

BANNER ELK BOARD OF ADJUSTMENT
MONDAY, 18 FEBRUARY 2013
MINUTES

Members Present: Jimmy Ollis, Joe H. Perry, Dekka Tate, Ted Silver, Bill Wilson

Staff Present: Cheryl Buchanan, Four Eggers (Town Attorney), Rick Owen

Others Present: Carol Burns, Debbie Turner

Chairman Joe H. Perry called the meeting to order at 6:00 pm. Chairman Perry asked everyone present to stand and join in the pledge of allegiance to the flag.

Chairman Joe H. Perry informed the Board that Mr. Jerome Clapp had submitted a letter of resignation due to family health matters. Upon receiving notification, Town Council voted to instate alternate Ted Silver as a full time board member. Chairman Perry swore in Ted Silver as a full-time board member.

In addition, Jerome Clapp was the Vice-Chairman and his resignation leaves a vacancy in this position. Chairman Perry asked for volunteers and Dekka Tate said she would be willing. Joe H. Perry moved to appoint Dekka Tate as Vice-Chairman in his absence. Ted Silver seconded. The vote was unanimous and the motion carried.

Consideration of the May 2012 Minutes

With no changes noted, Dekka Tate moved to approve the minutes as submitted. Bill Wilson seconded. The vote was:

Bill Wilson (yea),
Jimmy Ollis (yea),
Joe H. Perry (yea),
Ted Silver (yea), and
Dekka Tate (yea). The motion carried.

Opening of the Quasi-Judicial Portion of the Meeting

Chairman Perry explained the procedure for a quasi-judicial meeting. This reading addresses the statutory requirement to make those in attendance aware that an individual's rights are being determined. Chairman Perry opened the Public Hearing portion of the meeting identifying the applicant and inquiring among the board members if they could deliver a fair and unbiased decision and whether they had received any information prior to the meeting. There were no conflicting answers and the board indicated they were ready to hear the request. All parties that were present to give testimony were sworn in. (See attached witness form).

Conditional Use Permit for John Ogburn and Debbie Turner of the Banner Elk Pharmacy

Testimonies:

Zoning Administrator Cheryl Buchanan testified to an overview of the application. The request is for a conditional use permit as per Section 315 of the Banner Elk Zoning Ordinance to allow a frame of solar photovoltaic panels on the roof of the Banner Elk Pharmacy at 110 Park Avenue, Banner Elk. The property identification number is 1859-18-30-2853 and consists of 0.570 acres of land. The property is zoned C-1P, Central Business District with Parking. The property is also located in the Heritage Overlay District, which requires a review by the Preserve America Commission in Section 504 of the Zoning Ordinance. The frame will be 13' x 27' with the panels coated with a non-glare finish.

The request has been approved by Mountain Electric Cooperative (MEC) and is in the hands of Tennessee Valley Authority (TVA) for final approval of connection to the power grid. The frame of panels will be 6" parallel to the roof and will not exceed the 35-foot height restriction per the ordinance. This system more specifically meets the small-scale commercial collection system requirements of Section 315.5 of the Zoning Ordinance. This concluded Cheryl Buchanan's testimony.

The applicant, Debbie Turner, was present and willing to give testimony. Mrs. Turner explained that this was part of the "Go Green" program by TVA and that the power produced by the panels are bought from Mrs. Turner by MEC and this equates to more power than is used by the building, providing the savings being sought through the program. Ted Silver asked (Someone else has the recorder and I need to hear exactly how he asked this question before adding it to the minutes.) Mrs. Turner said the panels came in one color, are coated with anti-glare material and the frame will be located under the panels.

This concluded the testimony portion of the meeting. Ms. Buchanan and Mrs. Turner were allowed to make closing remarks. Mrs. Turner did not have any remarks and Ms. Buchanan stated that she believed the application met the requirements of the ordinance are in harmony with the zoning district.

Chairman Perry closed the hearing portion of the meeting and opened up deliberation of the application. Town Attorney Stacey Eggers, IV, reviewed the Board's responsibilities as outlined in the Zoning Ordinance.

Deka Tate made a motion that the application was complete as submitted. Bill Wilson seconded. The vote was:

Bill Wilson (yea),
Jimmy Ollis (yea),
Deka Tate (yea),
Joe H. Perry (yea), and

Ted Silver (yea). The motion carried
Deka Tate made a motion that the request complies with all the sections of the Zoning Ordinances and is in harmony with Banner Elk. Jimmy Ollis seconded. The vote was:

Bill Wilson (yea),
Jimmy Ollis (yea),
Deka Tate (yea),
Joe H. Perry (yea), and
Ted Silver (yea). The motion carried

Ted Silver made a motion that the additional condition that requires the panels to be coated with non-reflective material and conforms to the colors of the structure. Deka Tate seconded. The vote was:

Bill Wilson (yea),
Jimmy Ollis (yea),
Deka Tate (yea),
Joe H. Perry (yea), and
Ted Silver (yea). The motion carried

Ted Silver made a motion that the application was complete. Bill Wilson seconded. The vote was:

Bill Wilson (yea),
Jimmy Ollis (yea),
Deka Tate (yea),
Joe H. Perry (yea), and
Ted Silver (yea). The motion carried

Jimmy Ollis made a motion to close the hearing of case and to adjourn. Deka Tate seconded. The vote was:

Bill Wilson (yea),
Jimmy Ollis (yea),
Deka Tate (yea),
Joe H. Perry (yea), and
Ted Silver (yea). The motion carried

Respectfully submitted,
Cheryl Buchanan, Zoning Administrator