

BANNER ELK PLANNING BOARD MEETING  
MONDAY, MARCH 02, 2020  
MINUTES

Members Present: Aaron Barlow, Allen Bolick, Meredith Olan, Joel Owen, Penny VonCanon

Staff Present: Zoning Administrator Cheryl Buchanan, Town Manager Rick Owen

Chairman Joel Owen called the meeting to order at 6:01 p.m. Mr. Owen opened with the pledge of allegiance to the flag.

Chairman Owen introduced a new member to the Board who is awaiting approval from Town Council. His name is Ray Knowles and he resides in Apple Orchard. Mr. Knowles will be an in-town member. Mr. Knowles was welcomed by everyone.

**Consideration of the January 2020 Minutes**

Penny VonCanon motioned to approve the minutes for the January 2020 meeting as submitted. Meredith Olan seconded the motion. The vote was unanimous and the motion carried.

**Old Business**

**Short Term Rental Ordinance**

Zoning Administrator Cheryl Buchanan told the Board that she has provided them a copy of the draft ordinance regulating short term rentals with the Town Attorney's comments and suggestions. She included this document in the packet for the member's review and suggestions. The following are comments by the Board on the draft ordinance:

1. Question by the Board on the additional comment before Definitions that includes the word jurisdictional. The Board questioned what jurisdictional meant, whether it covered ETJ, or just corporate limits.
2. The Board's census was to permit this ordinance in the corporate limits as an overlay. There was some discussion on which areas would be most affected and how this would relate to subdivisions with active POA's.
3. In Section A, #3, the Board asked if the phrase "on or after" could be removed.
4. There was a discussion about Section C, #3, and the three (3) verified violations that would constitute a revocation and/or denial of a permit. The topic was if the Police Department is called, what constitutes a valid complaint verification, a ticket or citation or just the fact that they were called? Would simply the Police Department being called be a valid violation? Ms. Buchanan weighed in, stating that she felt that if action was taken by the Police Department, it would be a good indicator of whether a complaint was valid or just a disgruntled neighbor complaint. If the Police respond and determine the complaint is not a problem, then the Town would go by that. If the Police respond and file a report without a citation being issued, how would the Town view that? This is a question that will be deferred to the Town's Attorney for comment.

5. Under Operation Requirements, it was determined that the Board would favor two (2) adults per bedroom with two (2) additional adults as maximum occupancy. There was a question of how this would be determined, which led into a larger discussion about liability and could the Town be liable if this disclaimer advertised this as a Town requirement. This is a question for the Town's Attorney.
6. There was also a request to not limit the number of occupants during a special event, just to simply strike this notation from the ordinance.
7. The topic of inspection requirements and who would be responsible took some time to review. The Town Manager and Zoning Administrator both agreed that they did not want to be responsible for verifying the validity of a structure for rental based on the building code. Ms. Buchanan weighed in that her biggest concern would be for items that meet the zoning ordinance such as adequate parking spaces, etc... It was suggested that a disclaimer statement could be included on the application that the Town is not taking any liability for meeting building code or are responsible for inspection of properties.
8. It was determined that the homeowner would be the responsible party for trash removal, however they deemed best. This takes away the liability for the Town.
9. Under Section on Operation Requirements, #7, Parking, the Board decided that the statement should simply read: The owner shall provide adequate on-site parking. It would be up to the owner to illustrate this requirement being met.
10. Under Section on Operation Requirements, #11, Food, the Board asked that this be removed entirely.
11. Under Miscellaneous Requirements, #4, Inspections, the Board and the Town Manager did not want this to be a requirement as long as the applicant is in compliance with the requirements of the Zoning Ordinance. Liability for fire extinguishers and Co2 detectors should not be a burden of proof for the Town.
12. Fee for the permit per year was suggested to be \$50.00, with Town Council's approval.

Ms. Buchanan said she would go back to the Town's Attorney with these comments and seek his input.

### ***New Business***

#### ***Plan for Revitalization of Historic Banner Elk School***

Town Manager Rick Owen appeared before the Planning Board to explain the project to revitalize the Historic Banner Elk School. The plans include additional parking along with the parking lot over the stormwater valut, filling and drainage repair to the field out front and a connector street from Azalea Way to Culver Street. The Manager asked the Planning Board to review the plans and to offer any comments or suggestions that he can take back to the Town Council for review.

### **Planned Demolition of Baltzley's Jewelry Building**

Zoning Administrator Cheryl Buchanan was meeting with Angelo Accetturo about some of his plans for the Village Shoppes. Mr. Accetturo mentioned that he has been leasing the old Baltzley's Jewelry building and is in the process of purchasing it. During the conversation, Mr. Accetturo said he plans to tear the building down and put up another. At the time, Ms. Buchanan informed him that he would need a conditional use permit to accomplish this. The reason this subject is being brought before the Board is to make them aware, since the building is so prominent in the downtown area. The building was built in 1929 and is not in the best shape, however, it holds some historical value.

According to Meredith Olan, Director of the Greater Banner Elk Heritage Foundation, the property is on their walking tour. Mrs. Olan told those present that the building was once the town hall, an old jail and the site of Whitesell's Woodworking shop. Penny VonCanon had on display two items from the woodshop, a stool and a pair of handmade skis. Mrs. Buchanan stated that the Town could not stop the demolition, but would have a say on what the new building would look like. Some Board members asked what the purpose of the Heritage Overlay District served. Ms. Buchanan explained that when a new building is proposed, this overlay gives the town some say in the design and how it will look, keeping the feel of a small mountain town within grasp. Chairman Joel Owen expressed concern for the limited parking in the downtown area. Ms. Buchanan commented that the zoning for that particular parcel does not require parking. Mr. Owen said he had a problem with that and concern was expressed for the new Louisiana Purchase being built and if they would have adequate parking. Ms. Buchanan reminded the Board that this came before them as a CUP review and that the Purchase met the parking requirements of the ordinance. The census of the Board was that it may not be enough. Ms. Buchanan reiterated to the Board that the planning for the downtown area was to have people participate in a walkable community and that some of the patrons would live within walking distance or simply park and then walk to several destinations.

### **Miscellaneous Items**

Ms. Buchanan asked the Board for clarification on wording in the sign ordinance. She read from the entry on *Temporary Signs* and specifically highlighted the term "same sign". Recently, she had been given scenarios asking for a determination on what is considered a same sign. Several thoughts were put forth, however, Chairman Joel Owen said he felt this was a matter for a higher power and asked for the Town's Attorney to take a look at it and provide some guidance. Ms. Buchanan said she would defer to him.

With no further business, Aaron Barlow motioned to adjourn and a second by Penny VonCanon. Everyone was in agreement and the meeting came to an end at 8:15 pm.

Respectfully submitted,  
Cheryl Buchanan, Zoning Administrator, Town of Banner Elk