

BANNER ELK BOARD OF ADJUSTMENT
TUESDAY, 06/18/2019
MINUTES

Members Present: Morgan Herdklotz, Fred Schmitt, Ted Silver, Deka Tate, and David Tate, in-town alternate

Staff Present: Zoning Administrator Cheryl Buchanan, Town Attorney Stacy Eggers, IV

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

Consideration of the May 20, 2019 Minutes

With no changes to the minutes, Deka Tate moved to approve the minutes as submitted. Morgan Herdklotz seconded. The vote was:

Morgan Herdklotz – Aye

Ted Silver - Aye

Fred Schmitt – Aye

Deka Tate - Aye. The motion carried with a 4-0 vote.

Chairman Schmitt stated that this meeting is a quasi-judicial proceeding, much like a court proceeding, in which one's individual's rights are being determined. Witness will be sworn in for testimony. The Chairman asked if there were any board members present that could not be impartial or who had received information outside of this hearing. None were noted and the hearing proceeded.

Request to Amend a CUP – High Country Square

Zoning Administrator Cheryl Buchanan was affirmed by Chairman Schmitt.

Zoning Administrator Cheryl Buchanan told the Board that the High Country Square located along Highway 184 was approved for a Conditional Use Permit (CUP) in July 1985. The permit allowed for a Planned Commercial Development, with three (3) retail buildings, one of which has a second story. John and Pat Miller are selling the complex to Faison and Shaw Keuster and the Keusters are wanting to take the building with the second floor and convert the top floor to six (6) apartments. This is allowed in the C-2 as a conditional sue as long as the residential portion does not exceed 40% of the commercial development. Ms. Buchanan indicated that the six (6) apartments would be within the 40% residential use in a commercial development.

Ms. Buchanan stated that the only change she has requested is that the dumpster be moved out of the flood way. The plans submitted shows that request being confirmed with the moving of the dumpster to an area outside of the flood way. The changes the Keusters are proposing are to move the upper floor decking to the back of the building so the apartments will have entrances that give them some privacy and allow them to look out over the mountains and Elk River. There is also some added landscaping, sidewalks across the front of the property and some added green space at the back of the property. Ms. Buchanan noted that the property was built before the flood maps changed in 1998 and that it is quite probable that the flood way was not in the same place that it is now. Ms. Buchanan added that the Keusters would like to make some cosmetic changes by repainting the buildings and that they have a copy of the Town's color chart. Additionally, a new combined development sign is being proposed and there is an illustration in the packet. Lastly, the computation for parking with the conversion of the apartments meets and exceeds the ordinance. Ms. Buchanan stated she would like to see a restriction in the apartment lease agreement that prohibits tenants from flashy decorations or displays that would set any specific apartment apart from the rest of the development.

Mr. Shaw Keuster was then sworn in and asked to present his evidence on the project. Mr. Keuster gave an overview of what Keuster Commercial has done in Boone and in some areas of South Carolina. Mr. Keuster's goal is to make the area look nice and to provide reasonable rent options in Banner Elk. Mr. Keuster and his family live in Banner Elk and want to become invested in the community. Ted Silver asked about the requirements for a bike rack. Ms. Buchanan verified that a bike rack can be required in the Heritage Overlay District, but this property is outside that district. Attorney Four Eggers advised that a bike rack could be required as a condition of the permit only if it needed to address one of the criteria of the Conditional Use Permit. If the request for a bike rack was a policy change, the Board could ask Town Council to consider making that a part of the ordinance. Mr. Keuster said he would not be opposed to a bike rack.

Morgan Herdklotz asked them to give the proposed additional landscaping some careful consideration and not plant something that will grow extremely big and be in the way of power lines. Deka Tate questioned the sign and noted that it indicates there are 10 spaces but 15 commercial units. Mr. Keuster replied that some of the tenants occupy more than one unit. Ms. Buchanan reviewed the regulations in the ordinance for combined development signs.

With no further discussion, Chairman Schmitt asked if the Zoning Administrator had a closing statement. Ms. Buchanan said she felt that the application was complete and that the proposed project was in harmony with the ordinance. Mr. Keuster did not have a closing statement.

Chairman Schmitt closed this portion of the hearing and told the Board they should consider themselves in the deliberation phase of the hearing. Chairman

Schmitt asked if any member had additional questions or comments. None were noted.

Deka Tate motioned that the application was complete. The motion was seconded by Ted Silver. The vote was:

Morgan Herdklotz – Aye

Ted Silver - Aye

Fred Schmitt – Aye

Deka Tate - Aye. The motion carried with a 4-0 vote.

Deka Tate motioned that the application is in compliance with the ordinances of Banner Elk and in harmony with the C-2 zoning district. Ted Silver seconded. The vote was:

Morgan Herdklotz – Aye

Ted Silver - Aye

Fred Schmitt – Aye

Deka Tate - Aye. The motion carried with a 4-0 vote.

The conditions required of the project, in addition to those representations made by the developer as part of the hearing are as follows:

Ted Silver motioned that the dumpster be relocated out of the flood way. Morgan Herdklotz seconded. The vote was:

Morgan Herdklotz – Aye

Ted Silver - Aye

Fred Schmitt – Aye

Deka Tate - Aye. The motion carried with a 4-0 vote.

Motion by Ted Silver that along with the Findings of Fact and the Conclusions of Law, the CUP is approved with conditions. Seconded by Morgan Herdklotz. The vote was:

Morgan Herdklotz – Aye

Ted Silver - Aye

Fred Schmitt – Aye

Deka Tate - Aye. The motion carried with a 4-0 vote.

Fred Schmitt motioned that the July meeting be held on Wednesday, July 17, 2019 at 6:00 at the Banner Elk Town Hall instead of the regularly scheduled meeting date. Ted Silver seconded. The vote was:

Morgan Herdklotz – Aye

Ted Silver - Aye

Fred Schmitt – Aye

Deka Tate - Aye. The motion carried with a 4-0 vote.

Ted Silver motioned to recommend to the Town Council and the Planning Board to recognize the need for bike racks outside of the Heritage Overlay District and for an amendment to the ordinance to make this a requirement of any development. Fred Schmitt seconded. The vote was:

Morgan Herdklotz – Aye

Ted Silver - Aye

Fred Schmitt – Aye

Deka Tate - Aye. The motion carried with a 4-0 vote.

With no further business, Ted Silver motioned to adjourn with a second by Deka Tate. All were in agreement and the meeting was adjourned at 7:00 pm.

Respectfully submitted,

Cheryl Buchanan, Secretary to the Board of Adjustment