

**BOARD OF ADJUSTMENTS MEETING**  
**Town of Sylva Board of Commissioners**  
**March 8, 2018**

The Town of Sylva Board of Adjustments met in a Quasi-Judicial Hearing on March 8, 2018, 5:30 p.m., Municipal Hall Board Room, 83 Allen Street, Sylva, North Carolina.

Present: Lynda Sossamon, Mayor  
Mary Gelbaugh, Commissioner  
Barbara Hamilton, Commissioner  
Harold Hensley, Commissioner  
David Nestler, Commissioner

Paige Dowling, Town Manager  
Eric Ridenour, Town Attorney

Absent: Greg McPherson, Commissioner

Mayor Sossamon called the meeting to order at 5:30 p.m.

**VISITORS:** Karen Perry, Craig Stone, Lois Danner, Wiley Danner, Lisa McBride, Tanner Hall, Holly Kays, Emily Barbour, and Bill Parker.

**(1) GENERAL INFORMATION:** Mayor Sossamon stated that the purpose of the meeting was to have a quasi-judicial hearing, which was an evidentiary hearing where the Board of Adjustments would make a decision based solely on competent, material and substantial evidence in the record. The record was all of the materials and input that were presented to the Board, including the application, exhibits, testimony and related materials. The record may include some insufficient evidence, but the Board may not base its decision on it.

**(2) OPENING THE HEARING:** Mayor Sossamon opened the hearing for the conditional use permit:

- (a)** Project: Construction and management of three, up to 60-unit (total) multifamily apartment buildings and clubhouse in the B2 district.
- (b)** Applicant: KRP Investments, LLC (Karen Perry).
- (c)** Location: The Village Overlook, Sylva, NC 28779; PIN #7642-81-2026 (8.19 acres of 17 acre parcel).

**(3) SWEARING IN PARTIES:** Mayor Sossamon inquired if there was anyone other than the Applicant and County and Town Staff that wanted to be a party to the action. All persons, including staff, who intended to present evidence were sworn in by the Mayor.

**(4) DISCLOSURES:** Mayor Sossamon stated that Members of the Board of Adjustments shall disclose any conflicts of interest or bias related to the case.

- (a)** *Commissioner Gelbaugh acknowledged she had none.*
- (b)** *Commissioner Hamilton acknowledged she had none.*
- (c)** *Commissioner Hensley acknowledged he had none.*
- (d)** *Commissioner McPherson absent.*
- (e)** *Commissioner Nestler acknowledged he had none.*

**(5) EVIDENCE:** Manager Dowling explained the general nature of the request. The conditional use permit request is from two years ago from KRP Investments, LLC for the Village Overlook apartment complex across from the hospital. KRP Investments, LLC has submitted their project twice for federal housing grants and at this time would like to get approval from the Town for up to 60 units and three buildings instead of the original two building-52 unit complex. This change requires the application be approved by the Board of Adjustments again.

**(5A) STAFF PRESENTATION OF REPORT:** John Jeleniewski, Jackson County Senior Planner, presented the staff report. The applicant is requesting a modification of the original Conditional Use Permit that was approved two years ago. The original request and approval was for two, 3-story buildings with 52 units. The proposed modification is for a Conditional Use Permit to allow the construction and management of three, 3-story, up to 60-unit (total) multifamily apartment buildings and clubhouse in the B2 district. Currently, the Town of Sylva allows multifamily apartments in the B2 zoning district only when a Conditional Use Permit is issued by the Town of Sylva Board of Adjustment (Board of Commissioners).

**Background:** The property for these potential apartments is located on the east side of U.S. Highway 23 (Asheville Highway) at the intersection of Hospital Road and Overlook Village. The area of this vacant property is 17 total acres and this proposed apartment complex would be contained on a subdivided parcel of approximately 8.19 acres. In addition to the three multifamily residential structures, the proposed clubhouse would serve the residents of this development with a multi-purpose room, fitness room, computer stations and a laundry room. Public utilities will be provided by Tuckaseegee Water and Sewer Authority (water and sanitary sewer) and Duke Power.

