

## Planning and Zoning Board

### Minutes

Thursday, May 16, 2019

4:30 p.m.

The Blowing Rock Planning and Zoning Board met on Thursday, May 16, 2019 for their regularly scheduled meeting. Chairman Harwood called the meeting to order at 4:30 pm. Members present were Joe Papa, Don Hubble, Mike Page, Wes Carter, Pete Gherini, Kim Hartley, Sam Glover and Harrison Herbst. Staff members present were Planning Director Kevin Rothrock, Planning, Zoning Support Specialist Tammy Bentley, and Town Engineer Doug Chapman.

Chairman Harwood asked if there were any changes to the agenda. *Mr. Gherini made a motion to approve the agenda, seconded by Mr. Carter. All members were in favor of the motion.*

Chairman Harwood asked if there were any changes to the March 21, 2019 meeting minutes. There were none. *Mr. Page made a motion to approve the minutes, seconded by Mr. Herbst. All members were in favor of the motion.*

#### **Conditional Use Permit 2019 – 02 Moody Building**

Mr. Rothrock gave the staff report and Powerpoint presentation. RWL 1, LLC is requesting a conditional use permit to convert the old Moody Furniture building to a restaurant/retail establishment and add a surface parking lot. The subject property is located at 125 Sunset Drive, zoned CB, Central Business, located in the WS-IV-PA water supply watershed and is further identified by Watauga County PINs 2807-98-3020-000 and 2807-98-3068-000.

The applicable street setback along Sunset Drive is 15 feet, and the side and rear setback is 5 feet. The front of the existing building, including the porch, encroaches into the street setback. The front porch will be extended along the left front of the building to provide ADA access to meet the NC Building Code. An elevated patio area will be added to the west side of the building. The patio, front porch extension and handicap access will encroach into the 15-foot street setback and will be located approximately 6 feet from the back of the sidewalk.

Based on the proposed uses, the building square footage and any parking credits calculated on previous property uses, 7 parking spaces are required for this project. Restaurant use was used to calculate the parking. If retail is the ultimate use of the property, the parking will be more than enough to meet the Land Use Code.

The applicant is proposing 24 parking spaces, one (1) being an ADA van-accessible space. The applicant is reserving parking spaces for off-site apartments and off-site retail within the excess spaces in the parking lot.

The parking lot access will be from Sunset Drive and is shown with a two-way driveway. In addition, there is a one-way exit to the Maple Street lot at the back of the parking lot.

Currently the site plan shows 2 public spaces being removed along Sunset Drive. However, to provide adequate site distance, additional existing spaces on Sunset may have to be removed.

Any lighting for the site will be provided by the coach light standard common to other projects in Town.

Storm water will be collected in the parking lot and directed to an underground detention system designed to meet Town Code standards. The drainage from storm events will be detained and released to a new drainage system in Sunset Drive that will be installed from the parking lot to Sunset Drive.

Much of the storm water and utility work has been completed as part of the Sunset Streetscape project. The Applicant has reimbursed the Town for the 2" water line, the 4" sewer line, 18" storm drain, sidewalk and curb and gutter.

The Code requires a four (4) foot buffer between the site and the adjacent properties and shade trees in and around the parking lot perimeter. The current site and landscape plan show the rear buffer being less than 4 feet along the property line. As designed, the project will require a waiver of the rear buffer yard width, or an adjustment in the site plan to maintain the minimum 4-foot buffer.

The west side of the property will have a sidewalk from the rear parking area to the front of the building and Sunset Drive. This sidewalk connection is proposed directly along the property line. Any buffers along this property line can be provided in the landscape area adjacent to the west side of the building.

Most of the changes to the exterior of the building have been completed in the past several months to secure and stabilize the building doors, windows, and roofing. The Applicant is proposing a garage door on the west side of the building that will serve as access to the patio.

The applicant is requesting a waiver of nine (9) feet of the street setback along Sunset Drive to allow expansion of the existing porch and the addition of a dining patio. A recommendation from Planning Board specific to this setback waiver request is required.

Chairman Harwood asked if there were any questions for the staff.

Mr. Papa asked about the potential of losing 4 parking spaces on Sunset Drive. Mr. Rothrock advised that 2 spaces would be lost, but it could be 4. The Board discussed how loss of spaces on Sunset will affect public parking.

