

BANNER ELK PLANNING BOARD
MONDAY, 05 AUGUST 2013
MINUTES

Members Present: Allen Bootlick, William Maundy, Martha Laura Miller, Joel Owen, Ann Sinkhole, and Penny VonCanon

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

Others Present: Michael Berkley, Judy Bond, Eddie Chapman, Bobby DuKet & M.A. Davis, Rick Foster, Patricia Glenny, William Gray, Tim Holmes, K.J. Jacobs, Tom McMurray, John & Mary Payne, Jim & Bev Payne, Patrick Sarsfield, Duane Schell, Dawn Sellars, Jack & Ruth Sparks, Bill & Nancy Stevenson, Scott Sullivan, Charlie B. VonCanon

Chairman Joel Owen called the meeting to order at 6:10 pm. A quorum was present and the chairman opened the meeting with the pledge of allegiance to the flag.

Consideration of the June 2013 Minutes

With no changes noted, Allen Bolick moved to approve the minutes as read. Penny VonCanon seconded. The vote was unanimous and the motion carried.

CUP – American Towers, LLC

Patrick Sarsfield of Nexsen/Pruet, PLLC appeared before the Planning Board to represent a request for a CUP for American Towers, LLC. The conditional use permit application is for a 95-foot telecommunications monopole with an additional 5ft lightning rod attached to the top. An application has also been filed with the FAA for permission to construct due to the close proximity of Elk River Airport. The location of the proposed tower site is at 1005 Old Turnpike Road West (PIN 1849-00-81-2166) and the owners are Roderick and Thomas Hall. The property must be accessed through an adjoining piece of property in the name of Lavola and Mary L Carender. There is a perpetual easement recorded with Avery County that allows the Hall's or any of their designees to access their property through this easement.

At this time Patrick Sarsfield took the presentation portion of the meeting and began by reviewing the application. Mr. Sarsfield stated that a North Carolina Licensed Engineer prepared the plans and feels that the application is complete. In reviewing the coverage area that would be provided by this tower, Mr. Sarsfield told the board that the placement of these towers are driven by need. Joel Owen commented that it appeared to him that the proposed coverage area was for the Elk River Valley area only and does not extend into Banner Elk and he wondered if building the tower was as cost effective as the coverage area it was to provide. Allen Bolick asked if a condition could be made to ask

the applicant to explore other locations on this parcel for better service provisions. Joel Owen observed that “if” the applicant meets the ordinance requirements, the Town cannot tell them where to put the tower.

Allen Bolick said that he thinks moving the tower up into the center of the property would provide a wider service area for the cost of building the tower instead of the lower portion of the property. Several members of the Planning Board expressed the same concern that there could be a better location that would service a wider area. Mr. Sarsfield told the Board that they had discussed other places to locate the tower; but this location would serve their target area of the Elk River Valley. Mr. Sarsfield noted that the application meets the requirements of the ordinance. Martha Laura Miller asked if the Board could make it a condition that if American Towers was agreeable, they could extend the height for better service to the area residents. Cheryl Buchanan said that whatever the height is in the approval; then that would be the height they would have to stick with, unless they came back and amended the CUP. Due to some concerns from the public, Mr. Sarsfield confirmed that a light should not be needed since the height of the pole is under the FAA’s regulation of one light per 200 feet.

Ms. Buchanan informed the Board that the culvert that crosses the stream would need to be repaired and upgraded before any construction on the project can take place. She asked that the receipt of the DWQ permit, and the town receiving a copy should be made a condition of the CUP.

Ms. Buchanan also told them that the ordinance spells out certain conditions for this type of application and asked that they be included somehow in the motion to approve/disapprove. Those conditions are:

1. Permits are issued for five years and can be renewed 6 months in advance of the expiration date,
2. Need to designate the color of the pole,
3. The applicant must be willing to allow the Town of Banner Elk, the BEVFD, or other public entities use of the tower as provided that tower load and frequency compatibility issues are satisfied,
4. Any continuous or frequent noise generated by this site shall require the applicant to prove that sufficient action will be taken to prevent such noise from being audible to surrounding residents and businesses,
5. The applicant shall ensure that the tower/antennas will not cause localized interference with the reception of area television or radio broadcasts,
6. At least every 12 months the tower shall be inspected; at the owner’s expense; by an expert who is regularly involved in maintenance. A copy of the inspection record shall be forwarded to the Zoning Administrator of Banner Elk,
7. A landscaping plan needs to be approved by the Zoning Administrator before the permit is issued,
8. Copy of DWQ permit should be provided to the Town before any major construction work begins.

