

BANNER ELK BOARD OF ADJUSTMENT
MONDAY, 11/21/2016
MINUTES

Members Present: Jimmy Ollis, Joe H. Perry, Fred Schmitt, Ted Silver

Staff Present: Cheryl Buchanan, Rick Owen, Town Attorney Stacey Eggers, IV.
Esq.

Chairman Fred Schmitt called the meeting to order at 6:00 pm. Chairman Schmitt asked everyone present to stand and join in the pledge of allegiance to the flag. Chairman Schmitt noted that there is a quorum present to hear the application.

Consideration of the June 20, 2016 Minutes

With no changes to the minutes, Joe H. Perry moved to approve the minutes as submitted. Ted Silver seconded. The vote was:

Jimmy Ollis - Aye

Joe H. Perry - Aye

Ted Silver - Aye

Fred Schmitt - Aye. The motion carried with a majority.

Chairman Schmitt opened the quasi-judicial portion of the hearing with an introduction of procedures for a conditional use hearing and an opening statement. Board member Ted Silver disclosed that he serves on another board with Les Broussard but assured the Chairman that he could be impartial during this hearing. All Board of Adjustment (BOA) members were seated with no objections.

Application for a Conditional Use Permit – Tavern on Highway 184 – Les Broussard

Zoning Administrator Cheryl Buchanan was sworn in by Chairman Schmitt and gave an overview of the application based on the use of a restaurant as the tavern will not only have a bar but will have seating for dinner. A restaurant is a conditional use in the C1-P zoning district and that is the reason for the hearing tonight. Exhibit 4 is the application for a Conditional Use Permit.

Ms. Buchanan reviewed setbacks for the C1-P and stormwater measures as they currently exist on the property. The Town's current system cannot handle any more impact until the proposed renovations to the old system have been completed. A letter from Engineer Derek Goddard of Blue Ridge Environmental assessed that the numbers provided by the Architect on the plans indicate that the new building along with other improvements will meet or even exceed the

requirements of the stormwater ordinance. However, Mr. Goddard suggested that once the construction is finished; the Town should require a final as-built survey be conducted to verify there is no net increase in impervious surface. This letter was submitted into evidence as Exhibit 1.

Ms. Buchanan reviewed parking requirements based on seating for not only the Tavern but the Lodge and the Café. The newly purchased property adjoins both of Mr. Broussard's other parcels and all three of the buildings will be interconnected. Ms. Buchanan noted that as a condition she would like to see a new survey done combining the three parcels into one. Exhibit 5 is a geographical informational illustration of the property in its entirety with the newly purchased parcel highlighted. Parking requirements for the 148 total seats in all three (3) restaurants would require 49 spaces. Mr. Broussard has 26 spaces on his property and also has a written agreement with Mark Minor for an additional 50 off-site spaces, giving Mr. Broussard adequate parking. The written agreement was entered as Exhibit 2.

A review of Section 500's architectural standards told the Board that the new building will be cedar shingles and rock to match the Café. Exhibit 3 was submitted as a conceptual rendering of what the new building will look like inside. Attached to this was a rendering of the proposed outdoor fire pit. For an outside elevation, refer to the plans submitted as Exhibit 6. Section 503 covers the Heritage Overlay District and Section 504 is the guidelines for the Viewshed Development. All elements of these sections were addressed and Mr. Broussard was able to meet the requirements. No new signage is being proposed and Mr. Broussard has stated that he plans to move The Lodge's sign to the corner of the newly purchased property so that it can be seen from Highway 184. Additional landscaping will be done as indicated on the plans. Exhibit 6 was submitted and is the original plans for the property in its entirety with elevation drawings, floor plan and dimensions of the new building with entrance changes, parking indicated and landscaping.