Chairman Harwood asked if using the Maple Street lot is possible. Mr. Rothrock advised that use of it is planned. Mr. Papa asked if there will be signage indicating the exit onto the Maple Street lot. Mr. Rothrock said that can be controlled.

Mr. Gherini suggested reviewing the access used for the Brown's property and how that would work. Mr. Rothrock said that access is via a 10-foot alley. Dr. Brown said it is from 10 to 15 feet. Mr. Rothrock advised the Board that the alley has nothing to do with this project.

Mr. Hubble asked if spaces across the street benefit this building. Mr. Rothrock said that there are 2 rentals above Final Touches that would have designated parking spaces in the Moody Building lot. Mr. Hubble noted that this is no different than New Public House traffic exiting onto Sunset. Mr. Rothrock confirmed, adding this is a new access.

Mr. Page asked the status of the prior approval. Mr. Rothrock said that conditional use permit expired last summer, adding this is a brand new but similar project. Mr. Page said that returning to one-way traffic would cut down on the loss of parking on Sunset. Mr. Page asked who makes this determination. Mr. Rothrock said the Planning Board does after the Applicant has addressed the Board.

Mr. Carter asked if the spaces are the same size and if they meet minimum requirements. Mr. Rothrock confirmed.

Mr. Hubble asked if any changes will bring the building closer to Sunset. Mr. Rothrock said the steps are closer to Sunset.

Mr. Hubble asked if there is a sign above the patio in the elevation. Mr. Rothrock said yes. Mr. Hubble asked if the sign was part of this approval. Mr. Rothrock said the sign is not part of this process.

Mr. Carter asked if this project takes the streetscape project into consideration. Mr. Rothrock confirmed.

Mr. Chapman noted that the New Public House does not have any parallel spaces in front. Mr. Herbst said there is a speed hump in front of the New Public House. Mr. Rothrock advised that it is being removed. Mr. Carter said spaces on Sunset could be reserved for motorcycles or golf carts, improving the line-of-sight when accessing Sunset.

The Board discussed other properties that have the same or similar setback concerns on Sunset. Ms. Hartley noted that the wine shop's steps extend to the sidewalk. Mr. Papa asked if approved, could someone add a deck later that could extend to the sidewalk. Mr. Rothrock said they could not.

Mr. Harrison asked why the steps were being moved to the sidewalk. Mr. Rothrock said the existing steps are being extended to connect to the handicap ramp on the west side of the building.

Mr. Bob Lovern, Applicant, addressed the Board.

Chairman Harwood welcomed Mr. Lovern back. Mr. Lovern thanked Chairman Harwood and said he thinks this is a good project, good for the town and good for Sunset. Mr. Lovern told the Board the front deck needs area for handicap accessibility and to have visibility from Main Street.

Mr. Lovern said he plans to have an agreement with the Town regarding egress from his lot onto the Maple Street lot during special events only and added that egress will be blocked

at all other times. Mr. Lovern said that if this is always open his lot would become part of the public parking lot.

Mr. Lovern said he has the right to enter and exit his property from Sunset even if public parking spaces are lost. Mr. Lovern said he did not see any property on Main Street or Sunset that does not have a line-of-sight issue. Mr. Lovern said if Kilwin's added parking behind their building that would free up public spaces on Main Street, adding that this proposal also frees up public spaces. Mr. Hubble said the problem is taking up public spaces and that Blowing Rock has a serious parking problem. Mr. Hubble said there are plenty of private lots in town, but this proposal will reduce public spaces by two. Mr. Lovern said this is the same loss as before. Mr. Hubble said he thinks this is a great project, but the loss of public parking spaces is an issue. Mr. Lovern said he sees his customers not taking up public spaces on Main Street. Mr. Rothrock said that there is no ongoing use on the site and therefore no net parking gain. Mr. Rothrock said this is different from Kilwin's, in that they have no private parking. Mr. Rothrock added that having 4 spaces designated for public use would be great. Mr. Lovern said he can't do that; that he would not do that before and feels the same way now.

