

BANNER ELK PLANNING BOARD MEETING  
MONDAY, JANUARY 03, 2022  
MINUTES

Members Present: Aaron Barlow, Melinda Eggers, Jacki Lecka, Joel Owen

Members Participating via Zoom Meeting: Penny VonCanon

Staff Present and Participating: Zoning Administrator Cheryl Buchanan, Town Attorney Stacy Eggers, IV, Town Manager Rick Owen

Due to the Covid-19 Pandemic and the restrictions placed on the State of North Carolina in conducting public meetings, the Planning Board meeting for January 2022 was conducted via in person and Zoom audio and video. Chairman Joel Owen called the meeting to order at 6:12 pm; noting that himself, Aaron Barlow, Melinda Eggers, and Jacki Lecka were physically present and Penny VonCanon was present for audio and video via Zoom. A quorum was established, and the meeting was called to order.

**Consideration of the November 2021 Minutes**

Penny VonCanon motioned to approve the November 2021 minutes as submitted. Second by Melinda Eggers. The vote was:

Aaron Barlow - Yea

Melinda Eggers – Yea

Jacki Lecka - Yea

Joel Owen – Yea

Penny VonCanon – Yea. The motion carried with a 5 to 0 vote in favor.

**New Business**

**Manufacturing-Industrial M-I Setbacks and Dimensions**

Zoning Administrator Cheryl Buchanan noted that she discovered that the setback and dimension requirements are missing from the ordinance in relation to the manufacturing and industrial table. Ms. Buchanan stated that she went back and looked through the 2003 version and they were included there but that a major re-write was done in 2005 and she could not find them after that. It may have been a simple omission; however, there is a whole table of uses with no guiding information to go with it. Ms. Buchanan provided the information that was in the 2003 zoning ordinance version for the Board's edification.

There was some discussion about whether the town would want this zoning district. Ms. Buchanan said she could not predict the future, but since we had a table of uses, we should have some guidelines that go with it. Aaron Barlow asked about having some type of a buffer zone between the M-I district and residential districts. Attorney Eggers suggested a transitional zone. After much discussion, no set figure was determined, so the Board decided to go ahead a re-establish the previous setback requirements and Attorney Eggers said he would draft some language for the transitional zone for the next Planning Board meeting.

Motion by Joel Owen to recommend to Town Council to call for a Public Hearing to amend the zoning ordinance to add setback and dimensional requirements to the table in Section 152.028 (B) Dimensional Requirements by Districts as in the 2003 version of the Banner Elk Zoning Ordinance. Second by Jacki Lecka. The vote was:

Aaron Barlow - Yea

Melinda Eggers – Yea

Jacki Lecka - Yea

Joel Owen – Yea

Penny VonCanon – Yea. The motion carried with a 5 to 0 vote in favor.

### **Preliminary Plat Request – Notting Hill**

Zoning Administrator Cheryl Buchanan said this is now a request for a preliminary plat, no longer a planned residential development. Ms. Buchanan said that the packets should have contained a preliminary plat checklist and that this is simply dividing the property into lots for sale.

Chairman Joel Owen asked if there is any common area or if there is a HOA or if the street is private or dedicated to the Town? Bob Grasso said the active recreation area is the common area. There will be an HOA and the street is private. Chairman Joel Owen wanted to know why this option instead of a planned residential development. Bob Grasso of Land Planning Collaborative and representative for the owner said that this is just much simpler. Chairman Owen wanted to know when this goes from being a planned development to a subdivision and what protects the future owners from the street being maintained. Attorney Eggers said the General Statute 47-F on HOAs and road maintenance allows each lot owner one vote and if they desire to have potholes in their road, they can enjoy their potholes. The majority of the lot owners can vote to assess the cost to maintain the road and all the lot owners must abide by the decision. Chairman Owen asked what the difference is between this and a PRD. Attorney Eggers said a PRD is a more creative way to increase density while requiring architectural requirements that cannot otherwise be required. In other words, if someone wants to paint their house pink, the Town cannot do anything about it. They could under a Planned Residential Development.

