

Harpers Ferry Board of Zoning Appeals

April 1, 2021

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

Call to order and attendees - The meeting was called to order by Chair Dave Simmons at 7:01 pm.

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

SEAT 2 (term ends January 1, 2022): Chad Gauthier - PRESENT

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): VACANT

ALTERNATE 2 (term ends March 1, 2022): Rob Case – PRESENT (not voting)

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

Others attending included staffmember Pat Morse (assisting with technology), town attorney Kin Sayre, and town citizen Roberta Meade.

Discussion on Upcoming BZA hearings – Regarding the application on window replacement on a Park Row house, Mr. Simmons noted that he has requested additional drawings and clarification of information in the application. The Ordinance Compliance Officer is seeking that information from the applicant.

Regarding the Appeal on the Street Use Agreement now before the Town Council, Mr. Craig asked if this might be out of the jurisdiction of the BZA. Mr. Sayre said that since it is not a zoning matter that it would be outside the BZA's jurisdiction. As an alternative, the applicant could appeal to the Circuit Court. There was additional discussion, and Mr. Simmons indicated that a second legal opinion on this matter would be in order, since Mr. Sayre was a party in the street use negotiations. Members agreed to obtain a second opinion from Michael Scales, and Mr. Simmons was to draft an email for review by the members prior to sending to Mr. Scales.

Discussion of Public and Applicant Comments Received at the March 29 Hearing – Mr. Gauthier expressed the view that comments from deceased persons should no longer be considered, and Mr. Simmons said that late submission of such comments was also a concern.

Mr. Craig noted that some comments expressed that SWAN's demolition application was incomplete and that there were procedural problems in the BZA's review. He asked for Mr. Sayre's response. Mr. Sayre replied that the two things required for a public hearing had been satisfied: a timely public notice and public posting of the application. He believed that SWAN's application had been complete but that some comments had confused the application process with the BZA's review of town ordinances and conditions that might be appropriate for permit issuance.

Mr. Simmons asked Mr. Sayre about concerns expressed that SWAN coordinate with the town of Bolivar, CSX and others. Can such requirements be addressed, and would Harpers Ferry bear liability for accidents affecting other entities? Mr. Sayre said that while town ordinances do not require such requirements and the town bears no liability, the BZA can attach such conditions to the demolition permit.

Mr. Gauthier raised the issue of a land disturbance permit, which SWAN had requested be waived. Mr. Craig asked that this and other matters be discussed in private deliberation. At 7:49 Mr. Craig then moved that the BZA enter private deliberation. Mr. Gauthier seconded; passed unanimously.

Discussion and Action on Permit Requirements and Possible Issuance of a Demolition Permit – At 8:54 the BZA came out of private deliberation and continued public review and action of the demolition permit. Mr. Craig put forth the following motion:

Whereas the Harpers Ferry Board of Zoning Appeals has determined that Swan Investment Group's application for demolition of the Hill Top House Hotel is complete; that it meets the requirements of a demolition permit under the ordinances of the Corporation of Harpers Ferry; and that it appears to address all environmental issues, including stormwater management, erosion control, and post-demolition stabilization; the Board of Zoning Appeals issues a permit to demolish the present hotel, with the following contingencies:

1. SWAN provide letters from all utilities indicating shut-off of service;
2. That they provide letters from the Harpers Ferry Chief of Police approving their traffic and safety plans and a letter from the Friendship Fire Company Chief indicating approval of their safety plan;
3. That they file valid business licenses in Town Hall offices for all contractors working at the site;
4. That they gain approval from the Tree Commission for any tree trimming required on public land;
5. That they meet with the Harpers Ferry Ordinance Compliance Officer on a weekly basis to review traffic, safety, stormwater, neighbor concerns, and other elements of the site logistics plan;
6. That SWAN coordinate as needed with the town of Bolivar, HF Middle School, and the National Park Service;
7. That all traffic able to use the Columbia street approach to the site do so; and
8. That they submit an asbestos abatement plan approved by WVDEP that addresses the asbestos remaining in place when demolition activities commence.

Mr. Gauthier seconded; passed unanimously.

Adjournment – At 9:10 Mr. Gauthier moved to adjourn. Mr. Buscher seconded; passed unanimously.

Minutes submitted by Chris Craig, secretary