Penny VonCanon made a motion to recommend approval to the Board of Adjustment to allow the tower with the following conditions:

1. No major construction can be perform until a copy of the DWQ permit is received at Town Hall by the Zoning Administrator.
2. A detailed landscaping plan will be provided to the Zoning Administrator before a permit is issued,
3. Allow BEVFD or Avery County EMS to use the facility for public.
4. Consider moving the location of the tower to a more centered location on the property.

Ann Swinkola seconded Penny's motion. The vote was unanimous and the motion carried.

Request for Rezoning – Mountain Property Holdings, LLC

The Town is in receipt of a rezoning permit application for a parcel that is located at the corner of Main Street West and Culver Street. The PIN is 1859-18-30-1511 and the property is currently zoned R-1. The application is a request to rezone the property from R-1 to C-1P. The Zoning Administrator Cheryl Buchanan noted that she had requested that the applicant consider the C-1P zoning district because it is more limited in its activities than the C-2 while still providing them many options. Ms. Buchanan also mentioned that this would be in harmony with the surrounding zoning of C-1P and G-O and the 2010-2030 Land Use Plan.

Eddie Chapman was present to speak to this request as representative for the buyer, Mr. Scott Sullivan. Mr. Chapman said that rezoning the property to C-1P is a better use of the property and would allow the use to increase the tax base in Banner Elk. Mr. Chapman did not divulge plans for the property but had the Zoning Administrator pass out a summarized list of permitted and conditional uses for the C-1P zoning district illustrating that the C-1P is a much more limited zoning district than the C-2. Mr. Sullivan also asked to speak for a moment and told the Board that the Heritage Overlay District was a big plus as well. Mr. Sullivan stated that the developers of the project are looking at some possible mixed use.

Penny VonCanon moved to request that Town Council call for a Public Hearing for the rezoning of the property with PIN 1859-18-30-1511 on Culver Street. Ann Swinkola seconded. The vote was unanimous and the motion carried.

At this point in the meeting the Chairman called for a five minutes break. The meeting was called back to order at 7:50 pm.

Consideration of a Zoning Permit for Lees-McRae College's School of Nursing and Allied Health

J.K. Jacobs and William Gray of McMillian, Pazdan, and Smith were present to speak to this request; as well as Dawn Sellars, a local architect. Mr. Jacobs and Mr. Gray discussed LMC's application for a zoning permit. In Section 1002 of the Banner Elk Zoning Ordinance; any project that the Zoning Administrator determines a review is necessary; should take the request before the Architectural Review Board (Planning Board.) In looking at the magnitude of the project and the fact that it is in the Heritage Overlay District, and very close to the center of the downtown area, the Zoning Administrator felt the Planning Board should review this project.

Town Manager Rick Owen decided that this project also needed a review by a structural engineer on behalf of the Town to determine best connections and size of utilities, stormwater issues and the widening of Maple Court in conjunction with the planning of another section of sidewalk.

Mr. Jacobs and Mr. Gray presented the town with samples of exterior materials, including the roofing materials. The building is setback from the road and designed with parking in the back; with the shortest distance measuring 20' feet off the property line. Benches, trash receptacles and bike racks were discussed and the placement of these is also relevant to being in harmony with the Town's Streetscape Plan and not just bunched up together as if they were forced to fit into the plan. Currently there is an interlocking wall that runs parallel with the sidewalk along Hwy 184. Earlier plans indicated that this would be removed and a rock wall put up in its place. Joel Owen suggested that they might want to get rid of the wall altogether and make the bank sloped. Mr. Jacobs said it would depend on the cost and Joel Owen said he thought it was so close to being cost neutral that it would be silly not to do it.