**Staff Findings:**

- A. A Site Plan: The attached aerial, concept site plan, floor plans and building elevations show building locations, parking, driveways, ingress/egress to the property, type of units and exterior building materials. Additionally, the applicant has submitted a narrative supporting their project. Any future signage for this project will be required to comply with the sign regulations set forth in the Town of Sylva Zoning Ordinance
- B. Call for a Public Hearing
- C. The Zoning Board of Adjustment shall grant and issue the Conditional Use Permit by a majority vote if it finds the following:
  - 1. *The use will not materially endanger the public health or safety if located where proposed and development according to the plan as submitted and approved.*
  - 2. *The use meets all required conditions and specifications.*
  - 3. *The use will not substantially injure the value of adjoining or abutting property or, in the alternative; the use is a public necessity.*
  - 4. *The location and character of the proposed use will be in harmony with the area in which it is to be located and in general conformity with the development of the Town and its environs.*

**Staff Review:** Planning Department review. Jeleniewski read the following requirements for public purpose and the corresponding response.

*Section 38-153 Required Public Purpose for Assigning Conditions to Conditional Use Permits:*

- 1) *Traffic safety, congestion and visibility:*  
Other than normal travel associated with this multifamily apartment complex, traffic congestion should be expected during peak hours. However, the intersection of

Hospital Road/Overlook Village and U.S. Highway Business 23 is signaled for traffic. Striped crosswalks are shown on the revised concept plan.

- 2) *Parking consistent with Section 38-77:*  
The number of parking stalls required for the revised plan would be 90 per the ordinance regulation and the plan calls for 107.
- 3) *Adequate vegetative or structural buffers between residential uses and all other uses:*  
A landscape plan showing the proposed buffering will be required at the time of permit approval and will meet all landscape buffering requirements per the Town of Sylva Zoning Ordinance.
- 4) *Adequate space for traffic ingress and egress:*  
The proposed driveways and alleys on the submitted concept plan appear to meet the standards set forth in Appendix A of the Town of Sylva's Zoning Ordinance. Full compliance with these standards will be reviewed on a dimensioned site plan prior to permit issuance.
- 5) *Adequate stormwater drainage:*  
Stormwater drainage and erosion control measures will meet the standards set forth in Appendix E (Stormwater Standards) of the Town of Sylva's Zoning Ordinance. Full compliance with these standards will be reviewed on a dimensioned drainage and erosion control plan prior to permit issuance.
- 6) *Adequate landscaping along all public roads:*  
This project does not front a public right-of-way, however, the applicant has shown trees along the access driveway leading to this apartment complex. Additionally, this project will meet the standards set forth in Appendix A and the landscape requirements for the B2 District of the Town of Sylva's Zoning Ordinance. Full compliance with these standards will be reviewed on a landscape plan prior to permit issuance.
- 7) *That signs, consistent with Article IV, are designed, placed, illuminated and landscaped in harmony with the adjoining properties:*  
Any signage erected shall be in accordance with the Town of Sylva's sign regulations.
- 8) *That outside lighting is screened, turned off or directed away from residential neighborhoods:*  
Structure lighting per the NC Building Code will be required. The applicant has not indicated lighting on the submitted concept plan, however, due to the nature of this project, a multi-family apartment complex, lighting should be encouraged for all walkways, parking areas and community areas (playground, clubhouse, picnic area, etc.)

- 9) *That commercial machinery or activities producing noise are conducted within the confines of an enclosed building:*  
Not applicable.
  
- 10) *That the design of the proposed building and its use shall be consistent with the surrounding character of the neighborhood and purposes of the zoning district:*  
The proposed residential structures and accessory buildings are professionally designed and should enhance the character of the surrounding neighborhood.

