

BANNER ELK PLANNING BOARD MEETING  
MONDAY MARCH 6, 2023  
MINUTES

Members Present: Joel Owen, Melinda Eggers, Jacki Lecka, and Penny VonCanon. Aaron Barlow was absent.

Staff Present and Participating: Zoning Administrator Riley Pudney

Chairman Joel Owen called the meeting to order at 6:00 pm. A quorum was established, the Pledge of Allegiance was conducted, and the meeting was called to order.

**Consideration of December 2022 Minutes**

Chairman Joel Owen asked the Board to look at the August minutes and see if any adjustments needed to be made. Penny VonCanon asked what the status was for the above ground grease trap at Las Nubes. Zoning Administrator Riley Pudney told her that they had a conversation with Justin that day and had no additional update. With no further comments, Melinda Eggers motioned to approve the minutes and was seconded by Jacki Lecka. The motion passed unanimously.

**Special Use Request-Manufactured home in ETJ-Menefee**

Zoning Administrator Riley Pudney explained to the Board that this request was the exact same as the previous manufactured home request that the voted on in October. The request is for the same home from the same company right next door to the previous applicant. She stated that Chet Menefee is the son of Robert Menefee and had ordered a home after his father received his approval. She informed the Board that it met all required setbacks and had private water and sewer. Penny VonCanon asked if there should be a change in the ordinance to clarify the difference between a mobile home and a manufactured home. Zoning Administrator Riley Pudney said that she will definitely look at the ordinance and provide options to the Board.

With no further comments or questions, Jacki Lecka motioned to favorably recommend the project to the Board of Adjustment and was seconded by Penny VonCanon. The motion passed unanimously.

**Special Use Request-Duplex 1285 Balm Highway**

Zoning Administrator Riley Pudney informed the Board that this request was to have a duplex in an R-2 zoning district. She stated that it will be in the existing building with no additions required. The applicant will create an additional bedroom/bathroom and kitchen area in the existing space. It will have 2 separate living spaces and will be rented long term. She stated that the property is requesting to be annexed into Town and if granted, would have Town water and sewer. She also explained that the property is also going to the Board of Adjustment next month for a variance due to the existing building encroaching on the rear setback. Chairman Joel Owen asked what the difference would be between the duplex and calling it an ADU. Zoning Administrator Riley Pudney answered that ADU's cannot be rented, so it can only be classified as a multi-family structure. Penny VonCanon asked if the white shed would be removed. Zoning Administrator Riley Pudney answered that the applicant states a shed will be removed from the property but was not sure if it was the white one in question. Chairman Joel Owen asked if the building would have to be brought up to current fire code. Zoning Administrator Riley Pudney stated

that that would be at the discretion of Avery County as it related to the building code. Chairman Joel Owen stated for the record that he believes the white building use to be the old Balm Highway Post Office and has historical value which could cause contention among the public if removed.

With no further questions or comments, Penny VonCanon motioned to favorably recommend the application to the Board. She was seconded by Chairman Joel Owen and the motion passed unanimously.

### **New Commercial-Low Density Zoning District**

Zoning Administrator Riley Pudney reintroduced the proposal of a new zoning district to the Planning Board for final review and approval. The new district is commercial-low density (C-LD) and would allow for small scale, low impact commercial businesses in more residential rural areas. The term “Adaptive Reuse” was explained as allowing for existing structures to be renovated and turned into commercial businesses. Penny VonCanon asked if the “Adult Daycare” facility is the same as a long-term overnight facility. Zoning Administrator Riley Pudney stated that it was not, but if the Board was interested in adding uses, that that could be accomplished down the line. Penny VonCanon stated that it would be a good idea to have. Zoning Administrator Riley Pudney further explained that this would help implement the land use plan and allow for some development on the 184 and 194 corridors. Melinda Eggers asked if any properties would automatically be rezoned to C-LD. Zoning Administrator Riley Pudney stated that no properties would be rezoned until a request was filed by an applicant.

With no further comments or questions, Chairman Joel Owen favorably recommended the adoption of the new district to the Town Council. His motion was seconded by Melinda Eggers and passed unanimously.

### **Staff Updates**

Zoning Administrator Riley Pudney informed the Board of the following updates:

There is a proposed hotel project that wants to be annexed into Town. The developers were at the meeting and provided the Board with renditions of the building. Town Manager Rick Owen explained that the current ordinance regarding height in the MU district would restrict the hotel from being built. He recommended for the Board to consider amending the ordinance to reduce the front setback and ridge height requirement for properties in the MU that would be over 70’ in height. Zoning Administrator Riley Pudney stated that she believes a change from 250 to 125 would be appropriate and would still limit potential sites to building right on the road. Penny VonCanon and the other members of the Board expressed their excitement and interest in the project. Philip Barrier from Avery County, Hallie Willis with Mountain Community Bank and the project architect were also in attendance.

Zoning Administrator Riley Pudney provided the Board with two previously adopted ordinances. She stated that they did not copy over to the American Legal version and requires to be recodified. She stated that they were 152.086 (g) Utilities and (h) Fences. Penny VonCanon asked if the adoption of these ordinances would require properties to come into compliance. Zoning Administrator Riley Pudney stated that it would not, and that existing properties would be grandfathered in. The Board unanimously recommended the two ordinances to go to the Council for recodification.

Lastly, Zoning Administrator Riley Pudney asked the Board for their interpretation of a greenhouse on a commercial property where it would not be used in conjunction with the business. The question arose from a conversation with Mark Minor, who wants to put a greenhouse on the side of the Barkery for personal use. Chairman Joel Owen stated that it would not be considered an accessory use or building since it was not being used in conjunction with the principal business. He further explained that he believes a greenhouse can be used in a residential area and be considered an accessory use. Penny VonCanon believes that there shouldn't be an issue with wanting to put a greenhouse on a property. Chairman Joel Owen and Zoning Administrator Riley Pudney stated that people are allowed to have greenhouses, however, should it be classified as an accessory use when it has no relation to the principal business. After discussion, the Board and staff agreed that the greenhouse for the Barkery would not be a permitted use.

With no further comments or questions, Penny VonCanon motioned to adjourn the meeting and was seconded by Jacki Lecka. The motion passed unanimously, and the meeting adjourned at 7:17 pm.

Respectfully Submitted,

Riley Pudney, Zoning Administrator and Clerk