

Planning and Zoning Board

Minutes

Thursday, August 19, 2004

The Blowing Rock Planning and Zoning Board met on Thursday, August 19, 2004. Chairman West called the meeting to order at 7:04 p.m. Members present were Ron Mace, Cullie Tarleton, Doug Drury, Jim Steele, George Snyder, Albert Yount, Dennis Quinn, and Staff members Kevin Rothrock, Planning Director, and Sherrie Pitts, Administrative Assistant.

Mr. Drury made a motion to approve the minutes as submitted, seconded by Mr. Quinn. All were in favor of the motion.

Items of Business

The Last Straw - Conditional Use Permit #2004-05

Mr. Kevin Rothrock, Planning Director, presented the staff report information to the board in reference to the CUP 2004-05. The request is for the use of two storage buildings at the new location of The Last Straw retail shop, Stick Boy's Bakery and the Barking Rock retail shop. The proposed buildings will be used for supply storage and maintenance equipment. The storage buildings are considered a significant exterior change to commercial property, which requires a CUP. Setbacks in Central Business district are 5 feet from side and rear property lines. Because the subject property is located in the Primary Fire District, the buildings will have to be located 15 feet from adjacent property lines and 30 feet from any other building. The existing buildings are combustible.

Mr. Quinn, board member, asked how the buildings got onto the property. Mr. Rothrock advised that Mr. Robertson had moved them to the current location. Mr. Quinn asked if the buildings had been moved without a permit. Mr. Rothrock advised they had. Mr. Drury, board member, questioned if the current location of the storage buildings could be considered a fire hazard. Mr. Rothrock stated they could be.

With no further questions for Mr. Rothrock, Chairman West opened the floor to the applicant.

Mr. Roger Robertson, applicant, stated that the storage buildings had been on his property for 8 years at the time his shop had been located in the Hanna building on Main Street. He did not know he needed a permit for the buildings or to move them. Mr. Robertson advised he had bought the property he is currently in and had moved the storage buildings to that location.

Mr. Drury stated that Mr. Holshouser, a neighboring property owner, had issues about the location of the storage units next to his property. Mr. Drury asked if Mr. Robertson would be willing to put up a privacy fence.

Mr. Robertson said he would, but his first choice would be to put the buildings on the side of the property behind the Chamber of Commerce. He would meet setbacks and could paint the buildings. Mr. Yount, board member, asked what Mr. Rothrock thought about that location. Mr. Rothrock said it was possible. The setback would need to be 15 feet off the property line because of the fire district. The current color of the storage units is not compatible with the building.

Chairman West with no other questions for the applicant opened the floor to the public.

Mr. Wayne Green had comments on the adjacent property, called The Puffing Pebble Subdivision.

Chairman West closed the public hearing.

Mr. Quinn made a motion to approve placement of the storage buildings behind the Chamber of Commerce according to setbacks and to paint the buildings to match the principle building. Mr. Yount seconded the motion. All were in favor motion carried.

Board member Jim Steele arrived at 7:20 PM.

Flex Flying Conditional Use Permit # 2004-06 Amendment to Tanger Shops CUP

Mr. Kevin Rothrock, Planning Director, presented the staff report information to the board in reference to CUP 2004-06. The request is an amendment to the original Shoppes on the Parkway conditional use permit to set up a bungee-type amusement trampoline. Mr. Jeffries proposes to erect the trampoline in the vacant grassed area in front of the shopping center adjacent to the Liz Claiborne Outlet. Amusement rides and devices are permitted with a conditional use permit in the General Business zoning district. The Trampoline would be set up in the grassed area in front of Shoppes on the Parkway on a temporary basis during the month of October.

Mr. Yount, board member, asked if the proposed trampoline site was the outparcel, on the south side of the entrance, to Shoppes on the Parkway. Mr. Rothrock confirmed it was the correct location. Mr. Drury, board member, asked if there were liability issues the Town would be responsible for.

Mr. Yount stated that in the Town Council minutes on the original Colvard Oil- Liz Claiborne CUP the outparcel was to be left as permanent green space. Mr. Tarleton, board member, asked if open space and green space were synonymous. Mr. Rothrock said they were not.

