

**TOWN OF SEVEN DEVILS
BOARD OF ADJUSTMENT**

Public Hearing 5:00 pm

Variance Application – Don Iverson, for RCS Properties,

Parcel 1 – North of Shoppes of Tynecastle

Regular/Organizational Meeting – 5:30pm

May 28, 2019

The Seven Devils Board of Adjustment met for a Public Hearing for a Variance Application from Don Iverson on Tuesday, May 28, 2019 at 5:00pm and in a Regular/Organizational Meeting at 5:30pm at Town Hall. Present at the Public Hearing were members John Duncan, George Ehlinger, Barbara Hurlbrink, Jack Byrnes, Sarah Manning, Frank Sell-Alternate and Mark Bailey-Alternate. A quorum was met. Also, in attendance was Debbie Powers, Town Manager. The minutes were recorded by Emma Wynn, Interim Town Clerk.

CALL TO ORDER

Chair Duncan called the Public Hearing of the Board of Adjustment Meeting to Order at 5:00pm.

VARIANCE PRESENTATION/REFRESHER

Don Iverson reviewed his variance request presented at the April 23, 2019 Board of Adjustment Meeting. He introduced Melynda Martin Pepple, Executive Director of the Avery County Chamber of Commerce. Mr. Iverson stated the request is to refurbish the existing sign. It is a cooperative effort between himself and the Avery County Chamber of Commerce. The left portion of the sign will be directional information to the office of the Avery County Chamber of Commerce. Chamber members will be given preference to purchase space. The sign will be LED/digital. The size of the sign will be decreased slightly. The sign will be reclassified through the State of North Carolina as an “off-premise” sign.

PUBLIC COMMENTS

Larry Fontaine, 127 West Rocky Top: Larry Fontaine spoke in support of the Variance Application to modernize the sign. The existing sign is very outdated. It’s in an area that doesn’t affect any people. It will be an advantage to public safety by posting amber alerts, silver alerts, fire dangers, etc. It will fit in well with our community.

CLOSE PUBLIC HEARING

With no further comments, Member Byrnes made the motion to close the Public Hearing; Member Ehlinger seconded the motion. The members agreed unanimously. The Public Hearing ended at 5:10pm.

RECESS

CALL TO ORDER FROM RECESS – 5:30pm

Chair Duncan call the Regular/Organizational Meeting of the Board of Adjustment to order at 5:30pm.

ROLL CALL

Chair Duncan initiated the Roll Call for the board. Present were John Duncan, George Ehlinger, Barbara Hurlbrink, Jack Byrnes, Sarah Manning, Frank Sell-Alternate and Mark Bailey-Alternate. A quorum was met. Debbie Powers, Town Manager was also in attendance.

ADOPT AGENDA

Chair Duncan asked for a motion to Adopt Agenda. Member Manning made a motion; Member Byrnes seconded the motion; the members agreed unanimously.

APPROVAL OF MINUTES – APRIL 23, 2019

Chair Duncan asked if there were changes to the minutes of April 23, 2019. Member Manning stated that the word “/billboard” should be deleted on page 4, paragraph 2 after the word “off-premise sign”. Member Ehlinger made a motion to amend the minutes as stated; Member Byrnes seconded the motion; the members agreed unanimously.

OLD BUSINESS – VARIANCE REQUEST FROM DON IVERSON

STAFF REPORT – ZONING ADMINISTRATOR

Manager Powers in her role as Zoning Administrator read the following procedures to the Board of Adjustment:

Findings of Fact:

The Town of Seven Devils received an Application for Variance from Mr. Don Iverson, delivered to Town Hall on March 21, 2019. The application was complete and was accompanied by the \$100 fee and all required documentation. The property address is 4059 Hwy 105 South, Seven Devils, NC 28604. Parcel ID# 1867-03-24-4454 and is 6.55 acres. Property is in GB (General Business) on Official Zoning Map of the Town of Seven Devils. Mr. Iverson is requesting a Variance from the UDO, Article 11, Sign Regulations, Section 4, Prohibited Signs, (b) Illumination (LED), and (c) Other Prohibited Signs, 5. Billboards.

Notification of this meeting was posted in the Watauga Democrat on May 12, 2019, was posted on the Town website, signage was posted on the property in question, as well as at

Town Hall, and neighboring properties within 100' of the property in question were notified by US First Class mail.

CALL FOR DISCLOSURES

Chair Duncan stated there are two parts to the disclosures; one is the Ex Parte Communication and the other is Conflicts of Interest.

Ex Parte Communication:

Chair Duncan stated that the party to this case has a right for an Ex Parte Communication to be disclosed. Ex Parte Communication is any communication about the case outside of the hearing. This may include site visits as well as conversations with parties, staff, or the general public. Chair Duncan asked if any board members had any site visits to disclose.

Site Visit(s): Member Manning visited the site observing an off-site sign of approximately 300 square feet, in very bad condition. The purpose of the sign was advertising shops in an adjacent shopping center. Landscaping was at the base to block view of the posts.

Chair Duncan queried each member for further comments and discussion. There were no further comments.

Conflicts of Interest:

Chair Duncan stated that the party to this case has a right to an impartial, unbiased Board. Chair Duncan asked if any Board member had a fixed opinion prior to this hearing that is not susceptible to change, or a financial interest in the outcome of this matter. Board members response was recorded as follows: Sarah Manning – No; John Duncan – No; George Ehlinger – No; Barbara Hurlbrink – No; Jack Byrnes – No.

Deliberate & Discussion:

Chair Duncan stated that the Board will now deliberate & discuss this request. This Board is tasked with deciding if this proposal meets certain standards:

1. Are there practical difficulties or unnecessary hardships in the way of carrying out the strict letter of the Ordinance?
2. Is the Variance in harmony with the general purpose and intent of the Ordinance and preserves its spirit?
3. If granting the Variance, can you assure the public safety and welfare have been assured, and substantial justice has been done?

There was no further Board discussion.

Decision:

Chair Duncan stated that the decision can be to Approve, Approve with Conditions, or Deny the Application for Variance request.

Member Byrnes made a motion to approve the Variance request, Member Ehlinger seconded the motion. Board members response was recorded as follows:

Sarah Manning – Nay; John Duncan – Aye; George Ehlinger – Aye; Barbara Hurlbrink – Aye; Jack Byrnes – Aye.

The motion passed with 4 Ayes and 1Nay.

NEW BUSINESS

None

BOARD MEMBER COMMENTS

Don Iverson has met all the requirements set forth by the Board of Adjustment.

ADJOURN

Member Byrnes made the motion to adjourn the meeting; Member Ehlinger seconded the motion; the members agreed unanimously. The meeting adjourned at 5:40pm.

John Duncan
Chairperson

Emma Wynn
Interim Clerk to the Board of Adjustment