

Town of Maggie Valley
Planning Board
Town Board Room
Thursday October 2, 2008
5:30 p.m.
MINUTES

Members Present: Chairman Billy Brede, Bill Chamberlin, June Johnson, Bob
Knoedler, Tom Benoit, and Burton Edwards
Staff Present: Manager Tim Barth, Planning Director Nathan Clark, and Town
Clerk Vickie Best
Others Present: Jim Newland and James Harden

Chairman Brede called the meeting to order at 5:40 p.m. in the Town Hall conference room.

1. Approval of the Minutes: September 3, 2008
ON MOTION OF MR. KNOEDLER, SECONDED BY MR. EDWARDS, WITH ALL IN FAVOR, THE MINUTES OF SEPTEMBER 3, 2008 WERE APPROVED AS PRESENTED.

3. Special Exception: Jim Newland
Neighborhood Information:

- Location: Current location of the Garlic Knots (Pizzeria) and Smokey Mountain Lodge 3946 Soco Road.

Lot Information

- Tract Size: 2.78 acres
- Number of units 30
- Building Orientation 2 (2 Story Buildings) 2 (3 Story Buildings in rear)
- Zoning District: C-1 General Business

Flood Information:

- Floodway Boundary (1984)
- 100 Year Flood Boundary (1984)

Mr. Newland's proposed plan is based on comments from both the Planning Board and the Zoning Board of Adjustments. The buildings have been lowered and the number of units have been reduced by six. With the reduction of units comes the reduction of required parking spaces (12) thus providing more green space. More retail opportunities have been provided. The home/office will be used for retail (5300 sq ft). Mr. Newland will comply with all flood plain regulations. The exterior will conform to the Mountain theme the Planning Board is trying to implement. The Pizzeria will be redone with the same exterior as the condominiums. All rooflines will have a 7/12 pitch including the Pizzeria and the retail structure.

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PLANNING BOARD TO DISCUSS & ANSWER THESE TWO QUESTIONS PER ZBOA REQUIREMENTS

(d) The Board of Adjustment shall request the Maggie Valley Planning Board to review and make recommendations concerning the special exceptions relative to the following considerations:

1. Relation of the special exception to applicable elements of the planning program.
2. Appearance of the special exception relative to location, structure, and design.

The members thanked Mr. Newland for revising his original plan to better conform to the Land Use Plan. There is not a firm definition for mixed-use regarding the percentage of commercial vs. residential.

According to the parking requirements, there will be ample parking. Although there is no way of knowing, what will reside within the 5300 square feet of retail space (old motel office); after hours, the Town Hall parking lot could be utilized. There will be 79 parking spaces with green space in the center.

The board then moved forward to answering the two questions as required by the Zoning Ordinance.

Question 1. Relation of the special exception to applicable elements of the planning program.

The ideal situation would be living quarters on the top and retail/commercial on the bottom. Again, the definition of mixed-use is ambiguous. Mr. Newland has complied with everything the Planning Board has requested.

Question 2. Appearance of the special exception relative to location, structure, and design.

The conceptual design meets the mixed-use and the mountain theme exterior.

Within 90-days or receiving a special exception, Mr. Newland should bring in the preliminary plan for the project and the get final plat approval within 1-year. One of the issues that Mr. Newland faced this time was not meeting the deadlines.

Mr. Newland stated that it has cost him approximately \$50,000 to get to this point. Mr. Edwards was adamant that the board revisit the deadline issues especially now that the economy has taken a turn in a downward spiral.

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Chairman Brede stated that a revision of the zoning ordinance allowing the Planning Board the option of extending the approval year to year on a case-by-case basis might be possible. The Planning Board will discuss their options at a future meeting.

CHAIRMAN BREDE MADE A MOTION TO RECOMMEND APPROVAL BASED ON THE CONCEPTUAL PLAN PRESENTED TODAY WITH FOUR BUILDINGS, 79 PARKING SPACES WITH GREEN SPACE IN THE CENTER, ALL BUILDINGS TO HAVE A 7/12 PITCHED ROOF, THE EXTERIOR OF ALL BUILDINGS TO BE HARDY PLANK AND STONE. MR. KNOEDLER SECONDED THE MOTION. MOTION CARRIED UNANIMOUSLY.

