

MINUTES OF THE
GATLINBURG BOARD OF APPEALS
SPECIAL CALL MEETING
September 12, 2019

MEMBERS PRESENT

David Hadden
Garry Shultz
Lonnie Privitt
David Ogle
Mike Smelcer

MEMBERS ABSENT

OTHERS PRESENT

Davy Thomas
Robert Campbell
Kyle Horner
Bob Bentz

STAFF REPRESENTATIVES

David Ball, Building & Planning Director
Penny Douglas, Executive Secretary

The Gatlinburg Board of Appeals met in a special call meeting on September 12, 2019, at 3:00 a.m., East Parkway, Gatlinburg City Hall. Chairperson Garry Shultz called the meeting to order at 10:00 a.m. A motion was made by Mr. David Ogle to approve of the minutes of the previous meetings for December 13, 2018, Mr. Mike Smelcer seconded the motion which passed unanimously with all members voting "aye."

PETITIONS AND COMMUNICATIONS FROM THE PUBLIC

None

STAFF REPORT

None

OLD BUSINESS

None

NEW BUSINESS

Review and consideration for a proposed variance from the Gatlinburg Storm Water Ordinance "Stream-side Buffer Requirements," in Title 18, Chapter 4, Section 408, of the Gatlinburg Municipal Code, for "Gatlinburg Apartments, LLC," Development, located at 309 Hughes Road, C-2 Zone, requested by Gatlinburg Apartments, LLC.

Staff presented the request for a proposed variance from the Gatlinburg Storm Water Ordinance, Section 8, being the "Stream-side Buffer" requirements, for "Gatlinburg Apartments, LLC" Development, located at 309 Hughes Road, C-2 Zone. Staff explained that the applicant is requesting a variance from the buffer requirements of the Storm Water Ordinance, "Title 18, Chapter 4, Section 18-408" requiring certain water quality buffers for both during construction

and post construction conditions, for the proposed development of the property which adjoins a small stream that feeds into "Baskins Creek" stream. Kyle Horner was present and explained that Baskins Creek is not designated as "exceptional" nor is it on the State's 303d listing for siltation so the required average buffer for the property is 30' with a minimum buffer width at any given point of 15' measured from the top of the stream bank. Staff explained that the project is a redevelopment of an existing property that was previously developed with "McCarter Lumber Company." Mr. Horner stated that the applicant is requesting a variance from the 30' requirement, based on a reduction of impervious areas with the buffer.

Mr. Horner provided site information as well as a specific breakdown of the preexisting buffer area conditions comparison to the proposed buffer area conditions upon completion of the project. The site information indicates that there is approximately 620' linear feet of stream bank associated to this property that adjoins the small creek. Mr. Horner indicated that the existing site conditions areas consists of 9,975 square feet of impervious area and the proposed impervious areas after completion will be 8,585 square feet for a net reduction in impervious areas of 1,390 square feet.

Staff explained that "Section 18-408, subsection (c)," of the current adopted Storm Water Ordinance, provides for the ability to obtain a buffer variance provided mitigation measures are at least as protective as the undisturbed buffer. In this instance, the undisturbed buffer area does not exist due to the developed conditions of the site. In Section 18-411 – "Appeals" the Storm Water Ordinance further authorizes the Board to consider and approve variances from the Ordinance provisions when the applicant can demonstrate, to the satisfaction of the Board that the variance will not lead to any of the following conditions:

- (a) Deterioration of existing culverts, bridges, dams and other structures;
- (b) Degradation of biological functions or habitat;
- (c) Accelerated stream bank or streambed erosion or siltation;
- (d) Increased threat of flood damage to public health, life and property.

Based on the technical information from the design engineer and state and federal permitting of the proposed site improvements, it does not appear that the aforementioned conditions will occur as a result of this variance. Mr. Horner also added that a Hydrologic and Hydraulic Impact Study was performed on the small stream and the study revealed that there would be no impact to the flooding conditions below or above the project site based on the proposed improvements. After a brief discussion Mr. Mike Smelcer made a motion to approve and Mr. David Ogle gave a second and all members voting "aye."

Review and consideration for a proposed variance from the Gatlinburg Storm Water Ordinance "Stream-side Buffer Requirements," in Title 18, Chapter 4, Section 408, of the Gatlinburg Municipal Code, for "Embassy Suites Hotel," located at 520 Historic Nature Trail, C-1 Zone, requested by Hospitality Management Solutions.

Staff presented the request for a proposed variance from the Gatlinburg Storm Water Ordinance, Section 8, being the "Stream-side Buffer" requirements, for "Embassy Suites Hotel" Development, located at 520 Historic Nature Trail, C-1 Zone, for the redevelopment of the site. Mr. Horner noted that the property currently does not have an undeveloped area of a natural vegetative buffer.