**Recommendations from Staff:**

- 1) All final site construction plans be reviewed for full compliance of the Town of Sylva Zoning Ordinance.
- 2) To ensure safety for residents and visitors, provide site lighting for the parking areas pedestrian walkways and public spaces. “Down lighting” is encouraged as to avoid light trespass.

**Questions from other parties:** *None.*

**Questions from the Board of Adjustments or Town Attorney:** None.

**(5B) APPLICANT PRESENTATION OF EVIDENCE AND WITNESSES:** Karen Perry of KRP Investments presented to the board a revised power point presentation (exhibit D). She reviewed her previous housing projects with the board. The revised proposal includes up to 60 units in three buildings. The project will be financed with housing tax credit equity, allocated by the NCHFA and conventional mortgage. This will be affordable workforce housing with 1, 2 and 3 bedroom units located across from Harris Regional Hospital. Perry reviewed site amenities to be included with the project as well as community support services. Wynnefield Properties will manage the project. All potential residents will have to meet screening criteria to be eligible for housing.

**Questions from other parties:** *None.*

**Questions from the Board of Adjustments or Town Attorney:** Commissioner Nestler verified that there was a cap on how much income someone can make to live there for initial assessment. Perry confirmed that his was true for initial assessment.

Mayor Sossamon noted that the following had been submitted as written evidence and should be added as exhibits:

- Exhibit A: Conditional Use Application
- Exhibit B: Site Plan
- Exhibit C: Planning Staff Report
- Exhibit D: Power Point Presentation from KRP Investments, LLC

**(5C) OTHER PARTIES PRESENTATION OF EVIDENCE AND WITNESSES:** *None.*

**(5D) COMMENTS FROM THE PUBLIC:** *None.*

**(6) BOARD DISCUSSION/CONDITIONS:** Commissioner Nestler noted that this project would be great for Sylva. Mayor Sossamon reviewed the conditions added by the planning staff.

Being no further comment Mayor Sossamon asked for a motion to close the hearing. *Commissioner Nestler made a motion to close the hearing at 6:00 p.m. The motion carries with a unanimous vote.*

**(7) DECISION:** Mayor Sossamon gave an overview of the Board of Adjustment meeting and reminded the board of the conditions assigned to the application by the planning staff and asked for a motion to vote on the application. *Commissioner Gelbaugh made a motion to vote on the conditional use application. The motion carries with a unanimous vote.*

During this Quasi-Judicial meeting, the Board must determine if the following tenants are found to be true and make findings with regard to each.

**(a) Tenant 1:** The use will not materially endanger the public health or safety if located where proposed and developed according to the plan as submitted and approved.

*Affirmative: The Board unanimously determined this statement to be true.*

*Against:*

**(b) Tenant 2:** The use meets all required conditions and specifications.

*Affirmative: The Board unanimously determined this statement to be true.*

*Against:*

**(c) Tenant 3:** The use will not substantially injure the value of the adjoining or abutting property or, in the alternative, the use is a public necessity.

*Affirmative: The Board unanimously determined this statement to be true.*

*Against:*

**(d) Tenant 4:** The location and character of the proposed use will be in harmony with the area in which it is to be located and in general conformity with the development of the Town and its environments.

*Affirmative: The Board unanimously determined this statement to be true.*

*Against:*

**(e)** Based on the affirmative voting of the aforementioned tenants, the conditional use permit application for KRP Investments, LLC is approved as presented with the assigned conditions.

**(f) Motion:** *Commissioner Hamilton made a motion to approve the conditional use permit application with the conditions assigned. The motion carries with a unanimous vote.*

Mayor Sossamon stated the permit was approved and the meeting was concluded.

*There being no further business, Commissioner Hensley made a motion to adjourn the meeting at 6:04 p.m. The motion carries with a unanimous vote.*

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Lynda Sossamon  
Mayor

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Amanda W. Murajda  
Town Clerk