Ms. Buchanan stated that lighting of the property is of great concern for her and was one of the items that the PAC asked the Planning Board to pay close attention to. The town has gone through a great deal of expense to maintain and build out the Streetscape as it was planned. Ms. Buchanan said it should be noted that the parking lot lights need to match the streetscape lights and that the Planning Board could not see the need for landscaping lights. With parking lot lights, lights under the overhang of the building, and landscaping lights, Ms. Buchanan said she thought this could be a lot of lighting for such a small parcel in the downtown area, not to mention that it will be adding to the light pollution already in the downtown area. Mr. Jacobs said the landscaping lights were "iffy" and could be taken out. Banner Elk's lighting ordinance is looking for a soft lighting and protection of the night sky.

Mr. Jacobs told the Board that the construction manager would like to put up a construction fence around the project. The Board realizes that for security purposes, this may be necessary and Mr. Jacobs said that the fence has material woven through the slats.

Penny VonCanon asked if the parking lot could also serve as parking for the old rock cottage that has recently been renovated and now carries the name "Cobb Center". Mr. Jacobs said he thought there would be adequate parking for that location, but they need to coordinate joining the two together into the parking plan. Joel Owen asked Mr. Jacobs to look into the sight triangle pulling out from Maple Court and looking towards the west. With the wall and the railroad tie beams for steps, he said it is a little hard to see past that for oncoming traffic. Mr. Jacobs said he would look into that. Ms. Buchanan asked Mr. Jacobs to look at the trees in the landscaping and perhaps smaller trees in the front of the building might be better because maples grow much faster and might hide the building. Joel Owen said he disagreed and thought the maples would provide much needed shade.

Mr. Jacobs was asked about the sidewalk on the east side of the property. Town Manager Rick Owen said that he would like to see the sidewalk come straight off of Hwy 194 and that section of Maple Court would be widened. Mr. Owen said it was one of the points in the West Consultant's report on utilities and would facilitate connection into the stormwater system at the same time.

Penny VonCanon said she would be interested in how the dumpster was designed, that too many dumpsters in town were not set up correctly and that it is important to do it right. Mr. Jacobs said it would have a pad poured to specs and a metal frame with wood siding. Mrs. VonCanon also asked about the bricks on the sample and if they would be as white as they look. Mr. Jacobs said the bricks on the mortarboard are more like what everyone will see, that the white is chalk and will be knocked off when being worked with.

Ms. Buchanan brought attention to the landscaping plan and said she would like to see the areas for benches and trash receptacles located in more pedestrian friendly fashion than to be bunched up at a walkway looking at bike racks. She also noted that the bike racks could be located more conveniently near the parking lot. This would encourage cyclists to ride on asphalt and not the sidewalk. The landscaping plan has all three of these items bunched up together and she felt that were just thrown on the plan and not looked at as Streetscape amenities.

Penny VonCanon asked where the HVAC unit would be located. Mr. Jacobs said they would be located at the back of the building and shielded by landscaping. Mr. Jacobs also said that there would be two cooling units at the rear of the parking lot and they too would be screened. Mrs. VonCanon then asked if there could be a planting strip left between the sidewalk and the street on Maple Court. The Town Manager responded that this might be more difficult to take care of and he was not in favor of this suggestion.

With no further discussion, Penny VonCanon moved to recommend approval of the zoning permit to the planning department with the following items being corrected:

- #1. Straighten the sidewalk that comes off Hwy 194 at the widest part and widen Maple Court,
- #2. Work the three benches and trash receptacles into the landscaping plan to make them more pedestrian friendly.

#3. If possible, remove retaining wall and slope the bank.

Martha Laura Miller seconded the motion. The vote was unanimous and the motion carried.

Discussion Items

Ms. Buchanan had a lot of information on the subject of food trucks, but it was getting late and Chairman Owen asked if this topic could be moved to the September meeting.

The next topic was setting some guidance on the display of merchandise outdoors. Too much can look trashy and therefore, we must look at some kind of guidance. Penny Voncanon suggested that each business within the HOD present a plan and that those members and a response written to each business that is concerned can review each plan.

The last item involves the paving of a parking lot for an existing property in the G-O. The ordinance allows for no greater than 60% impervious surface in the G-0 district. This particular entity is staffed by volunteers and provides a vital community service. The Town's Attorney has written a text for inclusion in the ordinance, I ask that each member read the suggested changes to the text and notify me by e-mail so I can know how you are thinking.

Respectfully submitted,

Cheryl Buchanan