

BANNER ELK PLANNING BOARD MEETING  
MONDAY, 01 DECEMBER 2014  
MINUTES

Members Present: Allen Bolick, BR Hoffman, Will Mauney, Meredith Olan, Joel Owen and Penny VonCanon

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

Others Present: Rebecca Bolick, Justin Curtis, Brenda Lyerly, Drew Wallace, Charles VonCanon, Jr

Chairman Joel Owen called the meeting to order at 6:02 pm. The Chairman opened with the pledge of allegiance to the flag and noted that there was a quorum present.

*Consideration of the November 2014 Minutes*

Chairman Owen asked if anyone had changes to the minutes from October 06, 2014. None were noted and Allen Bolick moved to approve the minutes as submitted Penny VonCanon seconded the motion. The vote was unanimous and the minutes were approved.

*Request for a Conditional Use Permit (CUP) for Fatty Maddy Beer Company*

Chairman Owen began with the Zoning Administrators review of the CUP request for a microbrewery. Ms. Buchanan started with a review of the application. Fatty Maddy Brewing Company is renting space in part of the NAPA building owned by Thomas Cline et al. The property is zoned C-2 and a microbrewery is a conditional use in the C-2. Ms. Buchanan also said this request is for a variance as well. The NCDOT has a 100ft right-of-way on that stretch of Highway 184 and there is a map in the packet that illustrates how close to the building this r-o-w would affect both businesses' parking area. The number of parking spaces offered meets the requirements of the ordinance for both businesses as well as proper ingress and egress for Highway 184.

The property is served by town sewer but is on a private well. Public works is reviewing the amount of water that will be needed and the process of cleaning the equipment and the effects it could have on our wastewater plant. Ms. Buchanan said this approval should be made a condition of this CUP. As for signage, they are not planning to add signage at this time. Perhaps the Board would like to make a second condition that when they do want signage, it can be approved by the Zoning Administrator. For solid waste, there is an enclosure at the back of the building and currently NAPA is using roll off carts. Justin Curtis has said he did not think they would generate that much solid waste, but if something changes, he would order a dumpster for the enclosure. As for storage of grain, Justine has said there will be plenty of room inside the building for that. The Company does not plan to do that much volume to begin with, and the spent grain goes to a pig farm in Tennessee.

For the educational and public aspect of this business, Mr. Curtis has advised that they will be holding classes and meetings for home brewers. Eventually they plan to install a tap room sometime next year. Ms. Buchanan noted that businesses on either side and in front are commercial but that the property abuts a residential property in the back. However, the residential property sits up on a hill and will not require additional buffering.

Allen Bolick asked if they planned to have food. Mr. Wallace answered that if they do, it won't be heated but would be pre-bagged. This eliminates the need for the health department to inspect the premises for food. Allen Bolick asked if Avery County Inspections or the Health Department had been out yet. Justin replied no, but they had worked with them at another location and knew what was expected of them and believe they will have no problem meeting the requirements of either agency.

Joel Owen asked if they had federal approval yet. Justin Curtis said all the paperwork had been submitted and that it would not take long to be up and running. He stated that once their equipment is up and running they are looking at a 75 day time frame to be able to sell their product. Joel Owen suggested that they switch their parking on the side to be up against the building, in order to not interfere with the trucking company next door. Justine said he would do that and that their hours of operation would be 4:30 pm until 11:00 pm and that NAPA closes at 6:00 pm, so his schedule should not conflict with either business.

Allen Bolick moved to recommend approval to the Board of Adjustment with the following conditions:

1. When signage is proposed, must meet with the approval of the Zoning Administrator,
2. Approval by the Public Works Director for use of waste water system for discharge and cleaning of the equipment.

Meredith Olan seconded. With no further discussion, the vote was unanimous and the motion carried.

#### Ordinance Review and Amendment Request

Ms. Buchanan informed the Planning Board that she had encountered a situation during the Veterans Day Holiday that caused some concern for her. When she returned to work, she discovered a house that was about  $\frac{3}{4}$  of the way finished with vinyl siding. Other than a change in the brightness of the newer siding, the difference could not really be detected. She confided with the Town's Attorney and told him about an earlier meeting where the Board had said there were now materials that were once prohibited and might be allowed. On this premise, the Attorney said that he would not ask for the siding to be removed and that perhaps she should approach the Board with a change to the amendment. Therefore, Ms. Buchanan was bringing this to the attention of the Board.

After much discussion, the only solution was to remind the citizens of Banner Elk that there is a zoning ordinance and that any changes should be brought before the Zoning Administrator

before the work has begun. Additionally it was suggested that an asterisk could be added to the term “vinyl siding” in the “prohibited” section that reads, “can be allowed if prior approval from the Planning Board.” Ms. Buchanan stated that as she was out and driving around yesterday; she was surprised at how many properties have vinyl siding, some of them fairly new houses built within the last 10 years. She stated that they look remarkably well and they couldn’t have been much of an eyesore or someone would have complained by now. Joel Owen said that most people did not know that Banner Elk has a tree ordinance. Ms. Buchanan said that she had a note printed on the water bills as well as placing an article in the paper and making those who cut trees for a living aware that they need to be signed up with the Town in order to cut trees in Banner Elk. Ms. Buchanan said she had not had any trouble enforcing the tree ordinance and inspects every job before it is done. Mr. Owen said he felt the Town had not done enough to make people aware and that we should try something else, that one day we may have a problem if we did not treat everyone the same. Ms. Buchanan said she has to look at each request on a case by case basis because no two are alike.

The second amendment request from Ms. Buchanan referred to a recent case for a hostel. Finding a definition not in the ordinance but the same as an inn, Ms. Buchanan consulted with the Town’s Attorney and he suggested that if it meets the CUP requirements of an inn, including the intent, then the applicant could call it whatever she wanted to, but define it as an inn. In looking at the definition of a Bed and Breakfast Inn, the word accommodation is included as part of its definition. Ms. Buchanan said there are measurement restrictions in the definition for accommodations that are stricter than the State Building Code. She would like to have this sentence stricken from the ordinance and allow Avery County Inspections to enforce the State’s Building Code, and this not be Banner Elk’s responsibility. Ms. Buchanan said she could not explain why this was in the ordinance this way, the ARG’s were written in 1998, before she came to work here. Will Mauney said he thought we ought to add a definition for a hostel and read one from Wikipedia.

The Planning Board asked Ms. Buchanan to speak with the Town’s Attorney about how to word this and bring it back to the next meeting.

After a short history lesson, Penny VonCanon moved to adjourn. Joel Owen seconded and the meeting was adjourned at 7:25pm.

Respectfully submitted,

Cheryl Buchanan  
Zoning Administrator, Town of Banner Elk