



# Historic Preservation Commission

Regular Meeting

<http://www.townofboone.net/>

~ Agenda ~

Jane Shook  
828-268-6960

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Tuesday, May 7, 2024

3:00 PM Planning and Inspections Conference Room

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The public may attend the meeting in-person at the Planning and Inspections Conference Room at 680 West King Street, Suite C, or online via WebEx (a video conferencing software).

To participate using WebEx, either online or by phone, please email Planning and Inspections at [planning@townofboone.net](mailto:planning@townofboone.net) or call 828-268-6960, and you will be provided with an email invitation to the meeting. All requests for an invitation must be submitted no later than one hour before the meeting is scheduled to begin.

- I. Call to Order
- II. Adoption of Agenda
- III. Town Attorney - Quasi-Judicial Standards of Decision

Town of Boone UDO Excerpt - Articles 8 and 6

- IV. Stoneman's Raid Interpretative Panel

Proposed Draft Text for Stoneman's Raid Interpretative Panel

- V. Boone Cemetery Interpretative Panels - Draft Design Update

Vacker Sign Updated Draft of Boone Cemetery Interpretative Panels and Final Approved Panel Text

- VI. Staff Updates

*Statement of Conformity Report*

Statement of Conformity Report (as of April 26, 2024)

*Jones House Local Historic Landmark Report Update*

**VII. HPC Member Updates**

**VIII. Other Discussion**

**IX. Adjournment**

## ARTICLE 8 HISTORIC PRESERVATION PROCEDURES

### 8.05 Certificate of Appropriateness for Major Work

**8.05.01** Major work includes all other work not considered as either ordinary or routine maintenance or minor work. Major work requires a COA Application and a quasi-judicial hearing before the Historic Preservation Commission for approval.

A. All public hearings on Certificates of Appropriateness for major work shall be conducted in a quasi-judicial manner as described in Article 6.

**8.05.02** Major works that must be approved pursuant to issuance of a COA include by way of example, but are not limited to the examples set forth at Table 8.05.03 below.

### 8.05.03 Table of Minor Work and Major Work in the Historic District

| Description of Work                                                                                                                                                                                                                                                              | Routine Maintenance | Minor Work (SOC) | Major Work (COA) |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------|------------------|------------------|
| New construction of or additions to structures, except as specifically provided otherwise herein.                                                                                                                                                                                |                     |                  | X                |
| <b>Accessory Buildings</b>                                                                                                                                                                                                                                                       |                     |                  |                  |
| In-kind <sup>1</sup> repair of existing accessory building                                                                                                                                                                                                                       | X                   |                  |                  |
| In-kind replacement of existing, non-contributing accessory building                                                                                                                                                                                                             |                     | X                |                  |
| Demolition of an existing, non-contributing accessory building                                                                                                                                                                                                                   |                     | X                |                  |
| New construction, modification or an addition to an accessory building on a tertiary elevation not visible from a public street                                                                                                                                                  |                     | X                |                  |
| All other alterations <sup>2</sup>                                                                                                                                                                                                                                               |                     |                  | X                |
| <b>ADA</b>                                                                                                                                                                                                                                                                       |                     |                  |                  |
| In-kind repair or replacement of existing ADA features                                                                                                                                                                                                                           | X                   |                  |                  |
| Installation of temporary accessibility ramps                                                                                                                                                                                                                                    |                     | X                |                  |
| Installation of ADA-required features on tertiary elevations not visible from a public street                                                                                                                                                                                    |                     | X                |                  |
| All other alterations                                                                                                                                                                                                                                                            |                     |                  | X                |
| <b>Architectural Features (not to include items specifically addressed in other categories) (may include but are not limited to cornices, friezes, medallions, sunbursts, brackets, bays, turrets, fascias, decorative moldings, quoins, columns, brickwork, string courses)</b> |                     |                  |                  |
| In-kind repair/replacement of any existing architectural feature                                                                                                                                                                                                                 | X                   |                  |                  |
| Addition, removal, or alteration of an architectural feature on tertiary elevation not visible from a public street                                                                                                                                                              |                     | X                |                  |
| All other alterations                                                                                                                                                                                                                                                            |                     |                  | X                |
| <b>Awnings, Canopies, or Shutters</b>                                                                                                                                                                                                                                            |                     |                  |                  |
| In-kind repair/replacement of an existing awning, canopy or shutters                                                                                                                                                                                                             | X                   |                  |                  |

