

**Board of Zoning Appeals
January 7, 2009
Hamilton Town Office**

The BZA meeting was called to order at 7:00 by Dr. Thomas Gatewood, Chairman, followed by the Pledge of Allegiance.

Present: Dr. Thomas Gatewood, Chairman, Ms. Kelly Gaitten, Ms. Patricia Maher-Wade.

Absent due to notification failure: Ms. Winnie Reed

Also Present: Ms. Maureen Gilmore, Town Attorney

Mr. David Beniamino, Zoning Administrator

Mayor H. Ray Whitbey

Mr. Robert McCann, nominated for the open BZA position pending Circuit Court Appointment

Minutes

Ms. Maher-Wade made a motion to adopt the September 3, 2008 minutes into record. Ms. Gaitten made a second on the motion and the vote passed 3-0-0, (Aye; Gatewood, Gaitten, Maher-Wade. Nay: none. Absent: none.)

Officer Election

Ms. Gaitten made a motion to nominate Dr. Gatewood as Chairman of the BZA and Ms. Maher-Wade made a second on the motion. Dr. Gatewood accepted the nomination and the voice vote passed 3-0-0, (Aye; Gatewood, Gaitten, Maher-Wade. Nay: none. Absent: none.)

Ms. Maher-Wade made a motion to nominate Ms. Gaitten as Vice Chairman of the BZA and Dr. Gatewood made a second on the motion. Ms. Gaitten accepted the nomination and the voice vote passed 3-0-0, (Aye; Gatewood, Gaitten, Maher-Wade. Nay: none. Absent: none.)

2009 Meeting Schedule

The 2009 BZA meetings will be held the first Wednesday of each month, 7:00 PM, at the Town Office, if there is business before the Board. In the event there is no business before the Board, Dr. Gatewood will advise all members of the meeting cancellation.

Rules & Procedures

The BZA current Rules & Procedures were reviewed and discussed. Ms. Gaitten made a motion to accept the Rules & Procedures as revised and Ms. Maher-Wade made a second on the motion. The vote passed 3-0-0, (Aye; Gatewood, Gaitten, Maher-Wade. Nay: none. Absent: none.)

The changes are as follows:

Article I - General Governing Rules, no changes.

Article II - Officers and Duties, no changes.

Article III - Meetings, Section 3.2 Time of Meetings. Ms. Gilmore suggested the addition of the following language: Regular Meetings shall be scheduled for the first Wednesday of the month at 7:00 PM, provided that at least 3 (3) working days notice is given to each member and the public. Discussion was held and agreement was reached for this addition.

Article IV - Public Hearings, section 4.3 Conduct of Public Hearings. Discussion was held by the BZA and the agreed upon order is as follows:

Any person may appear in person, by agent or attorney, at any public hearing. Each matter before the Board will be considered in its entirety. The order of proceedings in the hearing of each case at a public hearing shall be as follows:

1. Conflict of Interest Disclaimer
2. Reading of the public notice and affidavit of publication of the hearing by the Secretary of the Board.
3. Notation for the record that all members of the Board have made a personal inspection, or are familiar with, the property prior to the public hearing.
4. Summary of Applicant's/Appellant's Request by Secretary or Chairperson.
5. Chairperson's Statement that testimony and comment be true and factual. Swearing in of the Witnesses.
6. Notation for the record that witness subpoenas, if any, have been served.
7. Reading of pertinent written comments, reports and summary concerning the appeal and/or incorporation into the record by reference. Summary and/or overview of the appeal or variance request.
8. Applicant's/Appellant's presentation, including witness testimony given under oath.
9. Staff presentation, including witness testimony given under oath.
10. Rebuttals and/or final comment from applicants and staff. Questions to Applicant/Appellant and/or staff/BZA members.
11. Public Comment.
12. BZA determination.

Article V - Appeals/Variance, no changes.

Article VI - Public Hearing Decision, Section 6.1 Forms of Decision. Remove #4 and #6.

Article VII - Amendments, no changes.

Article VIII - BZA Subpoena Procedures, Section 8.1 procedures for Issuing Witness Subpoenas. Change item #1 to read: Applicants shall submit written requests for witness subpoenas, if any, to the Zoning Administrator/Secretary of the BZA, at least 6 weeks prior to scheduled hearing.

Other agreed upon items are:

1. Notification of Public Hearing details will be delivered by Certified Letter to the Appellant/Applicant.
2. Mr. Beniamino will add a box to the Application/Variance Request Form for the following:
Are you requesting the BZA to subpoena witnesses on your behalf?

Informational Items

Mr. Robert McCann has been nominated to fill the open seat on the Hamilton BZA, pending Circuit Court appointment.

Dr. Gatewood was under the impression the Ms. Winnie Reed's term had expired as her name was not on the master roster sheet for the BZA. Due to the omission Dr. Gatewood did not include her name on the meeting notification for this meeting. Ms. Reed's term is not expired as verified by Ms. Gilmore, and Dr. Gatewood offered his apology for the oversight.

Ms. Gaitten made a motion to adjourn at 8:13 PM.



Chairman Thomas Gatewood


Mary Fussing, Recorder