Mr. Campbell and Mr. Horner explained that the applicant is requesting a variance from the buffer requirements of the Storm Water Ordinance, "Title 18, Chapter 4, Section 18-408" requiring certain water quality buffers for both during construction and post construction conditions, for the proposed development of the property which adjoins LeConte Creek and Grassy Branch." Mr. Horner noted that LeConte Creek is designated as "exceptional" so the required average buffer for the property is 60' with a minimum buffer width at any given point of 30' measured from the top of the stream bank. The applicant is requesting a 60' variance from the 60' requirement, leaving a 0' buffer area at the closest point from the stream bank. Mr. Horner provided site information as well as a specific breakdown of the preexisting buffer area conditions comparison to the proposed buffer area conditions upon completion of the project. The site information indicates that there is approximately 2500' linear feet of stream bank associated to this property that adjoins LeConte Creek and Grassy Branch.

Staff noted that the existing impervious surfaces consists of concrete building pads and paved parking and driveway areas that remain from the former "Holiday Inn." Mr. Horner calculated the existing impervious surfaces for the property, within the required 60' buffer to be **67,696** square feet. The proposed redevelopment of the property depicts an area of **62,423** square feet of impervious area resulting in a net improvement of **5,273** square feet.

Staff explained that "Section 18-408, subsection (c)," of the current adopted Storm Water Ordinance, provides for the ability to obtain a buffer variance provided mitigation measures are at least as protective as the undisturbed buffer. In this instance, the undisturbed buffer area does not exist due to the developed conditions of the site. In Section 18-411 – "Appeals" the Storm Water Ordinance further authorizes the Board to consider and approve variances from the Ordinance provisions when the applicant can demonstrate, to the satisfaction of the Board that the variance will not lead to any of the following conditions:

- (a) Deterioration of existing culverts, bridges, dams and other structures;
- (b) Degradation of biological functions or habitat;
- (c) Accelerated stream bank or streambed erosion or siltation;
- (d) Increased threat of flood damage to public health, life and property.

Based on the technical information from the design engineer and state and federal permitting of the proposed site improvements, it does not appear that the aforementioned conditions will occur as a result of this variance. After a brief discussion Mr. David Ogle made a motion to approve and Mr. Lonnie Privitt gave a second and all members voting "aye."

Review and consideration for a variance from Table 1021.2 (2), of the 2012 International Building Code, for an observation tower to be located at "Anakeesta," located at 147 Baskins Creek By-pass, C-1 Zone, requested by Silverbell Investment Partners, LLC.

Staff presented the request for a proposed variance from Table 1021.2(2), of the International Building Code, for an observation tower to be located at the "Anakeesta" Development. Mr. Mike Smelcer recused himself from the Board and explained that he was the project Architect and therefore could not vote on the item. Mr. Smelcer then explained the request to the Board noting that the project would consist of an approximate 54' Observation Tower to be placed on the property. Mr. Smelcer began by explaining the difficulty in classifying the proposed tower under

the building codes due the uniqueness of the structure, being that it was an open air tower. However, Mr. Smelcer noted that he and the Building Official agreed that the Type III Construction classification was the most compatible classification for the structure and the proposed use of the structure. Mr. Smelcer then gave a brief explanation of the variance request noting that the primary variance issues relate to the number of exits, exit travel distances associated to the tower, and the usage of combustibile heavy timber members in Type III Construction. Mr. Smelcer explained that the tower will have a single exit discharge point that will be served by a single stair system. Mr. Smelcer stated that under the building code, a single exit limits the maximum travel distances to 75 feet. Mr. Smelcer stated that the current design of the tower consists of one discharge exit and the travel distances to the discharge exit will be 159 feet. Mr. Smelcer further explained that the Type III Construction Classification requires that noncombustible materials be used in the construction but that the columns for the structure are heavy timber glue laminated columns. Mr. Smelcer stated that all other components of the tower will be of non-combustible materials. Mr. Smelcer explained that he has met with the Building Official and the Fire Department to develop alternatives to the reduction in exit discharge points, travel distances, and the usage of the wood columns in the construction. Mr. Smelcer stated that to address the variance items, the tower will be equipped with a standpipe system that will have three (3) connection points to be located at the ground level, the mid-point level and the observation level of the Tower. These connection points will provide the Fire Department connections to energize the system during an emergency at the Tower location. Also, all other components of the tower will be of non-combustible material. Mr. Smelcer stated that the Building Official and Fire Department has agreed with the proposed alternatives. After a brief discussion Mr. David Ogle made a motion to approve and Mr. Lonnie Privitt gave a second and all members voting "aye."

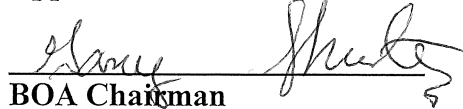
UNSCHEDULED ITEMS

None

ADJOURNMENT

With no further business to come before the Board, Mr. David Ogle made a motion to adjourn. Mr. Mike Smelcer provided a second, and by a unanimous vote the meeting was adjourned at 3:30 p.m.

Approved:


BOA Chairman

11 / 14 / 2019
Date