Mr. Drury asked if this operation had been in this space before. Mr. Rothrock said it had been there during Winterfest.

Mr. Earl Horne, representing Winterfest, said that Winterfest was presented to Council as a package and was approved.

Mr. Wayne Green commented on the original Special Use Permit, and the use of the property. Mr. Greene said the original permit allowed this type of event. Chairman West asked what was in the original permit and commented the board should have a copy. Mr. Rothrock advised the Special Use Permit was not very specific.

Mr. Tarleton, board member, questioned if a special permit should be less than 30 days. Mr. Rothrock concluded it should be less than 30 days.

Mr. Mace, board member, wanted to know if there was recorded information about accidents on the trampolines. Mr. Rothrock said that would be a question for the applicant.

With no further questions to staff Chairman West opened the floor to the Applicant.

Mr. Paul Jeffries, applicant, talked about the trampoline. He advised it was safe and that everything was tested each time it was set up; it is inspected by the Department of Labor. Mr. Jeffries stated that there are no records of accidents.

Mr. Drury asked if this was the only location Flex Flying was set up. Mr. Jeffries stated they had set up at Lake Norman, the Georgia State Fair, the Agriculture Fair in Virginia, Myrtle Beach, and other places he was unable to name at the time. Mr. Jeffries advised they were insured there was no liability to town.

Chairman West, with no further questions of the applicant, opened the floor to the public.

Sue Glenn, resident, had comments on the use of open space. She would not like to see the trampoline in that location.

Rita Wiseman, Town Councilmember, commented that the Council did not oversee Winterfest plans. They do come before council for dates and request of funding.

Mr. Wayne Green had comments about the Special Use Permit for Shoppes on the Parkway.

Ms. Joann Mitchell, resident, had comments about the location for the amusement and how it would be a distraction for vehicles passing by. Mr. Jeffries said that the Shoppes did want the amusement visible, because they want it to draw people to the outlet.

With no further comments Chairman West closed public speaking.

Mr. Quinn made a motion not to approve the permit request. Mr. Yount seconded the motion. All were in Favor. The request was denied.

Mr. Drury commented the board should look at the original Special Use Permit to see what was allowable. Mr. Tarleton agreed, and stated it is not a special event at 30 days in length.

At 8:17 Chairman West called for a 2-minute recess.

At 8:20 the meeting reconvened.

Hanna @ Village Café - Conditional Use Permit #2003-09

Mr. Kevin Rothrock, Planning Director, presented the staff report information to the board in reference to CUP 2003-09. The request is to construct a two-story, three-level, multi-use building on the existing Sunset Café property. The basement and main level of the building will be retail or office. The second floor will be multi-family.

Planning Board recommendation from May 20, 2004 meeting:

1. To require the applicant resubmit plans without a residential use on the second floor and reduce the height of the building.
2. To approve the request for Special Intensity Allocation at 54% net impervious.
3. To require that the storm water plans have the town's consulting engineer approval.
4. Since the residential parking spaces will be provided off-site, the Planning Board made a recommendation that the residential use be eliminated from the project.

Town Council recommendation from the June 8, 2004 meeting:

1. Provide a stormwater management plan with approval by the town's consulting engineers.
2. Provide a legal document regarding the off-site parking.
3. Provide a construction plan approved by the town department heads.
4. Provide a realistic solution to salvaging the maple trees behind the building.
5. Substitute a flat roof for the proposed pitched roof at no greater than 5 feet above
the existing roof of Kilwin's.

Chairman West opened the floor to the applicant.

Mr. Tony Di Santi, attorney for the Hannas, advised it is still preferred to go with the pitched roof on this project. Mr. Di Santi said that Enterline and Russell Construction Co. provided a tentative construction plan showing November to April being the heaviest construction times, and the building being substantially complete before the beginning of the season.

Mr. Quinn asked about the weather being a hold back. Mr. Dixon, architect, stated he could not speak for Enterline and Russell, but they are familiar with the weather here and have figured the time frame. Mr. Steele, board member, asked if Enterline and Russell would sign a performance bond. Mr. Di Santi said he could not speak for Enterline and Russell.

