

Shaftsbury Development Review Board

Cole Hall

Wednesday, May 4, 2022

Call to order

The meeting came to order at 6 p.m. Present were Board members Tom Huncharek (chair), Mike Day (vice-chair), Tedd Habberfield, and Lon McClintock. Also present was Zoning Administrator (ZA) Shelly Stiles.

Conflict of interest

No one reported a conflict of interest with any item on the agenda.

Sign in sheets

Not applicable.

Approval of minutes, April 6, 2022

Mr. Day moved to approve the minutes. Mr. McClintock distributed suggested changes, which included various formatting changes, clarification that the language of former Section 8.7.1 of the Bylaw will be removed and identified as repealed, and a new description of the variance for Michael Gardner's permit 22-0004. A discussion regarding the concept of repeal by implication was also held. Mr. Huncharek will follow up on the topic with Town counsel. Reference to the matter in the minutes will be deleted. Mr. Habberfield seconded the motion to approve the minutes as revised. It was agreed that the ZA will make the changes and visit the Chair for his signature on the revised document.

Review of Revised Rules of Procedure

Mr. Habberfield and Mr. McClintock presented their draft Rules of Procedure, which the Board went through item by item. Changes agreed upon included:

- formatting changes,
- correction of grammatical or editing errors,
- the addition of definitions for "Abstention" and "Hearing,"
- a change to the definition of "Recuse" to incorporate the substance of the Town's policy on Ethical Conduct and Conflict of Interest,
- language regarding the Recording Clerk's responsibility to maintain and/or record records of all hearings, and to identify each person participating in a hearing whether attending in person or remotely,
- the addition of a requirement that testifiers identify the nature of their interest in the hearing,
- the addition of the word "reasonable" to the phrase "adopt time limits" in Section VII,
- the insertion of the language from the statute in VII (D), the definition of interested persons,
- the replacement of "party status" with "interested person status" in Section VII (F),
- the insertion of "to testify in response to" in section VII (L),
- the replacement of "Secretary" with "Recording Clerk" in Section VII,
- the deletion of a reference to "written charges" in the section on removal of Board members and its replacement with the phrase "by the Select Board for good cause after a public hearing,"
- the deletion of the word "entire" in section XV.

Mr. McClintock incorporated these changes in his original digital document as the discussion proceeded. All those changes and others not here listed but discussed are incorporated by reference in these minutes.

Other items discussed included the concept of “material participation,” the protocol for conducting site visits, a protocol for running hybrid hearings, problems with allowing attorneys to testify for the clients, and the need to flesh out the section on ex parte communications.

Mr. McClintock and Mr. Habberfield will incorporate the changes discussed, including new language Mr. McClintock will craft, for review before the next meeting.

Other business

No one had other business to discuss.

It was agreed to continue the review of the Rules of Procedure at the May 18 DRB meeting.

Mr. Huncharek moved to adjourn at 7:25. Mr. Habberfield seconded the motion, which passed by acclamation.

Notes by ZA Stiles