He emphasized the LLPA had raised and spent \$25,000 in preparing and winning the case. By sidestepping the ZBA, the town effectively had stolen this money, as it had been spent in a legal process that was now meaningless. In response, the town manager dismissed the police officer and offered to \$25,000 in town funds towards the new Community Center being built adjoining the park.

THE COURT APPEAL

On March 27, 2017, a County Superior Court judge found for the developer. (The developer was reported to previously have told a LLPA member "I know all the (county) judges. I'll win this case and I'll win again at the State level if you appeal." (J. Proffitt)

The judge wrote “The BOA (ZBA) *acted arbitrarily and capriciously* in denying the special use permit for the Project.” Furthermore, “the BOA *lacked competent, substantial and material evidence* to support its denial of the Project...The BOA’s decision is hereby REVERSED (court’s emphasis).”

The judge then found that the proposed developer-town compromise was acceptable and ordered the ZBA to accept either the original 21-house plan or the 14-unit compromise. (Superior Court File No. 17CVS246, p6.)

The Court of Public Opinion disagreed. How could six months of hearings comprising 25-30 hours of expert testimony and debate be “capricious and arbitrary?” The ZBA chair resigned to run for election as mayor. He won and appointed the window installer and the bread truck driver to the design committee for a community center at the park. They accepted and have played a central role in the design process. His Honor offered the LLPA president a position on the ZBA board. He declined.

As March 2019, two houses have been completed. The asking price is \$490,000.

AFTERMATH: WHAT THE LLPA CHANGED

When community members tell the Lake Louise Story, what is recounted the most is being listened to and respected as citizens. Beating the developer is important, but not as much as having respect. The story usually begins how “they treated us like dirt back in the spring of 2017” and ends with “they’re listening now.” “They smile when they see us.”

The LLPA initiated greater participation in local government.

The LLPA action gained an acre for the park.

LLPA members played a key role in designing a \$1.6 million community center.

The LLPA forced town government and the public to take a hard look at development proposals which are now seen in the light of impacts on the community, public lands, traffic and water quality.

The LLPA forced the move of the process for reviewing development from a closed court process to the public forum of the Town Council.

The LLPA has become a model for organizing, articulating all the detail, forms of research, community education, steady pressure and action required in community action.

In the spring of 2018, the window installer ran for Town Council and lost by a small margin. When another council member resigned, the seat that should have gone to him was given to a former ZBA member.

Six LLPA members took training course in town government which introduced them individually to police, fire and town officials and made them eligible to serve on town boards.



The final ZBA deliberation



Mike and Conley



The proposed site