Mr. Gherini asked if one-way access is a hardship. Mr. Lovern said yes and asked where to exit. Mr. Gherini said at the back, onto the Maple Street lot. Mr. Lovern said he doesn't want to exit that way; that doing so would make his lot public parking and there is no way to control that.

Mr. Carter asked what the special agreement with the Town entails. Mr. Lovern said that he would open the exit onto the Maple Street lot for Town events only. He added this would not become a new traffic pattern. Mr. Carter said this was agreed to in the original conditional use permit. Mr. Lovern said he did not agree to it, adding that Mr. Carter is correct. Mr. Lovern said having had time to think about it, he realized that his parking lot would become an extension of public parking. Mr. Carter asked if his concern is that his lot will become a public lot. Mr. Lovern confirmed. Mr. Carter said he likes the original one-way and diagonal parking better than this one. Mr. Carter said he is concerned with traffic back-ups on Sunset at the light onto Main Street. Mr. Carter added that as a patron, he would prefer to exit onto Maple Street lot. Mr. Lovern said it will be tempting for people to take the first parking space they see and disregard a private versus public lot.

Mr. Rothrock asked Mr. Lovern if there is no access onto the Maple Street lot, is there also no public parking in his lot. Mr. Lovern said there would be no public parking in his lot. Mr. Rothrock said if there is no signage on his lot, people would park there. Mr. Lovern said access to the Maple Street lot would need more enforcement and be a bigger problem. Mr. Herbst said that one-way, no entrance signage would stop him from entering.

Mr. Glover asked what would cause the loss of 2 parking spaces. Mr. Rothrock said the sight-triangle. Mr. Glover asked when that would happen. Mr. Rothrock and Mr. Carter said that happens now. Mr. Lovern said there are no compliant sight-triangles on Main Street now. Mr. Rothrock said this is required now because this is a new development and it should not be a bad development.

Mr. Page asked if the driveway is a matter of right. Mr. Rothrock said the Applicant has access, but we are trying to find the best access. Mr. Rothrock added that we are not saying that traffic cannot exit onto Sunset.

The Board discussed the ingress and egress of the lot and the potential loss of parking spaces on Sunset.

Chairman Harwood asked if the Maple Street lot access was not the Applicant's request. Mr. Lovern said it was not his request, that the Town requested this. Chairman Harwood asked Mr. Lovern if his preference is to not have his lot connect to the Maple Street lot. Mr. Lovern said he thinks he has the right to legal access. Mr. Hubble said he has access, but the Town is suggesting the best way to enter/exit his property.

Mr. Rothrock said in the restriping process, 3 public spaces will be lost. He asked Mr. Lovern if he can provide 2 to 3 spaces in his lot for public parking. Mr. Lovern said he cannot provide public parking on his property. Mr. Lovern said he is willing to pay \$7500 to the public parking fund.

Chairman Harwood opened the meeting to public comment.

Dr. James Brown, owner of the vacant lot next to the old Capel Rug building, addressed the Board. Dr. Brown said when this issue was originally addressed Mr. Lovern offered 3 additional feet on the west side of the property to facilitate entering, then exiting to the rear. Dr. Brown said he has this in writing, but that Mr. Lovern changed his mind. Dr. Brown asked why the sidewalk does not have the meet the setback, adding that the sidewalk will create a water drainage issue. Dr. Brown said building a retaining wall will also make water drainage worse. Dr. Brown asked that no parking be allowed in the easement; that it should be kept open. He added that Mr. Lovern's employees park in the easement now. Chairman Harwood asked who owns the alleyway now. Dr. Brown said he has researched this back to the 1850s when it was granted to the Town and that the easement was owned by everyone. Dr. Brown said that 10 feet was granted many years ago and that Mr. Moody's father granted an additional 5 feet.

Mr. Tim Gupton, of 235 Meadow Lane, said he is here as an observer. Mr. Gupton said that paying into the parking fund must meet state statute, as he reads it, and is not an actual solution. Mr. Gupton also said that if 2 to 4 spaces are lost, they need to be deducted from the ledger that Mr. Rothrock keeps of the 'credited spaces' (based on previous use of the building) for which the the Applicant is being credited.