Town of Boone Unified Development Ordinance (UDO) Excerpt

| Description of Work                                                                                                                                                                                                                                       | Routine Maintenance | Minor Work (SOC) | Major Work (COA) |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------|------------------|------------------|
| Addition of awnings, canopies or shutters on tertiary elevation not visible from a public street                                                                                                                                                          |                     | X                |                  |
| Removal of an awning, canopy or shutters on a non-contributing structure                                                                                                                                                                                  |                     | X                |                  |
| All other alterations                                                                                                                                                                                                                                     |                     |                  | X                |
| <b>Decks, Patios, and Sidewalks</b>                                                                                                                                                                                                                       |                     |                  |                  |
| In-kind repair/replacement of an existing deck, patio, or sidewalk; addition of public sidewalks                                                                                                                                                          | X                   |                  |                  |
| Additions of decks, patios, and sidewalks on tertiary elevations                                                                                                                                                                                          |                     | X                |                  |
| All other alterations                                                                                                                                                                                                                                     |                     |                  | X                |
| <b>Demolition and Relocation</b>                                                                                                                                                                                                                          |                     |                  |                  |
| Except as otherwise specifically provided herein, any removal, relocation, or demolition of any structure or part thereof                                                                                                                                 |                     |                  | X                |
| Removal/alteration of archaeologically significant features                                                                                                                                                                                               |                     |                  | X                |
| Any work that is likely to disrupt or damage known or discovered archaeological resources on the site                                                                                                                                                     |                     |                  | X                |
| <b>Doors &amp; Windows</b>                                                                                                                                                                                                                                |                     |                  |                  |
| In-kind repair/replacement of any door or window, including casing, frames, and trim                                                                                                                                                                      | X                   |                  |                  |
| Installation of storm windows where divided mullions of storm windows and doors align with windows and doors behind                                                                                                                                       | X                   |                  |                  |
| Installation of skylights within a tertiary elevation or where the skylight is not publicly visible                                                                                                                                                       |                     | X                |                  |
| Addition, removal, or modification of a door or window on tertiary elevations not visible from public street                                                                                                                                              |                     | X                |                  |
| All other installation, removal, addition or modification of doors or windows, including construction of new openings and replacement, removal, or modification of existing openings                                                                      |                     |                  | X                |
| <b>Driveways</b>                                                                                                                                                                                                                                          |                     |                  |                  |
| In-kind repair/replacement of an existing driveways                                                                                                                                                                                                       | X                   |                  |                  |
| Additions/alterations of driveways on tertiary elevations                                                                                                                                                                                                 |                     | X                |                  |
| All other alterations                                                                                                                                                                                                                                     |                     |                  | X                |
| <b>Fences</b>                                                                                                                                                                                                                                             |                     |                  |                  |
| In-kind repair/replacement of existing fence                                                                                                                                                                                                              | X                   |                  |                  |
| Additions/alterations of fences on tertiary elevations or not visible from public streets                                                                                                                                                                 |                     | X                |                  |
| All other alterations                                                                                                                                                                                                                                     |                     |                  | X                |
| <b>Exterior Surfaces Materials (Masonry, Siding, etc.)</b>                                                                                                                                                                                                |                     |                  |                  |
| In-kind repairs/replacement, including repointing, to existing exterior surfaces when the material, color, composition of the new material matches the existing exterior surface (includes requirement that the composition of mortar match the original) |                     | X                |                  |

Town of Boone Unified Development Ordinance (UDO) Excerpt

| Description of Work                                                                                                                                                                            | Routine Maintenance | Minor Work (SOC) | Major Work (COA) |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------|------------------|------------------|
| All other alterations                                                                                                                                                                          |                     |                  | X                |
| <b>Foundations</b>                                                                                                                                                                             |                     |                  |                  |
| In-kind repair of a foundation                                                                                                                                                                 | X                   |                  |                  |
| Alteration of a foundation on a tertiary elevation not visible from a public street                                                                                                            |                     | X                |                  |
| All other alterations                                                                                                                                                                          |                     |                  | X                |
| <b>Gutters and Downspouts</b>                                                                                                                                                                  |                     |                  |                  |
| In-kind repair/replacement of gutters and downspouts                                                                                                                                           | X                   |                  |                  |
| Installation of gutters and downspouts that match the house or trim color as long as no historic features are damaged or removed.                                                              |                     | X                |                  |
| Removal of gutters or downspouts that are not historic to the building                                                                                                                         |                     | X                |                  |
| All other alterations                                                                                                                                                                          |                     |                  | X                |
| <b>Landscaping</b>                                                                                                                                                                             |                     |                  |                  |
| Insignificant landscaping including vegetable and flower gardens and shrubbery                                                                                                                 | X                   |                  |                  |
| Pruning of trees and/or shrubbery                                                                                                                                                              | X                   |                  |                  |
| Removal of trees less than 25 inches in diameter                                                                                                                                               | X                   |                  |                  |
| Removal of trees that are dead, dangerous per adequate documentation from licensed arborist                                                                                                    | X                   |                  |                  |
| Removal of any invasive species (landscape material) as listed on the <a href="#">Invasive Plants Found in the Mountains of North Carolina</a> list published by the NC Invasive Plant Council | X                   |                  |                  |
| Removal of any tree 25 inches or greater, unless documented as dead or dangerous                                                                                                               |                     |                  | X                |
| <b>Mechanical Systems/Equipment</b>                                                                                                                                                            |                     |                  |                  |
| In-kind repair/replacement of any existing mechanical systems, vents, and related equipment                                                                                                    | X                   |                  |                  |
| Removal of existing mechanical systems, vents and related equipment                                                                                                                            |                     | X                |                  |
| Installation of mechanical systems, vents, and related equipment on tertiary elevations                                                                                                        |                     | X                |                  |
| Installation of window air conditioners                                                                                                                                                        |                     | X                |                  |
| All other installations                                                                                                                                                                        |                     |                  | X                |
| <b>Painting</b>                                                                                                                                                                                |                     |                  |                  |
| In-kind repair/re-painting of a previously-painted surface                                                                                                                                     | X                   |                  |                  |
| All other painting, including the painting of exterior surfaces not previously painted                                                                                                         |                     |                  | X                |
| <b>Parking Lots</b>                                                                                                                                                                            |                     |                  |                  |
| In-kind repair/replacement of existing parking lots                                                                                                                                            | X                   |                  |                  |
| Insubstantial alterations of existing parking lots and removal of non-historic parking lots                                                                                                    |                     | X                |                  |
| All other alterations                                                                                                                                                                          |                     |                  | X                |

