

**TOWN OF SOUTH HERO, VERMONT
DEVELOPMENT REVIEW BOARD
DECISION DATED July 26, 2023**

APPLICANT

Name: Two Heroes Brewery
Address: PO Box 192, South Hero, VT 05486

LANDOWNER

Name: Hero Development LLC

APPLICATION

Type: Amend Original Conditional Use to expand hours for special events

Number: 23-82-RT275

PROPERTY

Location: 252 US RT 2

Hearing Date: July 12, 2023.

Two Heroes Brewery submitted an application on June 7, 2023, requesting an amendment to their conditional use approval, dated July 24, 2019, to expand their operating hours for special events. Per Section 805 of the South Hero Development Regulations, a warning for the public hearing appeared in the June 21, 2023 issue of the Islander and was posted in the Town Office, the Post Office, and the Town Library, and abutters to the property were notified. The Applicant was represented by Daren Orr and Danielle Orr. The hearing was held on July 12, 2023. A list of those attending and participating in the hearing is included in the minutes.

During the course of the hearing, the following exhibits were submitted:

1. Final Site Plan review application, dated and rec'd February 7, 2023
2. Warning ad, Abutters Notice, and Hearing Letter for the March 8, 2023 Final Site Plan review.
3. Conditional Use/Site Plan Review Application, dated and rec'd June 7, 2023.
4. DRB decision #19-58-RT260, dated July 24, 2019.
5. Warning ad, Abutters' Notice, and Hearing Letter for the July 12, 2023 DRB Review.

6. Staff report for the July 12, 2023 DRB hearing.
7. Draft Minutes from the July 12, 2023 hearing.

Based on the application, supporting documents, and testimony of Danielle and Daren Orr, **the Development Review Board makes the following Findings and enters the following decision:**

Findings:

1. Two Heroes Brewpub received conditional use and site plan approval by the DRB on July 24, 2019 (application #19-58-RT260). The business opened its doors in July 2023.
2. The business is in the South Hero Village Zoning District.
3. The Applicants are currently approved to operate 7AM to 11PM, 7 days/week. They are requesting an amendment to these hours to allow them to remain open until 1:00AM up to 4 times per year for special events that extend past 11:00PM.
4. There will be no live music and indoor music volume will be controlled.
5. Events will remain indoors. The windows do not open.
6. The restaurant is approved for 50 seats.
7. The business would be closed to the public during special events.
8. Angela Menard and Brendan Beaudoin expressed concern about noise levels and people outside afterwards. Danielle Orr stated that people will be required to leave at 1:00AM and that they will enforce it.

Chair T. Maxham closed the conditional use hearing on July 12, 2023.

Conclusions of Law:

- A. Per Figure 3.2 (Determining Undue Adverse Effect), the application does result in an undue adverse effect on the character of the area, due to noise, lights and traffic at a late hour.
- B. The Application does not meet the requirements of Sec 302.D.2 – Character of the Neighborhood, due to the late hours in a residential area.

On July 26, 2023, M. Welch moved to approve the amended conditional use to extend the hours until 1AM for special events, with the findings of fact listed and Conclusions of Law Conditions; J. Brightwell second. Whereas, Board members voted as follows: T. Maxham - no; D. Patterson - no; M. Welch - yes, L. Kilcoyne - yes, and J. Brightwell – no.

The application is denied.

Dated: July 26, 2023

For the Development Review Board

APPEAL RIGHTS

Any appeal of this decision must be filed with the Superior Court, Environmental Division (located at 2418 Airport Road, Suite 1, Barre, VT 05641-8701) within 30 days of the date the decision was issued, pursuant to 10 V.S.A. Chapter 220. The Notice of Appeal must comply with the Vermont Rules for Environmental Court Proceedings (VRECP). The appellant must file with the Notice of Appeal the entry fee required by 32 V.S.A. §1431 and the 5% surcharge required by 32 V.S.A. §1434a(a). A copy of this appeal must be filed with the Zoning Administrator or the Town Clerk within thirty (30) days from the date of issuance.