

MINUTES OF THE TOWN OF SILVER CREEK BOARD OF ADJUSTMENT
SILVER CREEK TOWN HALL
CONDITIONAL USE AMENDMENT HEARING
June 21, 2016

The Town of Silver Creek Board of Adjustment sat in session on Tuesday, June 21, 2016 and conducted a conditional use amendment hearing. Chairman Larry Guentzel called the hearing to order at 7:59 p.m.

Member present were: Supervisor & Chair – Larry Guentzel; Supervisor – Greg Hull; Supervisor – Mike Hoops; Clerk – Kristina Pirsig. Others in attendance were the applicant – Timothy Phillips; adjacent property owners: LeRoger Lind; Thomas Opfer, Jamie MacFarlane, Dwight Lind, Dan Lind, Ted Vanderbeek, and Nancy Mancini.

Motion by Hull, second by Guentzel to have the Vice Chair Hoops chair the meeting. Motion carried unanimously.

The purpose of the hearing was to consider the Conditional Use Amendment application, CU-99-02 by Timothy Phillips – for the property described as: Outlots Ten (10) and Eleven (11), County Auditor's Plat No. 3, according to the plat thereof on file and of record in the office of the County Recorder of Lake County, Minnesota, EXCEPT those parts thereof shown as Parcel 26 on Minnesota Department of Transportation Right-of-Way Plat No. 38-20 filed in the office of said Lake County Recorder in Book E of Plats, page 91, 3.07 acres, Town of Silver Creek, Lake County, Minnesota, zoned RC – Resort Commercial.

The applicant requested the following consideration: that the current Conditional Use be amended to allow: Retail sale of Off-Sale Liquor (Liquor Store) and Wood Craft Showroom.

Legal notice was published on 6/17/2016 in the Northshore Journal. 28 notices were sent as follows; the applicants, 23 Castle Danger Subordinate Sewer District property owners, Lake County Planning & Zoning, Town of Silver Creek Supervisors, County Commissioner. There were no written responses. Hearing was also posted at the Silver Creek Town Hall and Town Website on 6/8/2016.

Hoops then turned the meeting over to Timothy Phillips. Phillips explained his plan was to partition off the building so that the wood shop would be separate from the liquor store. He also would create separate entrances for each store. Phillips explained that he currently owns a liquor store and is very familiar with that sort of business and some of the concerns people may have. He is hoping to open at the end of summer 2016.

Hull asked what the hours of operation would be. Phillips responded that he would be open from 8am -10pm on Friday and Saturday for sure but was unsure of the rest of the week and that it would depend on business.

Hoops asked if Phillips was going to live on property. Phillips said that he would.

There were no other questions from the Board of Supervisors.

Hoops explained to the public that the ordinance does allow for retail sales and therefore the off-sale of liquor and wood products would fall within that.

Hoops then opened the meeting for public comment.

Tom Opfer asked if there are background checks required. Phillips said that there are within the licensing process.

LeRoger Lind presented the Board with a letter. His concern was with public safety, health and welfare. He stated that the number of those driving under the influence would increase causing traffic safety issues in the community. He also stated that it would be easier to access retail alcohol and would encourage a higher frequency of consumption in the community. He stated that the welfare of the community, willing or not, would be at higher risk from related traffic, violence and disruptions. He went on to say that the approval of this amendment would be precedent setting in the CDSSD.

Hoops responded by reminding the public that Castle Danger Brewery was allowed a Conditional Use Permit for off-sale and there were not any problems with that.

Ted Vanderbeek, Gooseberry Park Motel, spoke to the Board saying that he thought that the off-sale wouldn't affect the public safety and that he thought it would be a positive change for the area.

Jamie MacFarlane, Castle Haven, spoke to the Board saying that as a resort owner it would benefit everyone because currently if people want to purchase off-sale they have to drive 15 miles in either direction. She indicated her support of the amending the conditional use permit.

Dwight Lind spoke to the Board indicating his support of the business because of the upgrade of property.

Hoops closed the public comment portion.

The Board went through the findings of fact:

#1 - Measures have been taken, financially assured by the applicant, and approved by the road authority to provide safe and efficient access, off-street parking and loading space to serve the proposed use.

Phillips stated that he has already spoken to the owners of the Rustic Inn to make sure that parking isn't a problem for either of the businesses.

#2 - The proposed use will comply with the hydrology and impervious surface requirements of the Ordinance.

Yes, it is under 25%

#3 - The topography, vegetation and soil conditions are adequate to accommodate the proposed use.

Yes

#4 - The proposed use will not impact public waters during or after construction or impact wetlands without appropriate consideration.

No it will not impact public waters

#5 - Adequate utilities (water supply, wastewater treatment), access, drainage, storm water retention, and supporting facilities have been provided or are being provided backed by appropriate financial assurance.

Yes

#6 - The proposed use will not create potential health and safety, environmental, lighting, noise, signing, or visual problems.

No it won't. Phillips stated that he has no problem refusing to serve people and calling the authorities when needed.

#7 - The proposed use or development will not be detrimental to the rightful use and enjoyment of other property in the immediate vicinity, nor substantially diminish or impair values within the vicinity.

No, it doesn't change how the property is used.

#8 - That the proposed use is consistent with the Comprehensive Plan and within the spirit and intent of the Ordinance.

There has been off-sale in the CDSSD before, so it does meet the requirements.

Hull explained how he doesn't like liquor licenses and questioned how health and safety is maintained.

Hoops said that the only thing that changes with the application is the kind of product being sold.

Motion by Guentzel, seconded by Hoops to approve Conditional Use Permit CU-99-02. Hull voted No. Motion carried.

Variance approved by yea vote of Supervisors Mike Hoops and Larry Guentzel this 21st day of June 2016.

Motion by Hull, seconded by Hoops to adjourn the meeting at 8:35pm. Motion carried unanimously.

Respectfully submitted,
Kristina Pirsig, Clerk