



**Town of Boiling Springs
Board of Planning & Adjustment
Meeting Agenda Packet
January 15, 2019**



Town of Boiling Springs

PO Box 1014 | Boiling Springs, NC 28017
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BOARD OF PLANNING & ADJUSTMENT MEETING AGENDA JANUARY 15, 2019

ROUTINE BUSINESS

1. Chairman's Call to Order
2. Recognize Citizen's Present & Public Comment
3. Minutes from July 24, 2018 Special Meeting

REGULAR BUSINESS

4. Oath for Re-appointed Member
5. Code of Ordinances Text Amendments:
 - (1) Business Regulations - Chapter 111: Alcoholic Beverages
 - (2) Title IX Section 151.007 Definitions
 - (3) Title XV Land Usage Chapter 151 – Appendix A: Table of Permitted and Conditional Uses
 - (4) Title XV Land Usage Chapter 151 – Appendix B: Special Requirements to the Table of Permitted and Conditional Uses
6. Remarks
7. Adjourn

The Board of Planning and Adjustment desires all citizens have an opportunity to address the Board in an open and productive manner. Individuals not on the agenda but wishing to speak should register with the Clerk prior to the start of the meeting. During the Public Comment portion of the meeting speakers have three (3) minutes unless otherwise approved by the Board. Groups are urged to appoint a spokesperson. If you require additional time, we ask you be placed on the agenda for the next regularly scheduled meeting of the Board. This policy allows the Board members adequate time to familiarize themselves with an issue.



Board of Planning & Adjustment

Meeting Minutes
July 24, 2018

Board Present: Alan McWhirter, Ellen Humphries, J.T. Scruggs, Wayne Johnson, Chris Martin

Staff Present: Town Manager Lucas Shires, Town Clerk Kim Greene, Planning and Zoning Consultant Ben Farmer

Others Present: James Teseneer, Misty Teseneer, Mayor Bill Ellis, Councilman Patrick Litton

Agenda Item I **Call to Order**

Chairman Wayne Johnson called the meeting to order at 5:35 p.m.

Agenda Item II **Recognize Citizen's Present & Public Comment**

Agenda Item III **Minutes from May 15, Meeting**

Alan McWhirter made the motion to approve the minutes of the May 15, 2018 meeting. Chris Martin seconded the motion and the vote was unanimous.

The Town Clerk administered the oath of office to J.T. Scruggs and Ellen Humphries. Their terms will end June 30, 2021.

Agenda Item VI **Review Rezoning Request**

The Board of Planning and Adjustment is an advisory body to the Town Council. The Board reviewed the following rezoning request:

The Town received a petition for a zoning map amendment (rezoning request) for a portion of property located at 2005 Holly Hill Road. The property is identified on Cleveland County Tax Map 1137-1-9U, Parcel #1718 (1.68 acres). The petitioner, James Teseneer, requested the zoning be changed from M-1 (Manufacturing) to R-20 (Residential) to construct a house on the property.

Mr. Shires made a brief presentation providing an overview of the request. Notifications were published and property owners were notified. Mr. Teseneer would like to construct a house on the property. Mr. Shires explained the Land Use Plan identified the subject tracts as open space/farmland preservation areas which include lands mostly located in the ETJ identified for conservation, lands more valuable to the town as open space, wildlife habitat, all agricultural and timber production land uses, and other undeveloped lands that can serve as passive recreational and future residential areas. The primary purpose of designating these areas is to raise the degree of assurance that farms and valuable farmland is protected and designated open space and recreational areas will remain open. The proposed home use is consistent with the Land Use Plan and will not remove a significant amount of preserved land in this area of the ETJ. Staff recommends the rezoning be approved.

Chris Martin stated the R-20 zoning would be compatible with the proposed use in that area.

J.T. Scruggs made a motion to recommend the Town Council approve this proposed zoning map amendment from M-1 to R-20 finding it to be consistent with the Land Use Plan. Alan McWhirter seconded the motion and the vote was unanimous.

Agenda Item V

Remarks

Mr. Shires stated the Town Council appreciates the Planning Board's expertise and service to the Town. He discussed the Council's decision regarding the previous rezoning request.

Chris Martin inquired about Townhomes being allowed only as a Conditional Use. Mr. Shires agreed to research this item further.

Adjourn

Ellen Humphries made the motion to adjourn the meeting at 5:53p.m. Alan McWhirter seconded the motion and all were in favor.

DRAFT



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BOARD OF PLANNING & ADJUSTMENT

AGENDA ITEM 4

JANUARY 15, 2019

OATH FOR RE-APPOINTED MEMBER

The Clerk will administer the Oath of Office to Buster Bryson.

STAFF REPORT

MATERIALS PROVIDED



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BOARD OF PLANNING & ADJUSTMENT

AGENDA ITEM 5

JANUARY 15, 2019

ZONING TEXT AMENDMENTS – STAFF REPORT

To: Boiling Springs Planning and Adjustment Board
From: Ben Farmer - Planning and Zoning Consultant

Date: 1/11/19
Meeting: 1/15/19

ANALYSIS

Town of Boiling Springs residents voted to approve several alcohol referenda that allow the sale of unfortified wine and malt beverages in Town Limits. Currently, our Ordinances do not regulate establishments engaged in selling and serving alcoholic beverages. In order to establish regulations that are consistent with the 2018 referenda results, staff is initiating several text amendments.