Mr. Quinn said that he believed the time line was an unrealistic schedule. Mr. Dixon advised there was a penalty clause in the contract. Mr. Quinn asked where the construction supply drop off would be staged. Mr. Dixon said Laurel Lane at the family property would be the drop off for supplies and delivery. These deliveries would be scheduled during off-peak hours.

Mr. Tarleton asked if approved with a flat roof how much taller than Kilwins would it be. Mr. Rothrock stated the roof would be five feet taller than Kilwin's. Mr. Tarleton asked how much taller would the pitched roof be. Mr. Rothrock said the pitched roof would be eight feet taller. Mr. Tarleton wanted to know why the Hannas prefer the pitched roof. Mr. Dixon stated the Hannas liked the appearance better and thought it fit into the residential better. Mr. Di Santi brought up the Comprehensive Plan and quoted the ordinance on the pitched roof. He also quoted the ordinance on mixed use. Mr. Rothrock spoke about the mixed use, and advised that it meant mixed uses where appropriate. Mr. Rothrock also commented on the roofline, and said that Council did not think the pitched roof fit in this particular block of downtown.

Mr. Michael Trew, engineer for the project, explained the water drain from the Kilwin's side of the building down the back of the proposed building. Mr. Drury asked what volume of water would be there. Mr. Trew advised no more than already there, but it would be channeled. Mr. Trew stated that in working with the town, it has been discussed to improve the pipe at Garden Circle and the water from there would be directed to Morris Street. Chairman West asked if there was a time schedule on the improvements. Mr. Trew said that he has talked with Mr. Lentz, Director of Public Works. Mr. Lentz has talked with McGill Associates. Mr. Di Santi said even without Garden Circle improvements what is planned is still an improvement.

Chairman West opened the floor to public comment.

Mr. Wayne Green had comments on the stormwater detention. He said it would be an improvement. On the issue of the trees, Mr. Green said the ordinance should entail all species of trees.

Ms. Ann Whatley, resident and owner of the Village Cafe, stated she would like to look at the plan for water detention. This plan goes along her property, which is a walkway to her business. The trees in question are a shady, shield for the property, and they would like to see them stay.

With no further questions Chairman West closed the public hearing.

Mr. Drury said that causing a disruption of service in the downtown area for a five-month period should be carefully considered. Mr. Steele stated that the Town Council had given the conditions to the applicant, they complied, therefore he did not see how they could not give their approval.

Mr. Tarleton advised that the property should be developed within street scale and should be within reason in keeping with the look of the town. Mr. Snyder stated that the flat roof is a better fit in that location.

Mr. Yount stated that without a streetscape it is hard to visualize how the building will fit in on that side of town.

Mr. Quinn requested that the Town Council be advised about the concern over a streetscape.

Mr. Tarleton moved to approve the five points that need to be met by the applicant:

1. Stormwater management with the town engineer approval.

2. Residential component with a legal parking agreement that satisfies the Town.

3. Construction plan approved by department heads.

4. Salvage the Maple trees.

5. A flat roof no more than five feet above Kilwin's.

Mr. Quinn seconded the motion, and amended to provide streetscape with the building on that side of the street.

Mr. Tarleton asked if council had tabled this request until these five things were met. Mr. Rothrock advised that was correct.

Mr. Steele asked how we could tell them they can't have a pitch roof when it's in the code. Mr. Rothrock advised it is recommended.

Chairman West questioned if it was reasonable to think that the water issue can be settled quickly. Mr. Doug Chapman, engineer with McGill and Associates, stated that he had been on the site, and that it was possible. There are off site improvements that would have to have approval and easements of property owners. This will improve the common area.

Chairman West called for a vote.

*Mr. Snyder, Chairman West, Mr. Steele, Mr. Tarleton voted in favor. Mr. Quinn, Mr. Yount, Mr. Drury, Mr. Mace voted against. **The vote was tied four to four. The motion does not pass.***

Mr. Quinn made a motion before further action the applicant return with a streetscape. Mr. Yount seconded the motion. Mr. Mace requested to amend the motion to include a plan for the second floor with residential component removed.

