



**MINUTES OF THE REGULAR MEETING OF THE TOWN
OF LAKE LURE ZONING AND PLANNING BOARD**

**TUESDAY, AUGUST 15, 2023
9:30 A.M.**

Present: Randall Nelson, Chair
Charlie Ellis, Vice Chair
Dave Keenan
Ken Williams

Scott Doster, Town Council Liaison

Absent: Mac Hillabush

Staff: Michael Williams, Community Development Director
Richard Carpenter, Development and Environmental Review Specialist
Kimberly Martin, Community Development Administrative Support Specialist

The meeting was called to order at 9:30 a.m.

I. ROLL CALL

The Board opened with the pledge of allegiance. All Board members were present aside from Mac Hillabush.

II. APPROVAL OF THE AGENDA

Mr. Charlie Ellis made a motion to approve the agenda, as presented. Mr. Dave Keenan seconded and all voted in favor.

III. APPROVAL OF THE MINUTES

Mr. Ellis made a motion to approve the minutes from the July 18, 2023 regular Zoning and Planning Board meeting, as presented. Mr. Keenan seconded and all voted in favor.

IV. **PUBLIC COMMENT**

There were no comments from the public.

V. **OLD BUSINESS**

A. ***Review of July 18 Z&P Board recommendation regarding amending Chapter 36 Zoning ordinance regarding bars, taverns, nightclubs and alcohol sales for on premises uses in light of new information gathered from ABC Commission and Town Council's non-voting review at their July 26 work session.***

Community Development Director Michael Williams recalled discussions the past two Board meetings regarding bars, taverns, nightclubs, and alcohol sales for on premise uses.

Director Williams noted he and Commissioner Scott Doster had since spoken with the state ABC Commission attorney and Town employee Melissa Hand who was a former ABC Inspector. It was confirmed that the process for obtaining a permit from the ABC Commissioner starts with a business applying through local zoning administrators and the state, completing an inspection form that will go from the Commission to the Town, and completing building and fire inspections. Director Williams advised that after all steps are completed, the ABC Commission bases their determination on all factors including local zoning. Commissioner Doster agreed that the ABC Commission follows local ordinances when reviewing a permit application.

Chair Nelson asked what the determining factors are for the authorization of mixed beverage sales. Director Williams displayed a form on the Commission website that includes the form a local zoning official is supposed to complete to determine compliance or non-compliance. Director Williams noted that there are parameters put in place by general statutes and displayed the legal sales information for Rutherford County and municipalities in Rutherford County. It was noted that 18B-603D had been struck out by general statutes. Director Williams added that the Town sends updated codes to the Commission.

Mr. Ellis asked about the election that resulted in rules regarding on premise alcohol sales in the Town and Director Williams noted that staff could follow up. Director Williams and Commissioner Doster recalled discussions by Council at their recent work session meeting and detailed the history revealed by Commissioner Jim Proctor. It was summarized that Council seemed to be against bars being allowed in all commercial districts.

Board members discussed past conversations regarding food trucks counting towards food sales percentages. Commissioner Doster confirmed with the food truck could only count if it were owned by the business and was not moveable. Mr. Ellis noted that the Town's ordinances would not allow a food truck to operate unless it is mobile.

Director Williams expressed he would like to better define what the Town wants. Mr. Ellis noted that he was involved in the process of defining breweries, micro, and other alcohol related establishments. Mr. Ellis recalled that the context of the discussion that is currently being had was not a part of original discussions. Mr. Ellis noted that past discussions were in regard to matters such as how these establishments would impact sewer effluent.

Chair Nelson expressed that he would like clarification as to why a winery could not sell beer and asked where that is stated in a code. Director Williams explained that the types of alcohol that can be sold at an establishment is dependent on the type of permit that they obtain from the ABC Commission.

Director Williams noted that what has been enforced up-to-date had been based on Town staff interpretations. Mr. Ellis expressed concern that what has been interpreted cannot be backed up by ordinances. Mr. Ellis also expressed concern with inconsistencies.

Chair Nelson mentioned Council's conscious omission of bars discussed at the work session meeting. Director Williams noted that different levels of alcohols sales have different impacts which need to be discussed. Chair Nelson asked if the Police Chief had any feedback on the matter and Director Williams answered that Chief Humphries had not provided any direct feedback, but there had been concern expressed regarding the patrolling of establishments like the Tiki Bar.

Board members reviewed the definition of a microbrewery. Mr. Ellis expressed that he thinks that the definition should specify on-sight consumption. Mr. Ellis questioned why microbreweries are different and why the definitions of similar establishments do not include the same rules.

