

Board of Zoning Appeals

March 6, 2019

Meeting Minutes – Administrative Meeting to Discuss Permit Application Process & Receive Update on Current Hotel Process (Conditional Use Application Status)

The meeting was called to order at 5:05 pm. In attendance were Board of Zoning Appeals members: Mike Buscher (Chairman), Laura Clark, Chris Craig, Linda Rago, and David Simmons (Secretary). Also in attendance: Mayor Wayne Bishop, Steven Ball (planner from Town and Country Planning hired by Town), Attorney (Richard Gay) and Project Manager (Laurel Ziemanski) for SWaN, town residents and non-residents.

Steve Ball presented experts that may be included/recommended for the BZA's application review process. Discussed his memo dated February 28, 2019. Indicated ordinance allows for fees to be borne by applicant and BZA can determine experts and associated fees needed for review. He indicated that the street negotiations will be completed before an application is presented to the BZA and that a fee resolution (for expert costs) should be passed before engaging experts. He provided a list of experts for which he has requested proposals/costs and indicated BZA can add or subtract from the list. He provided a flow chart that outlines the application review process (e.g., application receipt, reviews by experts, public hearing, etc.).

Mr. Craig clarified that court reporter need was intended to be for services that would make meetings more accessible to hearing-impaired individuals (known as CART services). Mr. Ball indicated that the fee would be a maximum fee with applicant receiving refund if experts are not used or are under the prescribed budget. BZA members attempted to understand timing issues with respect to Historic Landmarks Commission (HLC) review. Mr. Ball recommended technical review is completed prior to review by HLC. Ms. Clark asked about the BZA's review timeframe in conjunction with the HLC review (i.e., when does a decision by BZA need to be made?). Mr. Ball indicated he would review those timeframes. Mr. Ball indicated that with respect to state and federal requirements, the appropriate agencies would be notified and invited to comment on the application. Mr. Craig asked for clarification on the traffic expert's scope of services in light of regional transportation agency review, which would be for Washington Street. Mr. Ball indicated the traffic expert would be looking at all transportation issues including worker parking, parking requirements for hotel operation, and other traffic impact assessments. Mr. Craig asked if blasting requirements would fall under a state agency review. Mr. Ball indicated an expert may still be needed given the historic structures in town. Ms. Rago asked about coordination with CSX Railroad and Mr. Ball indicated that they need to be added to the list of entities that need to be informed when the application is received.

BZA members reviewed the application review process with Mr. Ball. He indicated that he would be managing the technical review that involves comments on the application from experts followed by responses from the applicant. Mr. Ball felt that the BZA is in conflict of interest if involved directly in the technical review. Mr. Ball would ultimately provide a full report with comments/responses in one document for our review. Our review/decision clock would start upon receipt of his full report. Mr. Ball also indicated that the BZA could manage the expert reviews of the application, but would need to request monies after the application is received which could delay the reviews. He recommended that BZA select experts prior to application receipt.

Mr. Ball reviewed the discussions/negotiations with SWaN regarding the expert list and fees. He indicated that SWaN felt the fees were too high and that there may be overlap in terms of work scope. Attorney's fees were also a focus of excess scope and possibly fees.

Ms. Ziemanski requested clarification regarding the Town's technical review before the application is presented to the BZA and the establishment of the fee. Her understanding was that the BZA receives the application and then determines the expertise needed for review. She also questioned the original list of experts in terms of overlap with state agencies (e.g., SHPO) and that the fee was high when compared to per square foot review fees applied by

Jefferson County. She indicated that Jefferson County has a Memorandum of Understanding with the Town of Harpers Ferry, where the Town would use County engineers for Storm Water Management Plan review as one example of redundant expertise. BZA members and others in attendance discussed the process of expert selection, management/scope of their reviews, and timing of their reviews. Ms. Ziemanski also indicated that the site plan review is separate from a conditional use permit application process. She also felt the BZA is being rushed into approving the list of experts and costs.

Next meeting will be on March 7, 2019.

The meeting was adjourned at 6:27 pm.