Staff has reviewed the bar and tavern regulations of several North Carolina communities, many of a similar size to Boiling Springs. Those example regulations served as a starting point for developing these proposed text amendments.

It is in the opinion of staff these proposed text amendments will sufficiently apply zoning rules to proposed establishments engaged in selling and serving alcoholic beverages within the Town of Boiling Springs zoning jurisdiction while taking deliberate steps to protect surrounding properties. Without these text amendments, no new such establishments can be permitted. Failure to establish zoning rules for such establishments will cause confusion among such establishments hoping to locate in Boiling Springs and may be considered inconsistent with the results of the 2018 alcohol referenda. Additionally, a portion of Chapter 111 in its current form is not enforceable due to the referenda results.

There are four proposed text amendments:

1. Adding a phrase to the end of Chapter 111 Alcoholic Beverages in order to make the chapter consistent with the approved alcohol referenda.
2. Adding a definition for “Bar and Tavern” in Title IX, Section 151.007.
3. Amending the Table of Uses to add a row for *bar and tavern* to allow as a conditional use in the B-1 Commercial District subject to SR43.
4. Establishing a new Special Requirement titled “SR 43 Bar and Tavern” to outline the terms of a conditional permit for a proposed bar and tavern.

RECOMMENDED TEXT AMENDMENTS

Proposed Text Amendment 1

Adding a phrase to the end of Chapter 111 Alcoholic Beverages in order to make the chapter consistent with the approved alcohol referenda.

Currently, Chapter 111 reads that it is unlawful to sell alcohol in the Town of Boiling Springs. Now that the alcohol referenda allows existing businesses in our zoning jurisdiction to obtain ABC permits to sell the approved types of alcohol, it is important that the town acknowledges that certain businesses may sell alcohol under the appropriate conditions. It is the opinion of staff that updating Chapter 111 this way will further protect the already legitimate remainder of Chapter 111. Below is Chapter 111 with the proposed addition in bold:

It shall be unlawful for any person or persons to drink or to consume, attempt to drink or consume, display or allow to be viewed or displayed or to offer, give, sell or barter any beer, malt liquor, ale, wine or any other alcoholic beverage,

whether the container thereof be opened or un-opened, on or in any public road, street, highway, parking area or sidewalk, or at or in any municipal building, public park, public school or college, athletic contest or at any other place, premise or property which is open to the general public within **the town limits without the prior approval and issuance of required permits from** the Town of Boiling Springs, North Carolina. (Ord. passed 7-2-74) Penalty, see ' 111.99

Proposed Text Amendment 2:

In order to effectively enforce zoning rules regarding bars and taverns, the definition of “Bar and tavern” should be included along with other definitions in the beginning of our Zoning Code, Chapter 151. Staff’s recommendation is to add the following definition to 151.007:

Bar and Tavern: An establishment primarily engaged in selling and serving alcoholic beverages and providing entertainment for patrons.

Proposed Text Amendment 3:

Amending the Table of Uses to add a row for Bar and Tavern to allow as a conditional use in the B-1 Commercial District subject to SR43

Staff’s recommendation is to create a new row in the table of uses that allows a “Bar and Tavern” as a Conditional Use in the B-1 Commercial District. The proposed row will appear as the example below:

USE TYPE	R-20	R-15	R-15TH	R-10	I-1	O&CS	B-1	B-2	M-1	SR
Bar and Tavern							C			43

The Board of Adjustment will determine which new establishments obtain a Conditional Use Permit and what additional conditions should be applied to the specific application.

Proposed Text Amendment 4:

Establishing a new Special Requirement titled “SR 43 Bar and Tavern” to outline the terms of a Conditional Use Permit for a proposed bar and tavern in the B-1 District.

Many of the use types in the Table of Uses are subject to further regulations, called “Special Requirements”. All of the uses that are allowed as a conditional use in one or more district has an associated special requirement that outlines what must be met in order to obtain a Conditional Use Permit. The proposed SR43 is as follows:

SR 43 Bar and Tavern

- A. Bars and taverns shall be permitted only when requested as a Conditional Use within the B-1 District and accompanied by an approved Conditional Use Permit.
- B. No such establishment shall be located within 50 feet of any other bar, night club or tavern including the sale of alcohol. The distance shall be measured in a straight line from the zoning lot of the proposed establishment line to the nearest point of the lot line for the existing establishment.
- C. No such establishment shall be located within 150 feet of a church, elementary or secondary school, or public park. The distance shall be measured in a straight line from the front, back, or side of the main building of the proposed establishment facing the residential property to the nearest point of the lot line or property, whether such district or use is located within town jurisdiction or not.
- D. The main entrance of the building shall be oriented toward a street where the abutting property is zoned predominantly for non-residential use.
- E. A minimum of 6-foot high opaque fence shall be erected adjacent to the property line of abutting residences.
- F. Parking areas related to the establishment shall be located no closer than 10 feet to the property line of abutting residences.