



MINUTES

WYTHEVILLE BOARD OF ZONING APPEALS

THURSDAY, OCTOBER 19, 2023 AT 11:00 AM
COUNCIL CHAMBERS, 150 EAST MONROE STREET
WYTHEVILLE, VA 24382

1. RE: ATTENDANCE

MEMBERS PRESENT:

Vice-Chairman John Matthews, Ms. Patricia Austin, Mr. Kerry Eans, Mr. Charles Johnson, Alternate Member Mr. Mark Zammit

MEMBERS ABSENT:

Chairman John Jones, Jr.

OTHERS PRESENT:

Assistant Town Manager Elaine HOLETON, Chief Deputy Clerk Brandi Jones, Planning Director John Woods, Deputy Clerk Lauren Bedwell

RE: CALL TO ORDER

Vice-Chairman Matthews called the meeting order.

2. RE: ESTABLISHMENT OF QUORUM

Vice-Chairman Matthews established that a quorum of Wytheville Board of Zoning Appeals members was present.

3. RE: ANNUAL TRAINING

Vice-Chairman Matthews advised that no action would be taken during the meeting. He explained that the meeting would only consist of annual training for the Board of Zoning Appeals.

A. RE: RULES OF PROCEDURE

Assistant Town Manager Elaine HOLETON advised that the Wytheville Board of Zoning Appeals (BZA) has an existing Rules of Procedure. She noted that it was approved in 1994. Assistant Town Manager HOLETON explained that Town Staff wanted to review the document and make sure that it was updated and current with the Code of Virginia. She continued explaining how the BZA's service is directly related to the Code of Virginia. Assistant Town Manager HOLETON stated that the other reason Town Staff wanted to revise the Rules of Procedure was to develop a format that was universal to all Town Boards, Committees, etc. She explained that over the next few years, all the Town's Boards, Committees, etc. will start to develop into this standard

format. Assistant Town Manager Holeton stated that the standard format that the BZA will review at this meeting reflects what the Town Council has developed as a similar format for the Council. She proceeded to review the draft Board of Zoning Appeals Rules of Procedure with the BZA members. Discussion was held regarding when the BZA is required to meet. Clarification was given to the members regarding how to handle situations when they arise during a case, who the case can and cannot be discussed with, when the case is allowed to be discussed, tabling an item during a meeting because the Board does not have enough information to vote comfortably until another meeting after gathering more information, etc. Ms. Austin remarked that, as the Board thinks of ideas, the ideas should be included somewhere in a manual or process guide so that the Board is consistently following the same process and creating transparency. Assistant Town Manager Holeton stated that, if the other members agree with Ms. Austin, Town Staff will add a section to Article VI - Communications that lays out this workflow for the next draft of the Rules of Procedure. It was the consensus of the Board of Zoning Appeals to add this information to the proposed Rules of Procedure. Vice-Chairman Matthews requested that Assistant Town Manager Holeton review the expectations of communication, once a case becomes public information following the meeting and the minutes become public knowledge. He inquired if she could elaborate on what the expectation is about Board member responses if they were to be asked to comment on the case. Assistant Town Manager Holeton stated that this was the first time she has been asked to review what to say or not say following a meeting, and this is a great question. She explained that, from her perspective, the actions of the Board are within the Council Chambers and minutes are taken, which are public information. Assistant Town Manager Holeton remarked that if comments were within what the minutes would reflect, members would be fine, however, she would not suggest disclosing any information that was not discussed during the meeting or presented during the meeting. She advised that members can always state to someone inquiring about a case that they would rather not comment on the case and refer them to Town Staff for a comment. Assistant Town Manager Holeton stated that once the Rules of Procedure are adopted at the May 2024 meeting, the final version will be emailed to each Board of Zoning Appeals member, and it will be posted on the Town's website. Assistant Town Manager Holeton commented that she would request the members continue reviewing the draft, and if there are any questions or comments, to please email her or Chief Deputy Clerk Jones prior to the May 2024 meeting.