Mr. Tarleton questioned if the applicant completed the five conditions would it be approved. Chairman West informed it was tabled to satisfy these five conditions not necessarily to approve it. There is a motion to table until applicant returns with streetscape. *Mr. Yount seconded the motion.* Mr. Di Santi stated that to table would be unreasonable on the applicant. The issue sent back to this board was the flat roof. Chairman West called for a vote on the motion to table until a streetscape was provided. *In favor of the motion - Mr. Quinn, Mr. Yount, Mr. Snyder, and Mr. Mace. Opposed to the motion - Chairman West, Mr. Drury, and Mr. Tarleton. Mr. Steele abstained from the vote, an abstention is an affirmative vote. **The motion passed five to three.***

Other Business

Garden Mausoleum at Woodlawn Cemetery

Mr. Rothrock explained that Mr. Barney Hampton of Hampton Funeral Service has proposed that a roof structure be placed over the existing mausoleum. Mr. Hampton contracted with the Town in 1972 to build the mausoleum on the Town property. The existing structure has a flat roof and has been experiencing leakage problems.

Mr. Barney Hampton, Hampton Funeral Service, stated that a lot of the mausoleums are going to four way roofs. Over time flat roofs have caused water damage in and around the mausoleum. The four way roof covers the building, the walkway around the building, and people visiting. The foundation has some protection with this roof system.

Mr. Tarleton asked if a cedar shake roof would be acceptable. Mr. Rothrock commented it would.

Mr. Drury made a motion to approve using an architectural design suitable to fit within a budget. Mr. Quinn seconded the motion.

*Mr. Tarleton made a motion for a structure consisting of four-way roof, cedar shingle, post of rock or granite. Mr. Drury seconded the motion. **All were in favor of the motion.***

Ordinance 2004-10 Amendment to Section 16-124(E) Extension and Enlargement of Nonconforming Situations

Mr. Rothrock informed the Planning Board that the Town Council had reviewed the draft ordinance concerning nonconforming situations. The Council requested the Planning Board reviews the draft ordinance again and considers the impact of eliminating expansions to nonconforming situations. The subcommittee continues to support the current draft ordinance, which allows limited expansion of nonconforming structures with amendments.

Mr. Yount said to write it as 25% expansion with the other 75% left as open green space. Chairman West said write it as a one time only extension. Mr. Rothrock asked if the Planning Board still felt strongly about 25%, or is no extension preferred. All were in favor of 25%, five to three were for a one-time expansion.

Mr. Wayne Green had comments on the nonconforming expansion issue. He believes it needs to be looked at closely.

*Chairman West made a motion for the provisions in this section to be used one time. Mr. Yount seconded the motion. Members voted seven to one in favor, **the motion carried.***

*Chairman West made a motion to accept the full ordinance amendment with changes to go before Council. Mr. Snyder seconded the motion. **All were in favor of the motion.***

Draft Ordinance to Establish Setbacks in GB, O/I, HMC Zoning Districts

Mr. Rothrock advised General Business, Office/Institutional and Hospital/Medical Complex zoning districts have no setbacks except for a minimum street setback of 30 feet from the centerline. In these non-residential districts where a property adjoins residentially zoned property, the non-residential property shall have the same side/rear boundary line setback as the residentially zoned property, whichever is greater.

The zoning subcommittee met and discussed the proposed setback changes with the following setback recommendations:

1. General Business - 20 foot street setback, 8 foot side and rear boundary.
2. Office/Institutional - 15 foot street setback, 8 foot side and rear.
3. Hospital/Medical Complex - 15 foot street setback, 8 foot side and rear.

Mr. Yount made a motion to accept the setback changes. Mr. Drury seconded the motion. Mr. Tarleton asked if this would affect the Blowing Rock Historical Society Museum. Mr. Rothrock stated he had not seen any plans; but there must be at least an eight-foot landscape buffer.

Chairman West motioned to take each setback zone separate. For General Business, 20 street and 8 side and rear setback, *all members were in favor.* For HMC, 15 street and 8 side and rear setback, *all members were in favor.* For Office/Institutional, 15 street and 8 side and rear setback, *members voted five to three in favor.* **The motion passed in favor of the setback changes.**

Chairman West made a motion to adjourn, seconded by Mr. Tarleton.

Adjourn

With no further business, the Planning Board adjourned at 10:56 P.M.

Jim West, Chair Sherrie Pitts, Administrative Assistant