

BANNER ELK PLANNING BOARD MEETING  
MONDAY, 07 NOVEMBER 2016  
MINUTES

Members Present: Allen Bolick, BR Hoffman, Will Mauney, 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 6:00 pm. The Chairman opened with the pledge of allegiance to the flag and noted that there was a quorum present.

Consideration of the September 2016 Minutes

Penny VonCanon motioned to accept the September 2016 minutes as submitted. BR Hoffman seconded. The vote was unanimous and the motion carried.

Conditional Use Permit (CUP) Request – Les and Cindy Broussard

Zoning Administrator Cheryl Buchanan began with a review of the request for a CUP from Les and Cindy Broussard. The request is for a tavern to be added to a newly purchased piece of property at 312 Shawneehaw Avenue. The Broussards own the two adjoining pieces of property with a restaurant on both parcels interconnected with covered outdoor seating. This third piece will also be connected to the other two parcels. Ms. Buchanan asked the Planning Board to consider a condition to this request to have the three (3) parcels combined into one (1) parcel since all of the buildings will be connected.

Ms. Buchanan continued with a review of the CUP application and how it relates to all sections of the zoning ordinance as well as being located in the Heritage Overlay District. The only section that could not be adhered to was stormwater. The Town's current stormwater vault is due to be replaced in the next 2 years and cannot handle any added stress at this time. Stormwater from the current building on the property goes into the curb and guttering and then into existing storm grates. There are three (3) such grates located on the property. Town Manager Rick Owen said he felt this would not increase stormwater runoff on the site and that it is currently manageable now. When asked, Rick Owen could not tell the Board where that runoff goes to. Penny VonCanon said she would like to see this be a future project that the Town might consider adding to the future stormwater system.

BR Hoffman asked when construction might start. Les Broussard answered that he was anticipating January 1<sup>st</sup>. Joel Owen asked about lighting and questioned whether it was adequate for pedestrians who have a habit of walking out into oncoming traffic between parked cars. Manager Owen said there are lights on the other side of the road and one at the corner where the crosswalk is located. Les Broussard offered to take his totem pole down and put a streetlight at the edge of his parking lot as well. Penny VonCanon asked if a sign stating "for compact cars

only” could be placed on the 2 columns where the Café entrance is to prevent longer vehicles from jutting out into oncoming traffic. Les Broussard said he would be happy to do that.

With no further discussion, Allen Bolick motioned to approve the CUP application with the one condition requested by the Zoning Administrator to re-plat the property and combine it into one parcel to the Board of Adjustment. Meredith Olan seconded. The vote was unanimous and the motion carried.

#### Ordinance Amendment – Section 307 Intent

Ms. Buchanan told the Board that in the past the Board had always assumed that if a use was not written in the ordinance, it was not allowed. The court now says this is not the case and expects Municipalities to update their table of uses ever so often to keep up with the changing times. However, the courts do understand that you may not potentially think of everything, so the court has allowed language that will allow a use not listed specifically as a conditional use as long as it is in harmony with the keeping of public health, safety, and the welfare of the citizens of Banner Elk.

With no further discussion, Penny VonCanon moved to recommend this change to Town Council and to call for a Public Hearing. BR Hoffman seconded. The vote was unanimous and the motion carried.

#### Ordinance Amendment – Section 502.1 Building Height

We have found that the differences of topography in Banner Elk may require different methods of calculating the height of a building. In areas where there are slopes, it works best if the area inside the footprint is measured for a midpoint and calculated to find the average natural grade of the slope within that footprint. Previously we used the slope of the entire parcel to determine the average natural grade, but this also proved to be more than what the Town was looking for.

However, for those parcels not on a slope that require additional fill to bring them up to a buildable height, the ordinance did not address those. On these I suggest we begin measurements from the finished grade, which comes from those requirements outlined in the Flood Damage Prevention Ordinance where a property owner is having to build up a property in the floodplain areas.

Penny VonCanon motioned to add the following sentence to Section 502.1: *“Finished grade can only be considered in the flood plain areas as indicated on the Flood Insurance Rate Maps issued by FEMA.”* Allen Bolick seconded. The vote was unanimous and the motion carried.

#### New Business

##### Sandwich Board Sign Ordinance

Ms. Buchanan alerted the Board to the fact that the time had expired on the temporary Sandwich Board Sign Ordinance. The ordinance was good through the end of October 2016. Ms.

Buchanan asked the Board how they felt about this pilot program and were they interested in making it permanent. The Board asked if there had been any problems and Ms. Buchanan gave them an example of one such instance but for the most part it worked well. The consensus of the Board was to extend the trial period for another six (6) months and then revisit this topic again. This would allow the ordinance to run through the end of April 2017.

BR Hoffman moved to extend the ordinance through the end of April 2017. Meredith Olan seconded. The vote was unanimous and the motion carried.

With no further business, Meredith Olan moved to adjourn. Penny VonCanon seconded. The vote was unanimous and the meeting came to an end at 7:54 pm.

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