Town of Boone Unified Development Ordinance (UDO) Excerpt

| Description of Work                                                                                                                                                                                                  | Routine Maintenance | Minor Work (SOC) | Major Work (COA) |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------|------------------|------------------|
| <b>Public Art</b>                                                                                                                                                                                                    |                     |                  |                  |
| In-kind repair/maintenance of previously-approved and installed public art                                                                                                                                           | X                   |                  |                  |
| Replacement of previously-approved and installed public art with artwork of essentially identical mass, proportions, and general features (e.g., a statue replacing a statue, or one mural design replacing another) |                     | X                |                  |
| New installation or substantial modification of public art in the local historic district                                                                                                                            |                     |                  | X                |
| <b>Roofs</b>                                                                                                                                                                                                         |                     |                  |                  |
| In-kind repair/replacement of roof coverings                                                                                                                                                                         | X                   |                  |                  |
| Repair/replacement of roof coverings not publicly visible                                                                                                                                                            |                     | X                |                  |
| All other alterations, including any modification of roof line                                                                                                                                                       |                     |                  | X                |
| <b>Satellites</b>                                                                                                                                                                                                    |                     |                  |                  |
| In-kind repair/replacement of existing satellite dishes                                                                                                                                                              | X                   |                  |                  |
| Addition of satellite dishes on tertiary elevations                                                                                                                                                                  |                     | X                |                  |
| Removal of satellite dishes                                                                                                                                                                                          |                     | X                |                  |
| All other alterations                                                                                                                                                                                                |                     |                  | X                |
| <b>Signs</b>                                                                                                                                                                                                         |                     |                  |                  |
| In-kind repair/replacement of an existing permanent sign                                                                                                                                                             | X                   |                  |                  |
| Addition/alteration of temporary sign or approved historic house marker                                                                                                                                              |                     | X                |                  |
| Addition/alteration of permanent sign on a non-contributing building                                                                                                                                                 |                     | X                |                  |
| Addition/alteration of permanent sign on a contributing building                                                                                                                                                     |                     | X                |                  |
| Removal of non-historic permanent sign                                                                                                                                                                               |                     | X                |                  |
| Removal of historic permanent sign                                                                                                                                                                                   |                     |                  | X                |
| <b>Solar</b>                                                                                                                                                                                                         |                     |                  |                  |
| In-kind repair/replacement of an existing solar energy system                                                                                                                                                        | X                   |                  |                  |
| Addition/alterations of solar panels on tertiary elevations                                                                                                                                                          |                     | X                |                  |
| Removal of solar panels                                                                                                                                                                                              |                     | X                |                  |
| All other alterations                                                                                                                                                                                                |                     |                  | X                |
| <b>Miscellaneous</b>                                                                                                                                                                                                 |                     |                  |                  |
| Installation of house numbers and mailboxes                                                                                                                                                                          | X                   |                  |                  |
| Establishment of exterior fire exits on tertiary elevations                                                                                                                                                          |                     | X                |                  |
| Establishment of exterior fire exits on secondary and primary elevations                                                                                                                                             |                     |                  | X                |

Notes:

1. "In-kind" means having no change in the design, construction method and materials, and general appearance of the existing or original historic feature.
2. "Alteration" means and includes new construction or installation, modifications, additions, removal or demolition, and any other material change.

**8.05.04 Applications**

- A. Pre-application Consultation.** Pursuant to UDO Subsection 4.04, a pre-application consultation between the applicant and Staff is strongly encouraged in order to minimize development planning costs, avoid misunderstandings or misinterpretations, and ensure compliance with the requirements of this Ordinance. At this meeting, Staff shall inform applicants on application requirements and provide assistance on identifying possible resources to obtain historic information.
- B.** In addition to the meeting the requirements of Appendix A as applicable, applications shall include:
1. **Written description of the proposed work:** The application shall describe in detail the scope and nature of the proposed project, including exact material types, colors, and dimensions for materials to be used (e.g., width of siding, color of window trim, type of roofing materials, etc.).
  2. **Design Standards References:** The application shall cite the applicable sections of the design standards related to and/or reflected in the proposed project.
  3. **Photographs of Existing Conditions:** The application shall include contemporaneous photographs showing the current conditions of the area where the work will be completed and/or the portions of any existing building or other structure(s) that will be affected by the proposed work.
  4. **Site Plan:** The application shall provide scaled drawings showing the relationship of all existing structures, driveways, sidewalks, fences, drains, lighting, and trees to the property lines and identify the location of any and all proposed changes. Tree caliper sizes should be indicated as measured from four (4) feet above the earth's surface.
  5. **Historical Documentation:** If available, provide copies of historic photographs of the property in question, along with a list of any known previous alterations to the property (and the approximate date of those alterations). If the property is already listed on the National Register of Historic Places or is a designated Local Historic Landmark, include a copy of the nomination text for the property.
  6. **Elevations:** The application shall provide architectural drawings showing all elevations, including scale, where proposed work will occur.
  7. **For Projects Involving Demolition or Relocation:** The application shall describe the structure, the reason for its demolition or relocation, the proposed reuse of the site, as well as plans for new landscaping at the site.

