

BANNER ELK PLANNING BOARD MEETING
MONDAY, 23 MARCH 2015
MINUTES

Members Present: Allen Bolick, BR Hoffman, Will Mauney, Martha Laura Miller, Joel Owen

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

Others Present: Rebecca Bolick, Thomas Bryant, Jessica Clawson, Mark Minor, William Puckett, Jennifer Ramsden, Derek Rowley, Erika Seigel, Janet Trammel, Charles VonCanon, Jr

Chairman Joel Owen called the meeting to order at 6:04 pm. The Chairman opened with the pledge of allegiance to the flag and noted that there was a quorum present.

Consideration of the December 2014 Minutes

Chairman Owen asked if anyone had changes to the minutes from December 2014. Martha Laura Miller stated that she thought she was there for that meeting. Zoning Administrator Cheryl Buchanan said that she would look back at her notes and review the recording. Will Mauney moved to approve the minutes as submitted BR Hoffman seconded the motion. The vote was unanimous and the minutes were approved.

Request for Consideration of Allowing a Kennel to the Zoning Ordinance in the R-1

The discussion was introduced by the Zoning Administrator Cheryl Buchanan. Ms. Buchanan introduced Erika Siegel and Mark Minor as the two applicants who are interested in purchasing two pieces of property at the top of Edgar Tufts Road. Ms. Siegel and Mr. Minor stated that the lower property is roughly 8 acres and the upper tract is 6.5 acres. The lower tract has an existing barn and they would like to turn that building into a kennel. It should be noted that Ms. Siegel owns the local pet shop in town and boarding animals would be an extension of her business. Ms. Buchanan had informed Ms. Siegel and Mr. Minor that under the current zoning ordinance a kennel is not allowed in any zoning district. Therefore in order to change the ordinance there would need to be an amendment to the ordinance and this begins with the Planning Board. Ms. Buchanan told Mr. Minor that it would be ideal for them to come before the Planning Board to make this request in case there are any questions that the Board might have that Ms. Buchanan could not answer. Ms. Buchanan also introduced Jessica Clawson, a neighbor who had asked if she could speak at this meeting as well.

Mr. Minor spoke to this request stating that after looking further, he believes that he needs to build a new structure instead of using the existing barn. Mr. Minor said that he plans to make the structure with double walls in order to hold down noise from barking dogs. There will be windows and an area where the cages can be washed down. The plans are for 15 – 20 outside runs with double fencing for exercising. Erika Siegel said that she would not allow the dogs to be out more than one (1) to two (2) hours at a time for a total of two (2) to three (3) times a day

and that the dogs would be kept inside at night. Joel Owen asked if the dogs would be picked up each afternoon and brought back the next morning, much like a daycare. Erika Siegel said the dogs would be boarded for an overnight stay. Mark Minor also stated that they intend to live on this same parcel.

BR Hoffman asked if they owned any property to the right or left of the road. Mr. Minor pointed out the parcel on the map that was provided by the Zoning Department. Joel Owen asked if Mr. Minor had spoken with the neighbors and the biggest concern is noise. Joel Owen asked if building a structure that is for commercial use in a residential zoning district might pose a problem. Ms. Buchanan said that would need to be taken into consideration and she would recommend that the use for kennels be conditional.

Jessica Clawson said she lives there because it is quiet and there's not a lot of traffic. Mrs. Clawson said there are a lot of kids in the neighborhood who play, ride their bikes and Mr. LaFone allows them to play in the creek on that property right now. Mrs. Clawson said she is worried about excessive traffic.

Janet Trammel said that her father has owned that property for a hundred years and traffic is a concern for her too. Mrs. Trammel said she would like to keep the neighborhood like it is now. Jessica Clawson said that Mr. LaFone has told her he is against the kennel as well. There was concern for where the waste would go and whether it would contaminate other people's wells.

Mr. Minor said that the Health Department requires two fences and two separate septic systems, one for the employees and one for the animals. Mr. Minor said that the State is very specific to regulations for a kennel. Erika said that they will be open 9:00 am to 5:00 pm and closed on the weekends. Will Mauney asked how many dogs they are looking to keep at full capacity. Ms. Siegel answered 15, maybe 20. Mr. Mauney asked the others who live in that area if they have pets. They all answered yes and they allow them to roam free as they all get along with each other and they keep them up when they're gone. Mr. Mauney asked if the dogs could be heard barking. Ms. Siegel said they had heard dogs barking when they were out there before.

Martha Laura Miller said it definitely need to be conditional and that would allow for specific plans to be reviewed as each neighborhood is different. Joel Owen said they need to decide if it is even a viable use in a residential zoning district.

