

**BANNER ELK BOARD OF ADJUSTMENT  
MONDAY JUNE 19, 2023  
MINUTES**

Members Present: Morgan Herdklotz, Fred Schmitt, Ted Silver, Deka Tate and David Tate

Staff Present: Zoning Administrator Riley Pudney, Town Attorney Four Eggers

Others Present: Justin Church, Jeff Lamont, Bill Dixon, and Justin Davis

Chairman Fred Schmitt called the meeting to order at 6:01 p.m. Chairman Schmitt asked everyone present to stand and join in the Pledge of Allegiance.

Consideration of the May 15 Minutes

The minutes for the May 15, 2023, meeting was approved unanimously as presented with a motion by Chairman Fred Schmitt and Seconded by Morgan Herdklotz.

**SUP Request: Town Tavern Restaurant**

Before testimony began, Ted Silver disclosed to the Board that he made a site visit to the property and did not speak with anyone on site.

Zoning Administrator Riley Pudney introduced the project by stating that it is a restaurant going in at the old Bank of America building. She explained that the proposed amount of seating is 147 seats which requires 47 parking spaces. She informed the Board that the applicant is complying with the ordinance regarding parking, architectural guidelines, landscaping, and their dumpster site. She further explained that the applicant has put in bike racks and a sidewalk along 194 that will connect to the Town's sidewalks.

Chairman Fred Schmitt asked if the existing utilities were adequate. Zoning Administrator Riley Pudney stated that the applicant was working with the Town to provide adequate lines for the utilities.

Justin Church from Town Tavern presented his project to the Board. He stated that it was their goal to minimize the impact on the site and the existing utilities were adequate and had the capacity for their restaurant.

Bill Dixon, the architect, explained that they are planning on using the existing building and just adding a covered patio on the side and outdoor seating on the back. He explained that it was their goal to match the look of the existing building.

Ted Silver asked if they had planned on filling in the gap in the trees on the rear of the property. Justin Church stated that if there were gaps in the buffer line that they had no problem filling them in with evergreens. Ted Silver then asked if the outdoor patio would be screened in or covered in the winter, and Mr. Church explained that it would not be, and would most likely not be used in the winter.

Deka Tate asked if the sign had been applied for and what it would look like. Zoning administrator Riley Pudney stated that it had not been applied for and that they provided a rendering that showed a rock column/monument style sign.

Chairman Fred Schmitt asked what their hours of operation will be. Justin Davis answered that they would be open 11am-11pm Sunday through Thursday and 11am-12am Friday-Saturday. Mr. Davis also explained that they are aware of the noise ordinance and will comply with it as well.

Morgan Herdklotz asked about their lighting plan. Mr. Dixon answered that they will have up lighting on the perimeter of the building, a light on the sign, and will use the existing light poles as well. He further stated that the outdoor lighting for the rear patio will be in compliance with the ordinance.

Chairman Fred Schmitt asked if entrance and exit signs are required for their parking lot. Zoning Administrator Riley Pudney stated that they were not required.

Ted Silver expressed his concern for the lighting on the rear of the property being seen and illuminating the park and residential area behind the property. Justin Church stated that they will provide a photometric plan showing their compliance with the ordinance.

The applicants closed by saying they are grateful for the opportunity to be in the Banner Elk Community and thanked the Board for their time.

Chairman Fred Schmitt asked if any of the Board members had any questions. With none, he directed Attorney Eggers to review the questions the Board were to address. Mr. Eggers said there were four questions the Board must address: 1. Is the application complete? 2. Does the application and project substantially meet the requirements of the ordinance? 3. Are there any conditions the Board would like to impose on the permit? And lastly, 4. Does the Board approve the permit?

Chairman Fred Schmitt opened the Board to discuss question one, as to whether the application was complete. Morgan Herdklotz motioned that it was with a second by Ted Silver. The vote was:

Chairman Fred Schmitt-yea

Ted Silver-yea

Deka Tate- yea

Morgan Herdklotz- yea

The motion passed unanimously.

The second question as to whether the application substantially complies with the ordinance was motioned for approval by Ted Silver and was seconded by Chairman Fred Schmitt. The vote was:

Chairman Fred Schmitt-yea

Ted Silver- yea

Deka Tate- yea

Morgan Herdklotz- yea

The motion passed unanimously.

The third question was whether the Board was going to implement any conditions on the project. The Board implemented the following conditions:

Ted Silver motioned for the buffer to be completed on the rear of the property and trees be planted to fill the gaps. Morgan Herdklotz seconded the motion. The vote was:

Chairman Fred Schmitt-yea

Ted Silver- yea

Deka Tate- yea

Morgan Herdklotz- yea

The motion passed unanimously.

Ted Silver motioned for a photometric plan to be provided that showed compliance with the ordinance and that the lighting on the rear of the property would not illuminate past the buffer area. Morgan Herdklotz seconded the motion. The vote was:

Chairman Fred Schmitt-yea

Ted Silver-yea

Deka Tate- yea

Morgan Herdklotz- yea

The motion passed unanimously.

The last question considered was whether the Board approved the permit. Ted Silver motioned to approve and was seconded by Deka Tate. The vote was:

Chairman Fred Schmitt-yea

Ted Silver- yea

Deka Tate- yea

Morgan Herdklotz- yea

The motion passed unanimously.

The application was granted and the hearing for the special use permit was closed.

With no other business, Chairman Fred Schmitt motioned to adjourn the meeting and was seconded by Deka Tate. The motion passed and the meeting adjourned at 6:45 p.m.

Respectfully Submitted,

Riley Pudney, Zoning Administrator

Approved: \_\_\_\_\_

Attested: \_\_\_\_\_

Fred Schmitt, Chairman to the Board

