



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

**TUESDAY, JULY 18, 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. Dave Keenan made a motion to approve the agenda, as presented. Mr. Ken Williams seconded and all voted in favor.

III. APPROVAL OF THE MINUTES

Mr. Keenan made a motion to approve the minutes from the June 20, 2023 regular Zoning and Planning Board meeting, as presented. Mr. Charlie Ellis seconded and all voted in favor.

IV. PUBLIC COMMENT

There were no comments from the public.

V. OLD BUSINESS

A. *Proposal for amendment to Chapter 36 Zoning ordinance regarding bars, taverns, nightclubs and alcohol sales for on-premises uses.*

Chair Randall Nelson and Community Development Director Michael Williams provided a brief summary of discussions from May and June.

Chair Nelson noted that Director Williams submitted a text amendment proposal to accomplish the objectives previously discussed. Director Williams advised that the proposal is in the meeting packet and summarized that the proposal is to define bars and restaurants and broaden the districts that allow bars through a special use permit process.

Commissioner Doster recalled the state regulations for restaurants which require that 30 percent sales are food sales and have a minimum capacity of 10 seats. Commissioner Doster provided the Board with the state statutes on mixed beverage sales. Board members discussed local versus state regulation of alcohol sales. It was noted that the Town cannot issue mixed beverage permits, but can dictate where they are allowed. Commissioner Doster recalled that the state had verified that food trucks do not count towards the 30 percent of food sales rule unless the food truck is permanently stationary and operated by the business selling alcohol on premises.

Mr. Ellis questioned whether or not the community would be in support of bars.

Chair Nelson summarized Town staff's proposal to allow bars under special use permits in the Commercial Town Center District, Commercial General District, and the Commercial Shopping Center District. Mr. Ellis expressed concern that there is no criteria defined for the Board of Adjustment to determine when a special use permit should be approved for a bar. Board members discussed that criteria can be added, such as criteria under adult entertainment establishment. Mr. Ellis expressed that there is not enough commercial space to accommodate bars through the same criteria as an adult entertainment establishment. Chair Nelson noted that many of the other special uses in the ordinances do not include specific criteria. Board members discussed possible criteria. Mr. Ellis expressed concern with subjective nature of guidelines for special uses under Code of Ordinance Chapter 36 Article 4. Chair Nelson recommended tabling the conversation regarding special use criteria and review the remainder of staff's recommendations.

The Board reviewed the districts that would allow bars in staff's recommendation and there was consensus to include the Commercial Neighborhood District, as well. Chair Nelson summarized that the recommendation would be to allow bars in the Commercial Town Center, Commercial Shopping, Commercial General, and Commercial

Neighborhood districts. Chair Nelson asked if anyone has an objective to any of the districts allowing bars subject to special use permits and there were no objections. Chair Nelson reviewed recommended definitions and board members discussed. Mr. Ellis recommended following the state's definitions for bars and restaurants. Board members agreed and expressed support for the following definitions:

Bar means an establishment that is primarily engaged in the business of selling alcoholic beverages and that does not serve prepared food as defined in N.C.G.S. 105-164.3(179). A bar shall not include a brewery, winery, or distillery.

Restaurant means an establishment substantially engaged in the business of preparing and serving meals. To qualify as a restaurant, an establishment's gross receipts from food and nonalcoholic beverages shall be not less than thirty percent (30%) of the total gross receipts from food, nonalcoholic beverages, and alcoholic beverages. A restaurant shall also have a kitchen and an inside dining area with seating for at least 10 people.

Board continued discussion regarding definitions. Commissioner Doster offered to contact the State ABC Commission's attorney and ask him to call-in during the next meeting, if the Board would like to wait to make a decision. Chair Nelson expressed support and recommended getting the Town's Attorney involved in the conversation, as well. Chair Nelson asked if Board members would like to make any recommendations today. Chair Nelson noted that other recommendations can be determined at a later date.

Mr. Ellis made a motion to recommend modifying Code of Ordinances Sec. 36-5 "Definitions" to include the definitions "bar" as defined by the state and "restaurant" as definition by the state. Mr. Keenan seconded and all voted in favor.