4. Special Exception: James Harden

Background Information:

Neighborhood Information:

- Location: Quest Services is located on Bennett Drive behind Maggie Valley Business Park (formerly Stallard Plaza. Bennett Drive is accessed off Ferndale Dr (Between BB&T and Jacks Leather Shack).
- **Lot Information**
- Lot Sizes: 0.28 acres (7686-96-2042) & 0.35 acres (7686-95-1907)

The Background

James Harden is the owner operator of Quest Services, a multifaceted business specializing in automotive repair, recreational vehicle repair and a moving company. During the summer of 2008 it was brought to the Town Staff's attention that Mr. Harden never obtained a special exception permit for Quest Services based upon the "grandfather clause." When he purchased the property in 2004, the business vacating the property was also an automotive repair business so naturally Mr. Harden assumed it was an allowed use. As most of you know, special exceptions are given to a particular person for a particular business and are non-transferable. These are unlike variances, which are given to the land not the individual.

One of the more troubling issues from the staff's perspective is the relationship between usable space and the space needed to adequately run these businesses. Another area of concern is the use of Bennett Drive, which is a 10 foot right of way that runs through the property. This right of way is rarely (until August) kept open for proper ingress and egress through the property.

Special Exception requests: Moving Company & Recreational Vehicle Repair

PLANNING BOARD TO DISCUSS & ANSWER THESE TWO QUESTIONS PER ZBOA REQUIREMENTS

(d) The Board of Adjustment shall request the Maggie Valley Planning Board to review and make recommendations concerning the special exceptions relative to the following considerations:

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1. Relation of the special exception to applicable elements of the planning program
2. Appearance of the special exception relative to location, structure, and design

The members discussed the agenda item and why after three to four years is this issue being addressed. Director Clark explained that he had received a complaint about Mr. Harden's business encroaching on the right-of-way limiting ingress/egress.

Mr. Harden does provide a service that is in nature with a resort town by providing mechanical service for Recreational Vehicles. The building has been used for vehicle repair for twenty-plus years.

Mr. Harden has had a 2008 survey completed to show the right-of-way.

Chairman Brede reminded the members that they are here to answer the two questions and to provide the ZBOA a recommendation. Therefore, appearance does not apply due to Mr. Harden not renovating the structures.

Mr. Ring, the adjacent property owner, installed the gate across the road.

The area is partially screened due to being behind Soco Business Center.

Family members are using the apartment building and the top apartment is being rented for income. As directed, Building Inspector Ron Mercier and Director Clark visited the apartments and made several recommendations to meet building code such as some electrical work and the installation of handrails. The apartments have six parking spaces allocated.

The current uses are a moving company/ housing/ and auto/RV repairs. Mr. Harden stated that the family was doing whatever they could to earn a living.

Mr. Harden stated that he has two small children and Mr. Ring refuses to slow down as he goes through the property; thus the reason for the speed breakers. After the speed breakers were installed, Mr. Ring began driving into the yard to avoid the speed breakers.

Director Clark reminded the Board that their responsibility is to answer the questions and make a recommendation to the Zoning Board of Adjustments.

**CHAIRMAN BREDE MADE A MOTION TO DELINEATE RIGHT-OF-WAY CLEARLY, AS SHOWN ON THE PLAT, CONTINUE TO DO RV REPAIR THE SAME AS AUTO REPAIR, DUE TO A CDL LICENSE NOT BEING REQUIRED, MOVE MOVING TRUCKS BETWEEN THE BUILDINGS, THE AUTO REPAIR WAS AN EXISTING USE AND SHOULD BE GRANDFATHERED.
MR. EDWARDS SECONDED THE MOTION.**

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MOTION CARRIED UNANIMOUSLY.

Since there was not a definition for automobile, the board members decided that an amendment was needed to add a definition. An automobile/ automotive is defined as a vehicle not requiring commercial drivers license (CDL). The ZBOA will be notified as to how the Planning Board interpreted the ordinance.

To clarify the issue, Mr. Chamberlin questioned if this had been vacant land would the use have been approved.

The use would not have been approved, but due to the use being in place for twenty plus years, the auto repair shop was grandfathered. It became a matter of considering the repair of Recreational Vehicles.

7: Planning Director's Report

☐ The Public Forum is scheduled for Thursday October 23, 2008 from 5:30 until 7:30 p.m. in the Town Hall Boardroom. Flyers inviting residents to attend will be distributed throughout town. Mr. Clark will provide flip charts and color dots for people to note what uses they wish to see in the community attraction district. Mr. Clark will provide the presentation and then informally people will provide feedback.

☐ Director Clark provided the details of the 2008 Christmas Parade. The Planning Board normally decorates a float. There will be hayrides and other activities at the Festival grounds after the parade.

8: Other Business

None

9: Adjournment

**ON MOTION OF MR. EDWARDS, CHAIRMAN BREDE SECONDED, ALL
WERE IN FAVOR OF ADJOURNING AT 7:35 P.M.**

Chairman Billy Brede

Vickie Best, CMC, Town Clerk