(Ord. PL04727-050721, 07-01-2021; Ord. PL05502-021822, 04-13-2022, Ord. PL05504-021822, 06-08-2022)

**8.05 Remedies for Unapproved Work**

- 8.06.01** The Council or other party aggrieved may institute any appropriate action or proceedings to prevent unlawful demolition, destruction, material alteration, remodeling or removal, to restrain, correct or abate such violation, or to prevent any illegal act or conduct with respect to a designated building, structure, site, area or object.

(Ord. PL04727-050721, 07-01-2021)

**8.06 Certain Changes Not Prohibited**

- 8.07.01** Nothing in this Article shall be construed to prevent the ordinary maintenance or repair of any exterior architectural feature in a historic district or of a landmark which does not involve a change in design, material or appearance thereof, nor to prevent the construction, reconstruction, alteration, restoration, moving or demolition of any such feature which the building inspector or similar official shall certify is required for public safety because of an unsafe or dangerous condition.
- 8.07.02** Nothing in this Article shall be construed to prevent a landowner from making any use of his property that is not prohibited by other law.
- 8.07.03** Nothing in this Article shall be construed to prevent a) the maintenance, or b) in the event of an emergency the immediate restoration, of any existing above-ground utility structure without approval by the Historic Preservation Commission.

(Ord. PL04727-050721, 07-01-2021)

**8.07 Delay in Demolition of Landmarks and Buildings Within Historic District.**

- 8.08.01** An application for a Certificate of Appropriateness (COA) authorizing the relocation, demolition or destruction of a designated landmark or a building, structure or site within the district may not be denied except as provided in Subsection 8.08.03.

**A.** However, the effective date of such a Certificate may be delayed for a period of up to 365 days from the date of approval.

1. The period of delay authorized by this Section shall be reduced by the Historic Preservation Commission where it finds that the owner would suffer extreme hardship or be permanently deprived of all beneficial use of or return from such property by virtue of the delay.
2. If the Historic Preservation Commission finds that a building or site within a district has no special significance or value toward maintaining the character of the district, it shall waive all or part of such period and authorize earlier demolition or removal.
3. The Historic Preservation Commission may consider waiving or reducing the delay period on such conditions as it deems appropriate and reasonable.

4. The Historic Preservation Commission may require that the applicant or owner, at their cost, document the structure thoroughly through photographic, narrative, and other appropriate documentation.
  - a. Documentation should include photographs, site and/or floor plan, and descriptions of exterior and interior features of the structure, design, special architectural features, materials, layout, conditions of the building, important landscape features, streetscapes, other structure(s) on site, and archeological significance of the site. Documentation shall be provided by a historic preservation consultant or professional listed by the North Carolina State Historic Preservation Office, resulting in a report that complies with Historic American Buildings Survey (HABS) guidelines.
  - b. Planning Staff will provide the owner, the applicant, or the legal representative a list of consultants provided by the North Carolina State Historic Preservation Office (SHPO) or preservation affiliates.
  - c. Documentation, including a complete set of photographs and all other documentary materials, shall be submitted to Planning and Inspections Staff for preservation by the Town. The adequacy of the report will be considered by the HPC during its next available quasi-judicial hearing; the report must be considered satisfactory by the HPC prior to issuance of a COA.
- B. During any delay period, the Historic Preservation Commission shall negotiate with the applicant and/or owner to find a means of preserving the building or site.
  1. When considering demolition of a historic building, the property owner is encouraged to seek all reasonable alternatives. Alternatives may include (but are not limited to):
    - a. Adapting or renovating the property to suit the owner's needs including pursuit of federal and state rehabilitation tax credits to offset the cost of such renovation.
    - b. Selling the property to someone willing to preserve the building.
    - c. Consulting a historic preservation professional or the North Carolina State Historic Preservation Office for suggestions of alternative possibilities.
  2. In the COA application, the applicant shall document all alternatives that are investigated and/or attempted.
  3. If the applicant contends that a historic structure lacks structural integrity and cannot reasonably be repaired or reconstructed, the applicant should submit competent

evidence of the same, which may require the analysis and testimony of one or more experts in the relevant fields.