Mr. Lee Rocamora, of 412 Laurel Park Road said the Board of Adjustments deals strictly with variances and there are variances requested for this project. Mr. Rocamora explained this process to the Planning Board, saying granting variances are based on finding of facts as outlined in section 16-5.2.1 Appeals, Variances, Interpretations of the Land Use Code. Mr. Rocamora highlighted Items F and G and said these are not facts that could result in granting a variance. Mr. Hubble asked Mr. Rocamora if he thinks this section precludes granting a variance or if he knows it precludes it. Mr. Rocomora said he knows it.

Ms. Hartley left the meeting at 5:40 p.m.

Mr. Rothrock addressed Mr. Rocamora's comments regarding the granting of variances. Mr. Rothrock referenced Section 16-12.8 Flexibility in Applying the Standards Contained in this Article in the Land Use Code, which deals with setback issues that are part of a conditional use permit. Mr. Rothrock advised the Board that they can recommend deviations from the strict requirements of this Article and the Town Council can approve such in accordance with Section 16-12.8.

*Mr. Gherini made a motion to close the public comment, seconded by Mr. Carter. **All members were in favor of the motion.***

*Mr. Gherini made a motion to continue the proceeding to the next Planning Board meeting, so the Board can look into and understand issues surfaced today. Mr. Page seconded the motion.*

The Board discussed the motion. Mr. Hubble said the Board must pay attention to the loss of public parking and thinks this needs to be addressed before proceeding. Mr. Page said he is unsure if the Applicant is intending to block access to the Maple Street lot. Mr. Page asked if the Applicant does intend to block this access, and if so he thinks is unsatisfactory.

Dr. Brown said he had another comment. Chairman Harwood said the public comment period was closed to further comment. Dr. Brown insisted that his comment be heard. Chairman Harwood explained why he could not be heard at this time, adding that he may be able to respond based on the vote on the pending motion.

Chairman Harwood asked the Board to vote on Mr. Gherini's motion to continue this request to the next Planning Board meeting. **All members were in favor of the motion, except Chairman Harwood. Motion passed.**

Chairman Harwood said this would be continued at the next Planning Board meeting, the date of which is to be determined. Chairman Harwood said that Dr. Brown could make comment at the next meeting if a public comment period is offered.

Mr. Lovern told the Board he was withdrawing his application.

Dr. Brown asked again to make a comment. Chairman Harwood reiterated that the public comment period has been closed.

Mr. Rothrock advised the Board that he would confirm with Mr. Lovern that he does intend to withdraw his application. Chairman Harwood said until he hears differently from Mr. Rothrock this would be continued to the next meeting.

Chairman Harwood asked the Board members to maintain no ex-parté communication regarding this request, until the Board has officially been notified that the request is withdrawn. Chairman Harwood said no that communication outside this meeting, including email communication is allowed. Mr. Carter asked if this is a requirement. Chairman Harwood confirmed.

Mr. Hubble asked Chairman Harwood why he is asking the Board not to say anything about the proceeding, as members of the public are present. Chairman Harwood this is a requirement of the conditional use process. Mr. Carter confirmed.

Mr. Rocamora, said per the Town Code, this is not correct. Mr. Gupton said that it is a requirement for the Town Council, but not the Planning Board. Mr. Rothrock advised the Board not to discuss this with anyone outside the meeting, adding that this Board is not held strictly to quasi-judicial standards, but since they are advisory it is best to maintain no ex-parté communication.

## Other Business

Mr. Rothrock advised the Board there is a lot of progress on Sunset Drive. He also advised that the landscaping on Highway 321 is going well.

Mr. Gherini asked if the Sunset Streetscape contractor can water down the dust resulting from the construction. Mr. Rothrock advised they will be taking care of that.

Mr. Rothrock advised there is a Conditional Rezoning request, which the Board can discuss openly, for 3 properties on Valley Boulevard. Mr. Rothrock said the neighborhood meeting will be held on May 23, 2019 at 5 p.m. at Town Hall and the request is for a Conditional Rezoning from R-15 to CZ R – 6M, Multi-Family with a Short-Term Overlay District.

*Mr. Carter made a motion to close the public comment, seconded by Mr. Herbst. **All members were in favor of the motion.***

Chairman Harwood adjourned the meeting at 5:50 p.m.

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Chairman David Harwood

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Tammy Bentley  
Planning & Zoning Support Specialist