Chairman Schmitt asked if there were any questions for Ms. Buchanan. Mr. Broussard was then sworn in and was asked if he had anything to add to the hearing. Mr. Broussard went over the history of the three parcels and his ownership. Mr. Broussard told the Board that he is adding an element to his current business with the Tavern and described the fireplace with its see through glass outside and the new fire pit. Chairman Schmitt asked Mr. Broussard if he understood the conditions that had been discussed during Ms. Buchanan's review. He acknowledged he did and stated that he is anxious to get started.

At this point, Chairman Schmitt closed the public comment section of the hearing and asked the Board to begin deliberations on the applications.

Ted Silver asked Council if combining the three parcel into one would have any detrimental effects on taxes. Mr. Eggers answered no, that he thought this was an appropriate condition considering that all three buildings would be

connected. Mr. Eggers also told the Board that they would need to find that there is appropriate landscaping to meet the requirements of Section 504.4's viewshed language. Additionally he stated that the parking agreement is for one year and that it is renewed yearly and that if the agreement is not renewed, the use would have to stop until adequate parking could be identified and that this could be a condition of the permit.

Chairman Schmitt said the first step is to determine that the application is complete. Joe H. Perry moved that the application is complete. Jimmy Ollis seconded. The vote was:

Jimmy Ollis - Aye
Joe H. Perry - Aye
Ted Silver - Aye
Fred Schmitt - Aye. The motion carried with a majority.

Next Chairman Schmitt asked if the Board thought that the requirements in the ordinance had been satisfied with the exception of the conditions. Jimmy Ollis moved to approve that the requirements had been satisfied. Joe H. Perry seconded. The vote was:

Jimmy Ollis - Aye
Joe H. Perry - Aye
Ted Silver - Aye
Fred Schmitt - Aye. The motion carried with a majority.

Attorney Eggers said it would be appropriate to consider any conditions that may be necessary. Chairman Schmitt stated that as a condition, a final as-built survey to verify the no-net increase in impervious surface would need to be performed after construction is completed and before a certificate of occupancy has been issued. Joe H. Perry moved to approve the condition. Fred Schmitt seconded. The vote was:

Jimmy Ollis - Aye
Joe H. Perry - Aye
Ted Silver - Aye
Fred Schmitt - Aye. The motion carried with a majority.

A second condition to re-plat the three parcels as one parcel and record it in the Register of Deeds Office was moved upon by Joe H. Perry. Jimmy Ollis seconded the motion by Mr. Perry. The vote was:

Jimmy Ollis - Aye
Joe H. Perry - Aye
Ted Silver - Aye
Fred Schmitt - Aye. The motion carried with a majority.

Joe H. Perry moved that the landscaping in Exhibit 6 is reasonable as required in Section 504.4. Jimmy Ollis seconded. The vote was:

Jimmy Ollis - Aye
Joe H. Perry - Aye
Ted Silver - Aye
Fred Schmitt - Aye. The motion carried with a majority.

Lastly, a condition to notify the Zoning Administrator should anything change with the parking agreement between Mr. Broussard and Mr. Minor and that new suitable parking could be proven to the Zoning Administrator. Joe H. Perry moved to approve the wording of this condition. Jimmy Ollis seconded. The vote was:

Jimmy Ollis - Aye
Joe H. Perry - Aye
Ted Silver - Aye
Fred Schmitt - Aye. The motion carried with a majority.

Joe H. Perry moved to issue the CUP based on the conditions listed above. Jimmy Ollis seconded. The vote was:

Jimmy Ollis - Aye
Joe H. Perry - Aye
Ted Silver - Aye
Fred Schmitt - Aye. The motion carried with a majority.

A motion by Jimmy Ollis to close the hearing and call the meeting adjourned at 7:30 pm was seconded by Joe H. Perry. The vote was:

Jimmy Ollis - Aye
Joe H. Perry - Aye
Ted Silver - Aye
Fred Schmitt - Aye.

Public hearing 112116 came to a close. Attorney Eggers said that the Zoning Administrator would be working with his office to prepare the documents within 30 days.

Respectfully submitted,

Cheryl Buchanan,
Zoning Administrator, Town of Banner Elk