- 8.08.02** If the Historic Preservation Commission has voted to recommend designation of a property as a landmark or designation of an area as a district, and final designation has not yet been made by the Council, the demolition or destruction of any building, site, or structure located on the property of the proposed landmark or in the proposed district may be delayed by the Historic Preservation Commission for a period of up to 180 days or until the Council takes final action on the designation, whichever occurs first.
- 8.08.03** An application for a COA authorizing the demolition or destruction of a building, site, or structure determined by the State Historic Preservation Office as having statewide significance as defined in the criteria of the National Register of Historic Places shall be denied except where the Historic Preservation Commission finds that the owner would suffer extreme hardship or be permanently deprived of all beneficial use or return by virtue of the denial.
- 8.08.04** In reviewing a request to demolish a building in the district, the HPC also considers whether demolition will adversely affect other buildings in the district or the overall character of the district.
- 8.08.05** **Relocation within the Historic District:** Relocation is considered to be a “last resort” to demolition. Most historic buildings are strongly associated with the original site; therefore, relocation could threaten the historic integrity of a property. Relocation requires the HPC’s consideration.

(Ord. PL04727-050721, 07-01-2021; Ord. PL05718-051822, 07-27-2022)

## ARTICLE 6 QUASI JUDICIAL HEARINGS

### 6.01 Provisions Applicable to All Quasi-Judicial Hearings

#### 6.01.01 General Provisions

- A. All hearings of the Board of Adjustment and all quasi-judicial hearings of the Historic Preservation Commission shall be conducted in a quasi-judicial manner as described in this Section 6.01.
- B. Subject to the specific provisions of Section 6.04 as to appeals, the Board of Adjustment or Historic Preservation Commission (both being referred to in this Section 6.01 as “board”) shall hear and decide every appeal and application within a reasonable time.
- C. The board may subpoena witnesses and compel the production of evidence at the request of the Town, the applicant, and any person with standing pursuant to the procedures set forth in the board’s Rules of Procedure.
- D. Administrative Materials. The board packet shall include the Administrator’s analysis of the issues, identifying any information, documents, and adopted plans material to the case. The Administrator’s analysis may also include recommendations as appropriate. The board packet shall be distributed to the members of the board, applicants, or appellants, the landowner if not the applicant or appellant and any other party to the case. Subject to the board’s rulings on any objection, these materials shall be entered as part of the hearing record.
- E. Each hearing conducted by the board shall provide an opportunity for parties and interested members of the public to testify and offer competent, material, and substantial evidence, but the board may limit the time available for each person offering testimony and may exclude testimony and evidence which is cumulative or redundant.
- F. Hearings shall be conducted in compliance with the board’s duly adopted Rules of Procedure.
- G. The Town is considered a party in every hearing before the board.
- H. Objections regarding jurisdictional and evidentiary issues, including, but not limited to, the timeliness of an appeal or the standing of a party, may be made to the board. The board Chair shall rule on any objections, and the Chair’s rulings may be appealed to the full board.
- I. The board may continue any hearing until a subsequent meeting at a specified time, date, and place without further advertisement or notice, and may keep a hearing open to take additional information up to the point a final decision is made.
- J. If a hearing is set for a given date and a quorum of the board is not then present, the hearing shall be continued until the next regular board meeting without further advertisement or notice.

**6.01.03 Voting**

- A.** The concurring vote of four-fifths of the Board of Adjustment shall be necessary to grant a variance. A majority of the members shall be required to decide any other quasi-judicial matter or to determine an appeal made in the nature of certiorari. For the purposes of this paragraph, vacant positions on the board and members who are disqualified from voting on a quasi-judicial matter shall not be considered members of the board for calculation of the requisite majority if there are no qualified alternates available to take the place of such members.
- B.** Once a member is physically present at a board meeting, any subsequent failure to vote shall be recorded as an affirmative vote unless the member has been excused or has been allowed to withdraw from the meeting in accordance with this Section.
- C.** A member shall not participate in or vote on any quasi-judicial matter in a manner that would violate affected persons' constitutional rights to an impartial decision maker. Impermissible conflicts include, but are not limited to:
  - 1. A member having a fixed opinion prior to hearing the matter that is not susceptible to change;
  - 2. Undisclosed ex parte communications;
  - 3. A close familial, business, or other associational relationship with an affected person; or
  - 4. A financial interest in the outcome of the matter.
- D.** If an objection is raised to a member's participation and that member does not recuse himself or herself, the remaining members shall by majority vote rule on the objection.
- E.** A member may be allowed to withdraw from the entire remainder of a meeting by majority vote of the remaining members present for any good and sufficient reason other than the member's desire to avoid voting on matters to be considered at that meeting.
- F.** Except as authorized in this Section, a motion to allow a member to be excused from voting or excused from the remainder of the meeting is in order only if made by or at the initiative of the member directly affected.
- G.** A roll call vote shall be taken upon the request of any member.

**6.01.04 Notice of Hearing**

- A.** The Administrator shall give notice of any hearing of the board as follows:
  - 1. **Contents of Notice:** Every notice shall state the date, time, and place of hearing, reasonably identify the lot that is the subject of the application or appeal, and give a brief description of the action requested or proposed.

