

BOARD OF ADJUSTMENTS MEETING
Town of Sylva Board of Commissioners
April 12, 2018

The Town of Sylva Board of Adjustments met in a Quasi-Judicial Hearing on April 12, 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
Greg McPherson, Commissioner
David Nestler, Commissioner

Paige Dowling, Town Manager
Amanda Murajda, Town Clerk
Eric Ridenour, Town Attorney

Absent: Harold Hensley, Commissioner

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

STAFF PRESENT: John Jeleniewski

VISITORS: Rady Large and Ali Large.

(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: Building Remodel.
- (b) Applicant: Raymond Large, III
- (c) Location: 486 West Main Street PIN# 7641-17-8644

(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 Amanda Murajda.

(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 absent.*
- (d) *Commissioner McPherson acknowledged he had none.*
- (e) *Commissioner Nestler acknowledged he had none.*

(5) EVIDENCE: Manager Dowling explained the general nature of the request. The conditional use permit request is for outdoor seating at 486 West Main Street which used to be the "Nth Degree" salon. The owner would like to relocate a private club from Mill Street to this location and have outdoor seating. The B1 zoning district requires a conditional use permit for outdoor seating. Dowling added that the Planning Board voted unanimously to recommend approval of the application.

(5A) STAFF PRESENTATION OF REPORT: John Jeleniewski, Jackson County Senior Planner, presented the staff report. The applicant is requesting a conditional use permit for outdoor seating at 486 West Main Street.

Background: The property is 0.03 total acres and was previously “The Nth Degree” hair salon in the B1 business district. The remodel of this building is for a future private club/restaurant tenant. The proposed outdoor seating area will be on West Main Street and will be within the existing building footprint. There is no proposed expansion of building square footage. The dimensions will be approximately 10 feet by 18 feet and will be intended for outdoor seating and dining. The proposal is for 12 occupants in the outdoor seating area.

Staff Findings:

A. A Site Plan: The attached aerial, concept site plan, floor plans and building elevations show building location, parking, driveways, ingress/egress to the property, type of unit and exterior building materials.

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:*
The proposed remodel to create a covered outdoor seating area will not impact traffic safety, cause congestion or decrease driver visibility. The proposed structure will be fully contained onsite and will not obstruct site distance.
- 2) *Parking consistent with Section 38-77:*
Parking is not required in the B1 District.
- 3) *Adequate vegetative or structural buffers between residential uses and all other uses:*
There are no landscape or buffering requirements for the B1 District.
- 4) *Adequate space for traffic ingress and egress:*

The covered outdoor seating area will not impede traffic ingress/egress.

5) *Adequate stormwater drainage:*

The covered outdoor seating area will not disrupt the existing storm water management measures in place on Main Street.

6) *Adequate landscaping along all public roads:*

There are no landscaping requirements for the B1 District.

7) *That signs, consistent with Article IV, are designed, placed, illuminated and landscaped in harmony with the adjoining properties:*

Signage will comply with existing Town of Sylva sign regulations.

8) *That outside lighting is screened, turned off or directed away from residential neighborhoods:*

Outside lighting will be as needed for dining patrons and as required per NC State Building Code. Lighting will be directed away from traffic.

9) *That commercial machinery or activities producing noise are conducted within the confines of an enclosed building:*

The requested covered outdoor seating area is proposed for a private club/restaurant and no other commercial activities are proposed.

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 remodel to create a covered outdoor seating area will comply with all design guidelines applicable in the Town of Sylva ordinances and NC State Building Code.

Recommendations from Staff: *None.*

Questions from other parties: Commissioner McPherson asked if the façade on the new construction would be in harmony with the remainder of town.

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

(5B) APPLICANT PRESENTATION OF EVIDENCE AND WITNESSES: Mr. Large addressed the board and read a letter in support of his application which was entered as exhibit D for the report.

Questions from other parties: *None.*

Questions from the Board of Adjustments or Town Attorney: Mayor Sossamon commented that this project was a great improvement for the Town of Sylva.

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: Letter from Applicant

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

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

(6) BOARD DISCUSSION/CONDITIONS: *None.*

Being no further comment Mayor Sossamon asked for a motion to close the hearing. *Commissioner Gelbaugh made a motion to close the hearing at 5:48 p.m. The motion carries with a unanimous vote.*

(7) DECISION: Mayor Sossamon gave an overview of the Board of Adjustment meeting and asked for a motion to vote on the application. *Commissioner Hamilton 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 Raymond Large is approved as presented.

(f) Motion: *Commissioner Hamilton made a motion to approve the conditional use permit application. 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 Gelbaugh made a motion to adjourn the meeting at 5:50 p.m. The motion carries with a unanimous vote.

Lynda Sossamon
Mayor

Amanda W. Murajda
Town Clerk