

**DRAFT**

## **Minutes**

### **BOARD OF ADJUSTMENT**

Regular meeting

6 p.m. Apr. 12, 2023

Board Meeting Room of Town Hall Annex, 105 E. Corbin St.



Present: Chair Sean Kehoe, Vice Chair Raul Herrera, Richard Chapple, Portia Made-Jamison, Hooper Schultz and Jenn Sykes

Absent: Rob Bray

Staff: Assistant Town Manager/Community Services Director Matt Efird and Senior Planner Tom King

Member Jenn Sykes left the meeting before it began. She is an alternate member and there were five regular members present, so she would be ineligible to vote.

#### **1. Call to order and confirmation of quorum**

Chair Sean Kehoe called the meeting to order at 6 p.m.

King introduced Assistant Town Manager/Community Services Director, Matt Efird; noting Efird was hired in December 2022 to fill the position being vacated by Margaret Hauth. Hauth retired from town employment at the end of February 2023. Efird introduced himself and informed the board of his background in local government.

Kehoe asked King to call the roll and verify a quorum was present. King called the roll and verified a quorum of members were present.

#### **2. Minutes review and approval**

Minutes from the regular meeting on Dec. 14, 2022.

Chair Kehoe asked members if they'd had an opportunity to review the minutes and if any corrections were needed. No corrections were offered.

Motion: Vice chair Raul Herrera moved approval of the Dec. 14, 2022, regular meeting minutes as submitted. Member Hooper Schultz seconded.

Vote: 5-0. The minutes were approved as written.

#### **3. Board rules of procedure amendments**

King informed the board that the town board of commissioners had recently amended the Town Code of Ordinances to update and codify the provisions of a previous appointed board policy that had been in place for several years.

The first amendment presented involved Article II (Officers and Duties), Section D (Secretary), 3rd Paragraph. The proposed amendment adds the applicable town code section reference related to duties of the board secretary in providing educational materials and arranging orientation sessions for new members. King

informed the board that many of the referenced education materials have recently been updated and are located on the town's website on the board of adjustment webpage.

The second amendment presented involved Article IV (Rules of Conduct for Members), Section B, 3rd and 4th Paragraphs. These amendments relate to absenteeism on appointed boards.

King explained that some appointed boards are experiencing chronic absenteeism. In response, the town board instituted town code amendments requiring that board secretaries notify members who miss 1/3<sup>rd</sup> of regular meetings within any 12-month calendar year that regular attendance is required; essentially being a warning notice. In addition, after such warning, the secretary will notify board members missing ½ of regular meetings within any 12-month period that their term is automatically ended.

Board members expressed concern that the absentee regulation would be extremely harmful if applied to a board doesn't meet monthly, such as the board of adjustment. King asked Efirm if he had any information to share regarding the town board's position on the matter. Efirm explained that the town board had essentially eliminated "excused" and "unexcused" absences. The town board has the authority to reappoint a member in the event it is determined absences were for good cause shown.

Motion: Schultz moved to approve the amendments as written. Herrera seconded.  
Vote: 5-0. The amendments were approved as presented.

#### **4. Annual election of board chair and vice chair**

The board members discussed nominations for chair and vice chair.

Motion: Schultz moved to elect Kehoe as chair. Herrera seconded.  
Vote: 5-0. Kehoe was elected board chair.

Motion: Schultz moved to elect Herrera as vice chair. Chapple seconded.  
Vote: 5-0. Herrera was elected board vice chair.

#### **5. Discussion of potential change to board's decision-making procedure**

King introduced the item reminding the board that the topic of final written decisions had been discussed at the board's Dec. 14, 2022, meeting relative to an amendment to their rules of procedure. Board approval of final written decisions prior to signature by the board chair is required under state law when quasi-judicial decisions are made. Board members, at the Dec. 2022 meeting, voiced concern this statutory requirement results in applicants being forced to wait a month from a decision to receive the board's written decision, and that the requirement seems unfair.

King stated he and another staff member had discussed the requirement with the town attorney's office and were informed waiting a month appeared to be the best option. King later reached out to other planning staff across the state and found that, of the several responding agencies, some require the applicant wait for the decision, others prepare a findings of fact template and fill the findings in at the meeting, have the board vote on it, and the chair sign. One solution offered was to continue the meeting to a date certain so staff could prepare the final decision for board review, approval, and signature at the continued meeting. Several board members were not in favor of this option.

King stated that he has, in the past, provided the board with draft resolutions/orders approving and denying a request for board consideration when reviewing a case. He said he believes he could possibly revive this practice. A draft could be prepared for each case, findings of fact and conclusions of law filled in by hand at

the meeting, the document read into the record, approved by the board, and a clean version typed up for the chair's signature in the days following the meeting. Kehoe expressed concern that doing so "on the fly" could be problematic. King stated the method can be tried, but the board would need to proceed in a slow and methodical manner at the point in a meeting where they are making the findings and decision.

The consensus of the board was to move forward with having prepared written decision documents available at hearings as King described.

**6. Committee and staff reports**

A. Planning Board

Schultz stated the Planning Board held a special meeting on April 4, 2023, to review and receive public comment on the proposed draft Comprehensive Sustainability Plan. The Planning Board recommended the draft be forwarded for a public hearing.

B. Planning and Economic Development Division staff

King reported that Joseph Hoffheimer began employment with the town as a Planner in January of this year, and that he is primary staff support to the Town's Historic District Commission.

**7. Adjournment**

Kehoe asked for a motion to adjourn.

Motion: Kehoe moved to adjourn the meeting. Herrera seconded.

Vote: 4-0. The meeting adjourned at 6:41 p.m.

Respectfully submitted,



Tom King, AICP, CZO  
Senior Planner  
Secretary to the Board of Adjustment

Approved: XXX XX, 2023