2. **Mailed Notice:** Notice shall be mail by depositing in the mail at least 10 days, but not more than twenty-five (25) days, prior to the date of the hearing to:
  - a. The person or entity whose appeal, application, or request is the subject of the hearing;
  - b. The owner of the property that is the subject of the hearing if the owner did not initiate the hearing;
  - c. The owners of all parcels of land abutting the parcel of land that is the subject of the hearing;
  - d. The owners of real property located within 150 feet of the subject lot(s);
  - e. The owners of any real property in a protected district, whose property boundary has triggered application of transitional zone standards; and
  - f. Any other persons who have submitted a written request for notice and intervening parties so long as the request for notice or intervention request have been filed prior to notification being mailed.
3. **Posted Notice:** At least ten (10) days, but not more than twenty-five (25) days prior to the date of the hearing, the Administrator shall also prominently post a notice of the hearing on the site that is the subject of the hearing or on an adjacent street or highway right-of-way. The signs to be posted shall include the date, time and location of the hearing and shall direct the public to detailed information about the hearing.

**6.01.05 Board Packet.** The Administrator shall transmit to the board all applications, reports, and written materials relevant to the matter being considered. The administrative materials may be distributed to the members of the board prior to the hearing if at the same time they are distributed to the board a copy is also provided to the appellant or applicant and to the landowner if that person is not the appellant or applicant. The administrative materials shall become a part of the hearing record. The administrative materials may be provided in written or electronic form.

**6.01.06 Modification of Applications After Distribution of Board Packet Except Appeals of Staff Decisions.**

**A. Modification of Application Between Distribution of the Board Packet and the Board Meeting:**

1. **Modification in Response to Administrator's Recommendation or Request:** An applicant may not significantly modify an application between the distribution of the board packet containing the Staff Report of the case and the board meeting unless the proposed modification is in direct response to a specific request or recommendation by the Administrator.
  - a. A proposed modification, even in response to the Administrator's recommendation or request, shall be submitted to the Administrator prior to the

hearing in sufficient time for the Administrator to fully evaluate the impacts of the proposed modification.

- b. If the Administrator determines that the applicant did not submit the proposed modification prior to the hearing in sufficient time for the Administrator to fully evaluate the impacts of the proposed modification, the applicant will be given the choice between the hearing being rescheduled until the next regularly scheduled meeting of the board or withdrawal of the proposed modification.
2. **Insignificant or Minor Modifications in an Application:** An applicant may make a non-substantial modification to an application between the distribution of the board packet containing the Staff Report and the scheduled hearing.
  - a. A proposed non-substantial modification shall be submitted to the Administrator prior to the hearing in sufficient time for the Administrator to fully evaluate the impacts of the proposed modification. However, if an applicant proposes an insignificant modification to an application during the scheduled hearing, and the Administrator indicates that adequate time exists to evaluate the insignificant modification can be fully evaluated with or without a recess by the board, the modified application may be acted upon by the board.
  - b. If the Administrator determines that the applicant did not submit the proposed modification prior to the hearing in sufficient time for the Administrator to fully evaluate the impacts of the proposed modification, the applicant will be given the choice between the hearing being rescheduled until the next regularly scheduled meeting of the board or withdrawal of the proposed modification.
3. **Major Modification of an Application:** An applicant seeking to significantly modify an application between the distribution of the board packet containing the Staff Report of the case and the board meeting, whether in response to Staff recommendations or self-initiated, must file a new application.
4. **Determination as to whether a Proposed Modification is Insignificant, Minor or Major:** The Planning Director shall make the determination as to whether a modification is “insignificant”, “minor” or “major” in accordance with Section 4.16. The determination of the Planning Director shall constitute the final decision of the Town and is not appealable.

**B. Modification of Application in Response to Concerns & Issues Raised at the Hearing**

1. In response to questions or comments by persons appearing at the hearing or to suggestions or recommendations by the board an applicant may agree to modify an application, including the plans and specifications submitted.
2. Unless such modification is so substantial or extensive that the board cannot reasonably be expected to perceive the nature and impact of the proposed change without revised plans before it, the board may approve the application with the

condition that the special use permit will not be issued until plans reflecting the agreed upon changes are submitted and approved by the Administrator.

**6.01.07 Testimony and Documentary Evidence**

**A. Oaths:** All persons who present testimony to the board shall be sworn. The Chair of the board or any member temporarily acting as Chair, and the Clerk to the board are authorized to administer oaths to witnesses in any matter coming before the board.

1. Any person who, while under oath during a proceeding before the board, willfully swears falsely is guilty of a Class 1 misdemeanor.

**B. Speakers:** At any meeting of the board, when the meeting is opened for public testimony:

1. Speakers shall be recognized in the order in which they have signed up unless a different order is requested by the board and agreed upon by the speakers.
2. Each speaker wishing to address the board shall state their name and then shall be sworn.
3. All persons addressing the board shall be treated respectfully by other persons in attendance at the meeting, and all speakers shall conduct themselves with proper decorum. The board may address in its Rules of Procedures under what circumstances the presiding officer or board may direct that a person who violates proper decorum may be removed, but the Chair shall have inherent authority to have removed a person who threatens other participants or member of the board as well as any person whose behavior is so disruptive as to prevent the board from continuing the hearing.

**C. Competent Evidence:** The board may address the standards for authenticating and admitting evidence in its duly adopted Rules of Procedure.

