

MINUTES OF THE  
GATLINBURG MUNICIPAL BOARD OF ZONING APPEALS  
December 4, 2014  
Thursday, 3:00 p.m., City Hall

MEMBERS PRESENT

Joe Waggoner, Chairman  
Kenny Maples  
Ron Smith  
Cyndi Bowling

MEMBERS ABSENT

Jack Miller, Jr.

OTHERS PRESENT

Jerry Reid  
Mike Smelcer

Staff Representative: David Ball, City Planner

The meeting was called to order at 3:00 p.m., with Chairman Joe Waggoner presiding. The minutes, of the October 23, 2014, meeting, were unanimously approved following a motion by Mr. Kenny Maples and a second by Mrs. Cyndi Bowling.

Petitions and Communications from the public

Staff Report

Old Business

New Business

**a) Review and consideration for a “Special Use on Review Permit,” to conduct arts and crafts demonstrations for “Smoky Mountain Art,” in Elks Plaza, located at 968 Parkway, Suite 3, Zoned C-1, requested by Jerry Reid.**

Staff presented the request for review and consideration for a “Special Use on Review Permit” for the purposes of conducting arts and crafts exhibitions as permitted under Article VII, Section 713.1.4, of the Gatlinburg Municipal Zoning Ordinance, for “Smoky Mountain Art,” located at 968 Parkway, Shop #3, in Elks Plaza.

Staff stated that an application has been submitted by Mr. Jerry Reid (see attached), for the purpose of obtaining a “Special Use on Review Permit” to conduct arts and crafts exhibitions at Elks Plaza Mall. Staff also stated that the applicant has a shop in Elks Plaza and has requested that wood carving exhibitions be permitted within the courtyard area of the mall, inside a 10’ X 10’ demonstration area. Staff noted that the applicant is aware that the use of the property is strictly for demonstration purposes and that no sale of merchandise or business transactions are permitted in this area of demonstration.

Staff pointed out that the “Special Use on Review Permit” is only valid for six (6) months after the approval and activities associated with the permit must be conducted during the operating hours of the business seeking the permit. Staff added that in addition, all other conditions specified in Article VII, Section 713.14 must be met (see attached). Staff further stated that the request is under review of the Fire Department and Building Inspections Services Department to ensure that fire safety and building codes are being met with the request.

After further discussion, Mr. Ron Smith made the motion to approve the “Special Use on Review Permit” request subject to a final review and approval of the local codes authorities. Mr. Kenny Maples seconded the motion with all members voting aye.

**b) Review and consideration for a proposed variance from section 406.2.5, located at 961 Campbell Lead Road, Zoned R-2 and C-2, requested by Buddy McLean.**

Staff presented the request for review and consideration for a variance from Article IV, Section 406.2.5, being the Planned Unit Development “Height, Density, and Area Regulations.” Staff stated that specifically, the applicant is requesting a 7’-10” setback variance from the 15’ private street setback requirements of Section 406.2.5, leaving a 7’-2” setback area for a proposed 24’x 40’ meeting room and deck addition to the Buckberry Lodge Check-in facility. Mr. Mike Smelcer was present and gave a brief overview of the project.

Staff stated that the proposed addition has been reviewed by the Gatlinburg Fire Department to determine if the request will negatively impact the use of the private street in emergency situations. Staff noted that in review of the request, the Fire Department has determined that provided the private street remains open for access, the addition will not impede or negatively impact Fire Department access. Staff added that the request will not negatively impact any adjoining property or public right-of-way areas in the proposed location.

Staff stated that the terrain to the south of the check-in facility is sloping away from the existing building and steep. Staff explained that due to the existing layout of the building, it appears that the proposed location is the most practical location to maintain functionality of the meeting space. Staff also stated that an alternative to avoid encroachment into the private street setback is to shift the existing private road location approximately 8’ in a northwesterly direction. Staff further stated that because of the steepness of the property, the shift would require a significant retaining wall structure to create the new road surface. Staff finally stated that the relocation of the private road would cause the unnecessary removal of existing trees and vegetation which in staff’s opinion, would negatively impact the aesthetics and natural setting of the area.

After further discussion, Mr. Kenny Maples made the motion to approve the 7’-10” setback variance from the 15’ private street setback requirements of Section 406.2.5, leaving a 7’-2” setback area for a proposed 24’x 40’ meeting room and deck addition to the Buckberry Lodge Check-in facility. Mr. Ron Smith seconded the motion with all members voting aye.

**c) Review and consideration for a proposed front yard and side yard setback variance, located at 457 Winfield Heights Road, Zoned R-2, requested by Tim Morrison.**

Staff presented the request for review and consideration for a 25' front yard setback variance, from the required 25' front yard setback are leaving a zero (0) foot setback area; and an 11' side yard setback variance from the required 15' setback leaving a 4' side yard setback area for a proposed retaining wall addition. Staff stated that specifically, the applicant has requested a front and side yard setback variance for a 5' high by 80' long stacked block retaining wall. Staff added that the wall has been constructed by the applicants. Mr. Tim Morrison gave a brief over view of the project.

Staff stated that the wall has been constructed in the front and side yard setback areas of the property. Staff noted that there is a natural elevation difference between the subject property and the neighboring property in the location of the wall. Staff added that the neighboring property elevation is higher than the subject property elevation and the wall has been backfilled on the upper side of the wall. Staff explained that therefore, the wall is not visible from the neighboring property and has little if no impact to the neighboring property. Staff also stated that the portion of the wall that is located in the front yard area is stepped down to just a few feet in height and is located several feet from the paved City Street edge. Staff finally stated that the wall does not seem to create any negative impact to the adjoining public right-of-way or impede in any way the use of the adjoining public street.

Staff stated that the applicant has indicated that the wall was necessary to retain the slope between the two properties and to address site drainage issues. Staff pointed out that the first floor elevation difference of the subject property and the adjoining property is approximately 6 to 8 feet. Staff explained that however, the area between the two properties is a short distance which has created a steep slope between the properties, thus requiring a retaining wall system to maintain the slope. Staff finally stated that there is simply not enough distance of separation between the two structures to create a 2:1 slope without the use of a retaining wall.

After further discussion, Mr. Ron Smith made the motion to approve the a zero (0) foot front yard setback area; and an 11' side yard setback variance from the required 15' setback leaving a 4' side yard setback area for a proposed retaining wall addition. Mrs. Cyndi Bowling seconded the motion with all members voting aye.

Unscheduled Items

Adjournment

There being no further business to come before the Board, the meeting was unanimously adjourned at 3:15 p.m., after a motion by Mr. Kenny Maples and a second by Mr. Ron Smith.

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**Approved by:**

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**MBZA CHAIRMAN**

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**DATE**