B. RE: VARIANCE APPLICATION PRESENTATION

Assistant Town Manager Holeton advised that the next item on the agenda is the presentation regarding variance applications for the Town of Wytheville Board of Zoning Appeals (BZA). She noted that the Board received two cheat sheets which will be included in all future packets when there is a variance or appeal request so that the Board will always have the sheets with them when reviewing a case. She noted that with variance requests, the Board will never be asked to make a use determination. She commented that the burden is on the applicant to prove to the BZA that they have a unique situation which is why they are not required to follow the Zoning Ordinance for the zoning district that they are applying for the

variance. Assistant Town Manager Holeton continued to review the variance application process with the Board. She remarked that if Boards strictly applied the Code of Virginia, there would probably be very few variances ever approved in Virginia. Assistant Town Manager Holeton commented that she has worked for two jurisdictions before coming to work for the Town of Wytheville, and she understands that the Board members are Town citizens who understand how hard it is to deny someone who applies for a variance if the applicant is not a negative impact to the community. She stated that her advice to the Board would be that if there is an application and there is no negative impact on the community and the Board feels there is a reasonable reason for the request, then it is probably safe to grant the variance request. Assistant Town Manager Holeton noted, however, when there is a request, and the applicant simply does not want to spend the extra money to do what they are required to do to comply with the Zoning Ordinance, then the variance request should be denied. She explained that one of the good things about not meeting a lot and not having a lot of variance requests means that the Zoning Ordinance is working and there are professional staff capable of doing their jobs. Assistant Town Manager Holeton remarked that she has worked in communities where applications are received for the same variance requests which tells staff that the ordinance needs to be reviewed because there are too many people having challenges with the same rule. Assistant Town Manager Holeton advised the Board that the majority of the attending meeting members are needed to approve a variance and referenced the cheat sheet. She stated that she would request the Board members to contact Town Staff if they had any questions or comments regarding the cheat sheet. Assistant Town Manager Holeton inquired if there were any questions or comments regarding the variance application process. There being none, she proceeded with the agenda.

C. RE: APPEAL APPLICATION PRESENTATION

Assistant Town Manager Holeton advised that the next item on the agenda is the presentation regarding appeal applications for the Town of Wytheville Board of Zoning Appeals (BZA). She inquired of the BZA members as to which members had sat for an appeal process. It was noted that all BZA members had heard an appeal. Assistant Town Manager Holeton advised that when she was the Zoning Administrator at another locality, she was the subject of two appeals, which are not fun when you are in that position. She explained that the appeal process is in the Code of Virginia for a reason, which is to make sure Zoning Administrators are being held accountable. Assistant Town Manager Holeton continued to explain the process of an appeal to the BZA members including who they would contact as far as Town staff with questions, formulating motions, public hearing requirements, agenda workflow, etc. She explained the process of the applicant appealing the BZA's decision, which is filed through the Circuit Court of Wythe County within 30 days of the case being heard. Vice-Chairman Matthews inquired of Assistant Town Manager Holeton in other instances where a case may be filed with the Circuit Court, what the responsibility of the BZA members would be. He inquired if the members may be required to speak during the hearing. Assistant Town Manager Holeton stated that she has never had an appeal filed with the Circuit Court properly for it to go any further, however, she thinks once the BZA makes its ruling, and the appeal is filed

through the Circuit Court, everything is then handled through the Town's Attorney. She remarked that the BZA members would not be requested to testify, etc. because the Town's Attorney would file a motion, etc., on the members' behalf. She commented that all the minutes, recordings, etc. would be sent over to the court for the case. Assistant Town Manager Holeton inquired if there were any questions or comments regarding the appeals applications. There being none, she proceeded with the agenda.

D. RE: UNIFIED DEVELOPMENT ORDINANCE (UDO) PRESENTATION

Assistant Town Manager Holeton explained that Planning Director John Woods was scheduled to present the draft Unified Development Ordinance (UDO) to the Board of Zoning Appeals (BZA), however, he was unable to attend the meeting. She stated that the UDO is a working draft that Town staff began working on over a year and a half ago. Assistant Town Manager Holeton noted that the current Zoning Ordinance is over 50 years old. She remarked that Town Staff decided to do a complete rewrite of the ordinance, which is why it is taking so long to complete. She commented that the current Zoning Ordinance has approximately 50 pages, and the new Unified Development Ordinance (UDO) has over 300 pages. Assistant Town Manager Holeton stated that the challenge with the current ordinance is that it is very vague, but the new UDO will be very clear, and there will be hyperlinks within the document on the website. She explained that the Subdivision Ordinance will be included in the same document to easily reference items. Assistant Town Manager continued to review the draft UDO with the BZA members, and the public input focus groups she would like for the members to join in the future. She noted that Town Staff would train the members about the zoning district standards at a future meeting. Assistant Town Manager Holeton inquired if there were any questions or comments regarding the draft UDO. She stated that if the members had questions or comments, they could contact Town Staff. Vice-Chairman Matthews thanked Assistant Town Manager Holeton for reviewing this information with the members.

4. RE: ADJOURNMENT

There being no further business to be discussed, a motion was made, seconded and carried to adjourn the meeting. (11:49 a.m.)

John R. Matthews, Vice-Chairman

Brandi N. Jones, Chief Deputy Clerk