1. The rules of evidence as applied in the trial division of the General Court of Justice do not strictly apply. However, no evidence shall be considered unless:
  - a. The evidence appears to be sufficiently trustworthy and was admitted under such circumstances that it was reasonable for the decision-making board to rely upon it; or
  - b. The evidence was admitted without objection,
2. To be considered “competent”, testimony shall generally meet the following:
  - a. The witness has personal knowledge of the subject of the testimony; and
  - b. The subject of the testimony is relevant to an issue involved in the hearing.
3. To be considered “competent”, documentary evidence shall generally require authentication. A document is authenticated by one of the following methods:

- a. Certification, by signature, title and seal, of the person who is the custodian of the records; or
  - b. Information within the document which establishes its origin and reliability; or
  - c. Testimony by a person with personal knowledge of the document's origin and reliability.
4. If a copy is used in place of an original, testimony must be offered by a witness establishing the date and author of the document and confirming that such document is a true and accurate copy of the original document.
  5. Photographs must be accompanied by testimony as to the date and place where the photograph was taken and a statement that the photograph fairly and accurately represents the subject is depicted.
  6. Notwithstanding the forgoing, and regardless of the lack of a timely objection, the term "competent evidence" shall not be deemed to include the opinion testimony of lay witnesses as to any of the following, and such testimony shall be deemed incompetent:
    - a. The use of property in a particular way would affect the value of other property; or
    - b. The increase in vehicular traffic resulting from a proposed development would pose a danger to the public safety; or
    - c. Matters about which only expert testimony would generally be admissible under the rules of evidence.

**6.01.08 Burden of Presenting Evidence; Burden of Persuasion**

- A. Evidence:** The burden of presenting evidence shall be upon the party or parties urging a particular position. However, at a minimum, the applicant or appellant must provide substantial competent and credible evidence which addresses every material issue to be determined by the board.
- B. Credibility:** In making its decision the board may explicitly or implicitly make credibility determinations regarding the testimony of any witness, and where the board has concluded that the testimony of a particular witness is incredible or otherwise unreliable, it is not bound to accept that testimony and may not only reject it but, if warranted, may make a contrary finding from the facts asserted.
- C. Persuasion:** The burden of persuasion shall be on the applicant or appellant or other party or person advocating a particular position.

**6.01.09 Decisions of the Board**

- A.** The board's decision shall resolve all contested facts and their application to the applicable standards.

- B.** All findings and conclusions made by the board shall be based upon competent, material, and substantial evidence presented at the hearing, including all information in the board packet, unless objected to by a party and excluded by the board.
- C.** Any conditions imposed by the board that are essential to the board's approval of the application must be consented to in writing by the landowner and the permit applicant prior to final approval of the board's written decision.
- D.** Each decision, including any conditions adopted by the board, shall be reduced to writing, reflect the board's determination of contested facts and their application to the applicable standards, and be approved by the board and signed by the Chair or other authorized member of the board.
- E.** The decision shall be effective upon approval by the board, signature by the filing with the Clerk of the board.
- F.** The decision shall be delivered by personal delivery, electronic mail, or by first class mail to the applicant, landowner, and to any other person appearing as a party before the board, and any person who has submitted a written request for a copy prior to the date the decision becomes effective.
  - 1. The Clerk of the board shall certify that proper notice shall be made.
- G.** Any conditions attached to an approval shall be entered on the face of any necessary zoning permit landowner.

## STONEMAN'S RAID

Riding from the west (your left) on the afternoon of March 28th, 1865, the first of almost six thousand of General Stoneman's Union Cavalry, led by Maj Myles Keog's 12th Kentucky Union Volunteer Cavalry entered town.

They surprised the Confederate Home Guard, who had been assembled at the Watauga County Courthouse, 1000 feet west of here. A shot was fired, and the Union Cavalry charged. The Home Guard fled, with several taking up positions at the home of James W. Council, which stood directly in front of you. They fired on the advancing Union Cavalry, who returned fire, quickly ending the conflict.

Ultimately two Home Guard were killed, five injured, and 68 taken prisoner. Stoneman's forces, which included at least 13 Union loyalists from Watauga and surrounding counties, reported no casualties.

Union Cavalry continued to pour into town for the rest of the day, with Gen Stoneman requisitioning the Council house for his headquarters.

Most of Stoneman's cavalry quickly moved out of the mountains, with orders to avoid battles, and "dismantle the country", destroying rail lines and materials that could be used by the then retreating Confederate Army, and to liberate Union Prisoners held in the Confederate prison in Salisbury.

On April 6th, Col. George W. Kirk's 2nd and 3rd NC Mounted Infantry arrived and occupied Boone for several weeks, with orders to blockade Deep, Sampson, and Watauga gaps to control major routes through the mountains.

# BOONE CEMETERY



Benjamin Councill, Sr., once owned the land historically associated with the Boone Cemetery. He probably inherited the land from his father, Jordan Councill, Sr., upon the latter's death in 1838. The Councils and others from interrelated families were among the earliest burials. People enslaved by these families prior to the American Civil War were also buried here. As was the practice throughout the United States before the 1960s, this cemetery was segregated, with Black people buried in the eastern part and White people buried in the western portion. At times, a fence separated the two sections.