Attorney Eggers said that one item that will need to be addressed is the right of way needs to be a 25-foot r-o-w shown on the map by the surveyor. The owner has purchased the property to allow for the r-o-w; but the surveyor needs to show the r-o-w on the map before the Town Council approves it. The Planning Board could make a recommendation for this with a condition that the map that goes to the Town Council needs to have the corrected r-o-w shown on it before it receives approval.

Motion by Melinda Eggers to recommend approval to Town Council with the condition that a surveyor make a notion of the road r-o-w along Banner Road and Old Hotel Drive. Seconded by Joel Owen. The vote was:

Aaron Barlow - Nay

Melinda Eggers – Yea

Jacki Lecka - Yea

Joel Owen – Yea

Penny VonCanon – Yea. The motion carried with a 4 to 1 vote in favor.

## *New Business*

### *Section 152.086 Sidewalks*

This amendment to the ordinance allows for a developer to pay a fee in lieu of building a sidewalk if circumstances prove that it is not feasible or practicable for the sidewalk to be built. The language already exists in the section addressing the Heritage Overlay District.

Motion by Jacki Lecka to reflect a vote in the affirmative to Town Council for this amendment to the Zoning Ordinance. Seconded by Melinda Eggers. The vote was:

Aaron Barlow - Yea

Melinda Eggers – Yea

Jacki Lecka - Yea

Joel Owen – Yea

Penny VonCanon – Yea. The motion carried with a 5 to 0 vote in favor.

### *Section 152.207 Commercial Campgrounds*

Town Council made a few minor changes to this at their November meeting and asked that this come back to the Planning Board for a final review. Motion by Aaron Barlow to reflect a vote in the affirmative to Town Council for this amendment to the Zoning Ordinance. Seconded by Joel Owen. The vote was:

Aaron Barlow - Yea

Melinda Eggers – Yea

Jacki Lecka - Yea

Joel Owen – Yea

Penny VonCanon – Yea. The motion carried with a 5 to 0 vote in favor.

### *Section 152.231 Shipping Containers as Housing*

Zoning Administrator Cheryl Buchanan handed out a version that reflected the latest wording from the Town Attorney. Attorney Eggers explained what was different from this version and the one that was in their packet. Motion by Joel Owen to reflect a vote in the affirmative to Town Council for this amendment to the Zoning Ordinance. Seconded by Aaron Barlow. The vote was:

Aaron Barlow - Yea


Melinda Eggers – Yea

Jacki Lecka - Yea

Joel Owen – Yea

Penny VonCanon – Yea. The motion carried with a 5 to 0 vote in favor.

### *Section 152.302 Planning Board Duties*



Attorney Eggers said this brings the duties of the Planning Board more in alignment with the statutory requirements for the Board. Motion by Joel Owen in the affirmative to Town Council for this amendment to the Zoning Ordinance. Second by Melinda Eggers. The vote was:

Aaron Barlow - Yea

Melinda Eggers – Yea

Jacki Lecka - Yea

Joel Owen – Yea

Penny VonCanon – Yea. The motion carried with a 5 to 0 vote in favor.

Aaron Barlow motioned to ask Town Council to do a study on the status of the infrastructure and how all the people moving into the area are affecting it. Manager Rick Owen said that he was glad to hear Aaron say that because that opened the window for their next Planning Board meeting. Mr. Owen said that Phil Trew from High Country Council of Government would be here next month to talk to the Board about the Land Use Plan and a comprehensive plan and that this was an important function of the Planning Board. Manager Owen also told Mr. Barlow that he consistently keeps up with the capacity and could provide that information and assured Mr. Barlow that the Town was in good shape and not on the edge of ruin.

Zoning Administrator Buchanan said this was her last Planning Board meeting and thanked everyone for their help over the years and wished them all luck in the future.

With no further business, Aaron Barlow motioned to adjourn. Second by Jacki Lecka. All agreed and the meeting came to an end at 8:20 pm.

Respectfully submitted,

Cheryl Buchanan, Zoning Administrator, Town of Banner Elk