

Harpers Ferry Board of Zoning Appeals

February 24, 2021

Meeting Minutes – Administrative Meeting (Via Zoom and Livestreamed on Facebook)

Call to order and attendees - The meeting was called to order by Chair Dave Simmons at 6:33 pm.

SEAT 1 (term ends January 1, 2024): David Simmons – PRESENT and leading meeting

SEAT 2 (term ends January 1, 2022): VACANT

SEAT 3 (term ends January 1, 2022): Lynn Pechuekonis – PRESENT

SEAT 4 (term ends January 1, 2023): Mike Buscher – PRESENT

SEAT 5 (term ends January 1, 2023): Chris Craig – PRESENT and recording minutes

ALTERNATE 1 (term ends March 1, 2024): Chad Gauthier – PRESENT (voting)

ALTERNATE 2 (term ends March 1, 2022): Rob Case – PRESENT (voting)

ALTERNATE 3 (term ends March 1, 2023): VACANT

Others attending included Deb Kelly (assisting with technology and advising on administrative questions), and others on Facebook, including Councilmember Nancy Case.

Approval of minutes – Mike Buscher moved to accept the minutes of the January 7, 2021 hearing. Chris Craig seconded, and passed without discussion 2 for approval and 4 abstentions.

Mike Buscher moved to accept the minutes of the February 9, 2021 administrative meeting. Lynn Pechuekonis seconded; passed unanimously without discussion.

Discussion of Process for the Hilltop House Hotel Demolition Permit – The permit has now been received by the town and distributed to BZA members. Discussion revealed there would be little debate over permission to demolish the old hotel, but concern was expressed about town oversight for the project. Mike Buscher wondered about the state and county's role in supervision. Dave Simmons noted that asbestos abatement is generally a major concern and requires a plan. Chris Craig stated that a hearing should be held to allow for public concerns, especially on safety, traffic, or noise issues. Should the Historic Landmarks Commission be involved? The consensus seemed to be not beyond the general public notification of the hearing. Remaining discussion centered on how the town, without full-time engineering or environmental staff, could provide oversight on this large project. *Mr. Simmons agreed to check with Jefferson County staff on their ability to help. Mr. Craig would talk with Region 9 personnel, and Mr. Buscher would meet with area legislators to see how the state might be involved.*

A follow-up meeting was set for 7 pm, Wednesday, March 3; and a hearing was set for 6 pm, Monday, March 22. Mr. Simmons will start the hearing process by providing an agenda to town hall.

Discussion of BZA Meeting and Hearing Process – Discussion centered on recent legal opinions from attorney Michael Scales answering BZA member questions. The BZA had posed questions in October about proper authority for various permit applications, on the legality and propriety of private deliberation, and on meeting flow, including public notice. Much of Mr. Scales' advice addressed private deliberation—not to be confused with executive session. Private deliberation would be allowed in BZA meetings that are quasi-judicial in nature, e.g. decisions on variances or conditional use. He stressed that final votes be in public after the private deliberation, however, and that the BZA's reasoning clearly be spelled out in its written report. That reasoning should be clearly based on town ordinances and state law.

Mr. Craig noted that there was less clarity in the permitting process for new construction, perhaps because town ordinances are not entirely clear on this issue. He wondered if town policy might address the process without requiring an amendment to the ordinances. Perhaps the Council could require the Ordinance Compliance Officer to seek advice from the Historic Landmarks Commission on historic district guidelines when reviewing new construction

applications. If a plan for new construction did not clearly lie within those guidelines, then it would require a variance from the BZA to go forward. More discussion will be required on this issue.

Adjournment – At 7:34 Chris Craig moved to adjourn. Rob Case seconded; passed unanimously.