By the 1880s, locals treated this area as the town cemetery, even though it remained on privately owned land. Overcrowding became an issue in the 1930s. By the 1950s, the cemetery was rarely used for new burials as both Black and White residents developed new burial spaces outside of Boone's downtown. In 2015, the Town of Boone acquired both sections and has since made improvements to provide for the cemetery's long-term preservation.



The Boone Cemetery from the northwest, circa 1907. *Image courtesy of the Historic Boone Collection, Digital Watauga Project.*

Resting here are many of Boone's civic and cultural leaders, elected officials, and veterans of the nation's wars, including those who fought on both sides of the Civil War. The Boone Cemetery remains a sacred space for reflection on the lives and history of those interred here.

# A DIVIDED CEMETERY



The stones at your feet mark the fence line that once divided Black and White burials in the Boone Cemetery. Slavery formally ended in 1865, but widespread racial segregation, including at burial sites like the Councill Cemetery, remained common in the United States until the 1960s. During that period, locals usually called the cemetery's eastern section the "Colored Cemetery" and the western portion the "City Cemetery." Cemetery trustees and town officials maintained the western part but often neglected the eastern portion.

In 1898, civic leaders erected a fence fully enclosing the White portion. Town officials installed a second fence in 1958 and took over maintenance of the privately owned western section. The Town of Boone acquired both sections in 2015 and removed the fence that physically and symbolically divided the cemetery.

Although more than 265 known burials in the White section are usually marked with formal memorials, most graves in the Black section went unmarked or were designated with fieldstones or other temporary markers, most of which have been lost or displaced. Today, only four original headstones remain, not including the replacement markers for three Union soldiers buried here in 1865.



Aerial image of Boone Cemetery from the northeast, circa 1950. *Image courtesy of the Blair Collection, Collection, Digital Watauga Project.*

## *Marked with a Fieldstone*

In 2016, a ground-penetrating radar survey located nearly 200 unmarked graves in the Black section, each of which is now designated by a flat fieldstone. Although these particular graves remain unidentified, the names of those known to be buried here are recorded on the large memorial installed by the Junaluska Heritage Association in 2017.

**REVISED Panel #1: Boone Cemetery  
(November 14, 2023, FINAL Version from HPC)**

Benjamin Councill, Sr., once owned the land historically associated with the Boone Cemetery. He probably inherited the land from his father, Jordan Councill, Sr., upon the latter's death in 1838. The Councils and others from interrelated families were among the earliest burials. People enslaved by these families prior to the American Civil War were also buried here. As was the practice throughout the United States before the 1960s, this cemetery was segregated, with Black people buried in the eastern part and White people buried in the western portion. At times, a fence separated the two sections.

By the 1880s, locals treated this area as the town cemetery, even though it remained on privately owned land. Overcrowding became an issue in the 1930s. By the 1950s, the cemetery was rarely used for new burials as both Black and White residents developed new burial spaces outside of Boone's downtown. In 2015, the Town of Boone acquired both sections and has since made improvements to provide for the cemetery's long-term preservation.

Resting here are many of Boone's civic and cultural leaders, elected officials, and veterans of the nation's wars, including those who fought on both sides of the Civil War. The Boone Cemetery remains a sacred space for reflection on the lives and history of those interred here. [215 words]

[Aerial image of Boone Cemetery from ca. 1907] *Caption:* Detail crop showing the Boone Cemetery from the northwest, circa 1907. Image courtesy of the Historic Boone Collection, Digital Watauga Project. [21 words]

**REVISED Panel #2: A Divided Cemetery**  
**(November 14, 2023, FINAL Version from HPC)**

The stones at your feet mark the fence line that once divided Black and White burials in the Boone Cemetery. Slavery formally ended in 1865, but widespread racial segregation, including at burial sites like the Council Cemetery, remained common in the United States until the 1960s. During that period, locals usually called the cemetery's eastern section the "Colored Cemetery" and the western portion the "City Cemetery." Cemetery trustees and town officials maintained the western part but often neglected the eastern portion.

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In 2016, a ground-penetrating radar survey located nearly 200 unmarked graves in the Black section, each of which is now designated by a flat fieldstone. Although these particular graves remain unidentified, the names of those known to be buried here are recorded on the large memorial installed by the Junaluska Heritage Association in 2017. [245 words]

[Aerial image of Boone Cemetery, circa 1950] *Caption:* Aerial image of Boone Cemetery from the northeast, circa 1950. Image courtesy of the Palmer Blair Collection, Digital Watauga Project. [20 words]



### ToB - Statement of Conformity (SoC) Reporting for HPC

| File Date          | Application Number | Project Name                                  | Permit Type | Permit Use              | Location      | Status   | Issuing User  |
|--------------------|--------------------|-----------------------------------------------|-------------|-------------------------|---------------|----------|---------------|
| September 21, 2023 | 23-0370            | Rams Rack - Statement of Conformity           | Zoning      | Statement of Conformity | 877 W KING ST | Approved | Michael James |
| December 14, 2023  | 23-0629            | Southend Brewing Co - Statement of Conformity | Zoning      | Statement of Conformity | 747 W KING ST | Approved | Michael James |
| February 23, 2024  | 24-0129            | Espresso News - Statement of Conformity       | Zoning      | Statement of Conformity | 267 HOWARD ST | Pending  | Michael James |

### 3 Permits