Mr. Ellis made a motion to recommend permitting bars, as defined by the state and subject to a special use permit, in the Commercial Town Center, Commercial Shopping Center, Commercial General, and Commercial Neighborhood districts. Mr. Keenan seconded. All Board members voted in favor.

Mr. Ellis made a motion to recommend modifying 36-65 (c) (2), to remove all language aside from "bars." Mr. Keenan seconded and all voted in favor.

Chair Nelson asked if we want to address criteria for a special permit at this time or if this discussion should be postponed. Commissioner Doster noted that he will bring current recommendations to Council at the work session meeting and Council members might have recommendations for criteria. Chair Nelson noted that staff can provide the Board with criteria recommendations at the next meeting. Chair Nelson stated that he would contact the Chair for the Board of Adjustment to hear any of their suggestions, as well.

VI. NEW BUSINESS

- A. *Review of Section 6-51(13) of Lake Structure ordinances regarding “Moored Floating Platforms” with intention to clarify, simplify and confirm reasonableness of those requirements. Requesting recommendation from board to revise definitions and permitting requirements for moored inflatable floating platforms and inflatable water recreation devices.*

Director Williams explained that there had been issues in regard to roll-up rafts, trampoline rafts, and others that the Town does not permit and questioned if they should be permitted. Director Williams noted that this issue is not addressed well in the ordinances and that many of these structures are newer than when the ordinance was written. Director Williams detailed a recent experience in which an individual asked for a permit for a roll-up raft and that he issued them a lake structure permit, which had not been done in the past. Director Williams noted that he had spoken with the Lake Advisory Board about this issue.

Board members discussed the matter. Chair Nelson expressed that he does not see an issue since there are already existing limitations for these types of structures. Mr. Ellis noted that the roll-up rafts are not inflatable and the issue is when they become moored. Board members expressed that this is an enforcement issue and not a permitting issue since there are existing limitations.

Board members reviewed the section 6-51(13). Chair Nelson recommended “inflatable” be struck out of section e and take “temporary” out of section f. Board members discussed enforcement. Director Williams commented that he would like to strike out inflatable, specify that no permits are required or that permits are only required if the structure left in the water for a defined period of time. Mr. Ellis noted recommended reflectors for permanently moored structures. Mr. Ellis asked Director Williams if he thinks that any of these structures on the lake are larger than allowed and Director Williams answered yes. Mr. Ellis suggested that the current limitations may need to be reviewed if structures are currently larger than allowed. Charlie noted that this needs to be re-reviewed. Mr. Ellis expressed that there are two issues including permanently moored structures and temporary moored structures. Commissioner Doster expressed that most of the enforcement issues should be focused on permanently moored structures and the temporary structures do not seem to be an issue as long as they are established within appropriate setbacks and meet the size limits. Director Williams noted that he will ask the Town Attorney about removing the word inflatable. It was discussed that unless the Board feels that there is something to amend, Director Williams is asking for the recommendation as to whether or not to permit these structures. Chair Nelson expressed that he does not think that action should be taken by the Board. Mr. Ellis expressed that the current ordinance is well written, but suggested possibly take out inflatable, adding floatation device, and possibility adding language that details that no permits are required for temporary floatation devices.

Mr. Ellis recommend that the Board's feedback be relayed to the Lake Advisory Board.

Mr. Ellis made a motion to recommended amending Code of Ordinances Section 6-51(13) (e) to state "temporarily moored water floatation devices" and include verbiage that such devices do not require a lake structure permit. Mr. Williams seconded and all voted in favor. All voted in favor.

VII. JULY DEPARTMENT REPORT

Director Williams advised that the July Department Report was available in the meeting packet.

VIII. ADJOURN

Mr. Ellis made a motion to adjourn the meeting. Mr. Keenan seconded and all voted in favor. The meeting was adjourned at 11:33 a.m.

ATTEST



Olivia Stewman, Town Clerk



Randall Nelson, Board Chair