

## BOARD OF ZONING APPEALS FOR THE CITY OF HAGERSTOWN

### Deliberative Session

---

On Wednesday, January 20, 2016, at 7:00 p.m., a meeting of the Board of Zoning Appeals for the City of Hagerstown was held in the Council Chamber, Second Floor, City Hall, Hagerstown, Maryland.

Travis Poole, chair; Andrew Durham; Janice Kelsh; Geordie Newman; James Stouffer were present.

The following appeal was considered and decided at the hearing:

**Case No. Z-2015-06.** Tenable Group, LLC, 920 West Washington Street, Hagerstown Maryland 21740, pertaining to property located at **920 West Washington Street**. The Board moved to grant the applicant's request for a variance to reduce the front setback for a fence from fifteen (15) feet to zero (0) feet; and a variance to increase the maximum permitted height of a fence along an intersection from three (3) feet to eight (8) feet, allowing for gradual increases to meet the corners where necessary to meet the height of the fence.

**VOTE: 5-0 Grant (Durham, Kelsh, Newman, Poole, Stouffer)**

---

**Other Matters Considered by the Board** (Gregory Deck, Alternate, participated, along with the other members present, in the following discussions):

#### *Opinions and Orders.*

Planning staff members and the chair began discussing possible amendments to the Board of Zoning Appeals Rules and Procedures. Board members discussed opinion uniformity, shortening the timeframe for issuing opinions, developing a template for opinions to help achieve uniformity, and adding more description to opinions to help staff enforce the board's decisions. As a result of these discussions, the board agreed to test the following changes to how opinions are issued:

- Draft opinions will be circulated within seven days of the hearing for comment by other board members, Zoning Administrator, and Board Secretary.
- Final opinion/order will be mailed out within 15 days of the hearing. Currently, the ordinance states 45 days and if the opinion is not issued by that date it is automatically approved.
- Final opinion/order shall have a uniform style.
- Findings of Fact need to include a detailed summary of the evidence, including unique conditions of a property (for variances). T. Poole was concerned that the detail requested by staff could be considered arbitrary.
- "Conclusions" section at end of opinion/order should contain an explanation of why the Board reached its decision.
- Opinions need to have the "order" at the end which clearly directs the applicants.
- Opinions will be written by all board members on a rotating basis.

- T. Poole will develop templates for special exceptions, nonconforming uses, and variances; administrative appeals will need to be written on a case-by-case basis.
- This month's case will be a test to determine whether the schedule outlined above is realistic.

### ***Election of Officers.***

On a motion by A. Durham, seconded by J. Stouffer, the board unanimously re-elected T. Poole as chair.

### ***Approval of 2016 Meeting Schedule.***

Action on the 2016 Meeting Schedule was delayed to make certain the new timeframe works properly. Approval will happen at the next hearing.

### ***Rules of Procedure.***

Staff and Board members reviewed the Rules of Procedure, which were last updated in 2001.

- Throughout the document, references to sections of the Zoning Ordinance must be revised to reflect the Land Management Code sections and subsections.
- Change reference to "Chairman" to "Chair."
- Reword the references to time and place of meeting to reflect that the Board meets once a month in accordance with the annual meeting schedule, unless no appeals are received.
- Cancellation of meetings can be initiated by the Board Secretary, rather than the Chair.
- Order of Business should begin with "Roll Call *and Preliminary Matters.*"
- Under Order of Business, add "Other Business" after "Action on New Cases."
- Under "Matters Requiring Public Hearings," add reference to nonconforming uses, floodplain appeals.
- Change the number of times the advertisement must run to two.
- Regarding "Postponement of Hearing," add language to the effect of "Whenever possible, requests for postponement of a scheduled hearing shall be requested through the Secretary." Deleted ". . . filed in writing with the Board not less than five (5) working days prior to the date of the hearing."
- Under "Appearance of Applicant," clarify that if an applicant does not appear, variance requests will be denied; special exception requests will be dismissed.
- Change the length of time the record will remain open for receipt of written comments when testimony time limitations are imposed from ten days to seven days.
- Include language about undue hardship and/or practical difficulty to be consistent with state law.
- Change the deadline for issuing decisions from 30 days to 45 days before an appeal is approved.
- Amend majority language under "Amendments" to "a majority of the quorum."
- Under "Right to Appeal," the first bullet point, in the Order of Procedure section, should read "Within thirty (30) days *of the date of the order.*" Regarding the second bullet point, text should be amended to read "Any party *aggrieved by the decision and participated in*

*the appeal*, may appeal to Circuit Court—this is thirty (30) days after the date of the opinion, not the date of the hearing.”

- Sign-up sheets should be utilized again (name, address, case of interest, whether in favor of or in opposition to, with a note that if the party is not “In Favor” they should mark themselves as in opposition). Also, it should be noted that just because a citizen signs the sheet it does not mean the party has to testify.

***Adjourn.***

The hearing and deliberations concluded at 9:30 p.m.

---

Debra C. Calhoun – Secretary