Chair Nelson asked Commissioner Doster what the Council wanted from the Board at this time. Commissioner Doster noted that Council was hoping for a determination as to what the town versus state responsibilities are for permitting. Board members discussed reviewing all state definitions. Mr. Ellis suggested that the Town should mimic state definitions. Board members discussed how to move forward and there were no changes to the recommendations made last month.

Board members discussed the possible parameters for special use permit for bars. Director Williams provided the list of criteria for all special use permits. Chair Nelson noted that Board of Adjustment reviews all special use permit applications. Board members reviewed rules specified in Code of Ordinances Section 36-72 for special use permits.

Mr. Ellis expressed that he wishes that Council would consider each of the board's recommendations made at the July meetings separately. Commissioner Doster and others agreed.

Chair Nelson reiterated that the Town should go with what the state specifies about selling beer at a winery or vice versa. Others expressed that this should be allowed in the Town if it is allowed by the state. Mr. Ellis noted that one other definition that is not addressed is taprooms. Mr. Ellis recommended that this be discussed further and improve definitions based on what the Town wants regarding mixed beverages. Commissioner Doster expressed that he would not be opposed to a place that makes its own alcohol selling another form of malt beverage, but he could see an issue with allowing such establishment to serve mixed beverages. Chair Nelson requested that staff have a discussion with the Town Manager and Council regarding the administrative interpretation of these issues and others agreed.

There was consensus to allow for additional discussion by Town Council prior to the Board re-visiting the topic.

VI. NEW BUSINESS

A. *Review of State-required revisions to our Chapter 22, Article II: Soil Erosion and Sedimentation Control ordinance with request for board recommendation to the Town Council to approve the revisions.*

Director Williams explained that the Town is a local program for the state for enforcing soil and erosion control in Lake Lure. It was noted that one requirement regarding soil and erosion is that the Town must have a definition in the ordinances based on the state's model ordinance. Director Williams noted that the Town is hoping to update the current language, but keep some regulations that enforce additional standards. Director Williams requested a recommendation from the Board to Council to solidify the Town's soil erosion and sedimentation control ordinance. Chair Nelson read staff's recommendation that were provided in the meeting packet.

Mr. Keenan made a motion to recommend that Town Council adopt the November 2021 NC Department of Environmental Quality's sample Erosion and Sedimentation Control ordinance, with the addition of the Town's existing and higher thresholds for the minimum area of disturbance requiring an approved plan and permit, as the Town's new Chapter 22 Erosion and Sedimentation Control ordinance. Mr. Ellis seconded. All voted in favor.

VII. AUGUST DEPARTMENT REPORT

Board members reviewed the August Department Report that was available in the meeting packet.

Chair Nelson asked about the status of the cell tower. Director Williams explained that the cell tower project is still moving forward. Chair Nelson asked if all of the State Historic Preservation Office (SHPO) requirements had been satisfied. Director Williams answered that SHPO had a consulting firm complete interviews and create a plan which is not yet finalized, but SHPO has already given permission for the cell tower to be built and the final plan should be completed by the end of the month.

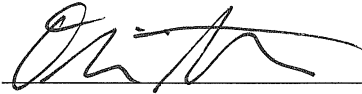
Director Williams noted that bears are a big issue right now and Town staff is increasing enforcement of regulations regarding vacation rentals solid waste management. It was noted that Community Development enforces it through communications, but fines or additional actions could also be enforced. It was also noted that not all issues are associated with vacation rentals. Chair Nelson asked what Rumbling Bald does to control this issue and Liz Geary answered that she enforces issues in the same way that Community Development does, but changes a fee if the issue is not resolved. Ms. Geary added that repeat offenders must go through a hearing and fine process. Mr. Williams asked about Rumbling Bald's garbage facility and Ms. Geary answered that Rumbling Bald follows the Town's garbage pickup schedule and has specified rules and times for the use of their convenience site. Chair Nelson expressed it is a garbage problem that is causing an influx of bear encounters.

Commissioner Doster announced that the Town was not awarded the most recent Parks and Recreation Trust Fund (PARTF) grant for Morse Park to expand the parking lot.

VIII. ADJOURN

Mr. Keenan made a motion to adjourn the meeting. Mr. Williams seconded and all voted in favor. The meeting was adjourned at 11:18 a.m.

ATTEST



Olivia Stewman, Town Clerk



Randall Nelson, Board Chair