Derek Rowley asked for permission to speak. He introduced himself and said he is the listing agent representing the seller. Mr. Rowley said that there are a few questions the seller wants to ask. If a buyer built a house and had dogs is there a set number of dogs they can have. Joel Owen answered no, but said that once you use that as a money making venture, that changes things. Joel Owen said that if the seller is curious about what's allowed in the R-1 he can get a copy of the usage charts. Joel Owen cautioned that a commercial venture is not allowed on a residential property.

Joel Owen said that the applicants could supply a lot more information to the neighbors that might make the neighbors more amenable to this situation. He also said he would be more confident if the neighborhood was so opposed.

Martha Laura Miller stated that there is some reason as to why this is not in our ordinance and that the matter should be looked at a little more before a decision is reached. Ms. Buchanan said she would be happy to find out how many other towns have kennel's in their ordinance and where they permit them. Martha Laura Miller says she understands both sides of this issue as she loves dogs too, but has a neighbor whose dog can get on her nerves. She stated that the fact that our ordinance is as restrictive as to not allow it at all seems too much and she would like to look into it a bit more before making a motion to change the ordinance. Joel Owen says he feels it should be in the commercial zoning district. Martha said that this is what she's talking about and first they need to decide if they are going to allow it at all. Allen Bolick said that 200 feet away from a residence is not very far and they need to look at this too. Martha said that first, they need to decide if they want to allow it and then second, then where and most definitely it should be conditional.

Joel Owen said he would feel better if he had more information and asked Cheryl to look into that.

Request for Consideration of Amending the Zoning Ordinance to Allow a Tattoo Parlor

Ms. Buchanan introduced Thomas Bryant and informed the Board that he had approached her about putting a Tattoo Parlor in Banner Elk. As with the previous case, this is a matter of a use that is not in the ordinance and is therefore not allowed. Ms. Buchanan told the Board that a Tattoo Parlor has to meet so many State guidelines that she feels that the Town would be protected from all the negativity that has been associated with this type of business in the past. Unlike the chiropractor's office, where he does his work in the window, tattoo artists must work in an enclosed room. The sign ordinance is pretty restrictive and would not allow any negative promotions. Mr. Bryant said the location he has chosen is in the High Country Square.

BR Hoffman said there are enough college students here to possibly support his business. Mr. Bryant said that his special talent is repairing bad tattoos. Martha Laura Miller said she supports this request. Joel Owen agreed. BR Hoffman said that a tattoo is an expression of oneself and she could see no problem in adding this. There was some discussion of adding this to the C-1 and the C1-P zoning districts, but the Board concluded that they did not want this use in the Heritage Overlay District.

Martha Laura Miller moved to add Tattoo Parlor's as a permitted use in the C-2 zoning district consistent with the guidelines of North Carolina General Statute Chapter 130A, Article 8, Part 11, Chapter 15A of the Department of Environment and Natural Resources, and Banner Elk's Land Use Plan. Will Mauney seconded. The vote was unanimous and the motion carried.

Additional Request for Rezoning – Carson T. Puckett

Zoning Administrator Cheryl Buchanan told the Board that she had a visit from Judy Puckett, wife of Carson Puckett. The Puckett's own the little house located at 146 Shawneehaw Avenue South, beside the Banner Elk Exxon. Ms. Buchanan told the Board that this was a single family dwelling that was zoned residential for a long time. When their last tenant moved out they

decided to rent the building to a business and asked the Town to rezone the property. It was rezoned to commercial and has had two businesses in it since that time. Mrs. Puckett told Ms. Buchanan that she would like to allow her son, Chad Puckett to live in the house since it has been in the family for almost 100 years. Ms. Buchanan said that because of the zoning, it could not be a residence right now. Mrs. Puckett asked what might be done to allow this and Ms. Buchanan said that a rezoning or a variance were her two options.

Martha Laura Miller said she found it difficult to tell the owners that no part of their family could live in their own house. Joel Owen said he would support a rezoning request. Ms. Buchanan said that this is in the Heritage Overlay District and falls in line with preserving the heritage of the downtown area and maintaining greenspace. This would be the perfect way to do this.

BR Hoffman moved to recommend to Town Council that the Planning Board supports the rezoning of the Puckett property to R-1 Residential, consistent with Section 307.1 of the Banner Elk Zoning Ordinance. Martha Laura Miller seconded. The vote was unanimous. The motion carried.

With no further business before the Board, Martha Laura Miller moved to adjourn at 7:54 pm. BR Hoffman seconded. The vote was unanimous and the meeting came to an end.

Respectfully submitted,

Cheryl Buchanan
Zoning Administrator, Town of Banner Elk