

BOARD OF ZONING APPEALS

MEETING MINUTES

Tuesday, November 20, 2018

Town Office

5:30 p.m.

CALL TO ORDER

Chairman William Harvey convened the public meeting of the St. Michaels Board of Appeals (BOZA) at 5:30 p.m. in the meeting room of the Edgar M. Bosley, Jr. Municipal Building, 300 Mill Street, St. Michaels, Maryland. Also present were board members John Hunnicutt, Douglas Rollow, and Acting Zoning Officer Jean Weisman. One member of the public was present at the meeting.

NEW BUSINESS

BOZA 587-18 – Chesapeake Bay Maritime Museum (CBMM) - Variance from the Critical Area Commission (CAC) Buffer Management Area (BMA) setback provisions as set forth in §340-27-13; relief from maximum height provision of the Town Code, §340-30B-(5) (a).

Chairman Harvey introduced the applicant's representatives – Attorney Zack Smith, Brett Ewing of Lane Engineering and Steve Bryn of the CBMM, and identified the property (known as Navy Point) as Parcel 1607. Chairman Harvey read Exhibits 1-16 into the record. Chairman Harvey and members John Hunnicutt and Douglas Rollow affirmed that they had visited the site. Chairman Harvey then performed the swearing in of all persons wishing to testify, and read the conditions under which the board could grant a variance, as outlined in Chapter 340 of the Code. Member Rollow asked if the variance requests – the buffer issue and the building height – could be dealt with separately, and the members agreed to begin with the variance request for a height allowance. Acting Zoning Officer Jean Weisman then referred to the staff report, which was already a part of the record as Exhibit No. 5. Mrs. Weisman noted that the applicant was requesting a height of 36 feet for the building, which was one foot higher than the Code specification of 35 feet.

Chairman Harvey then called upon the applicant's representatives Mr. Smith, Engineer Brett Ewing, and Steve Bryn, Vice President of operations for the Museum. Mr. Smith said that the Museum Library and Exhibition Building was proposed to be elevated from average grade to 36 feet in order to meet flood code requirements, and to accommodate the special conditions necessary to protect the exhibits and the library, including highly sophisticated and specialized mechanical systems. Member Rollow asked if one foot could be eliminated at the top of the building to meet the Town Code's 35-foot limit. Attorney Smith said that architects for the proposed building said that the extra foot was needed to accommodate two floors and appropriate mechanical space. Mr. Smith and Mr. Bryn explained that the building would also have to meet the flooding and structural standards of the exhibit owners to attract them to the museum. Mr. Smith said his presentation was concluded and then answered questions from the members. There were no questions or comments from the public. Chairman Harvey then closed the public portion of the hearing, and opened deliberations. Member Rollow said he was sympathetic to the need to accommodate the flood plain, but asked why the height of the building couldn't be reduced by one foot to meet the 35 ft. regulation. Member Rollow asked if the roof line could be stepped to allow the mechanical, and noted that he felt he could not make a decision without more information. Member Hunnicutt asked if it were not for the flood plain issue, would the building be considered typical and would the 36' be needed. Mr. Bryn responded that the museum was working with a nationally known architect that specializes in museum/educational spaces. Member Hunnicutt said that the building was peculiar and Attorney Zack

Smith said yes if you consider that the building is designed with taller ceilings to accommodate exhibit space. Chairman Harvey asked if the architect could appear before the board, perhaps via Go-to-Meeting or Skype technology. Attorney Smith said if necessary yes.

After some additional discussion, Chairman Harvey suggested a 2-step procedure to move forward - first, that the board receives a narrative from the architect to address Mr. Rollow's questions, focusing on the design as related to flood concerns, and the design as related to exhibit/library/office space - and secondly, outlining what hardship would be caused by trying to conform to the 35-foot regulation. Engineer Brett Ewing interjected that the architect was aware of the 35-foot limitation and that they had done what they could to compress the structure. Chairman Harvey said that the architect's input would help clarify things and strengthen the record. Mrs. Weisman and the members discussed a continuance, and the members and the applicants agreed on the board's December 10th meeting as a date by which to obtain the architect's input. Chairman Harvey also asked the applicants to provide the architect's availability for a meeting via phone or via Go-to-Meeting, Blue Jean, or Skype technology.

Chairman Harvey made the motion to continue the building height portion of the variance request (hereinafter "Variance Subset A-1 of §340-30-B5") to December 10th to allow the applicants sufficient time to address the architectural concerns raised by the board. Member Hunnicutt seconded the motion, which then passed on a voice vote of 3-0 in favor. Chairman Harvey said the record would be kept open and the board would take public comment.

Variance Subset A-2 - CBMM request for variance from the Critical Area buffer management area setback requirements, §340-27.13

Chairman called upon interim Zoning Officer Jean Weisman, who noted that the staff report contained background on both variance requests. Zack Smith, attorney for the applicant, said the museum is constrained in finding areas to address storm water management (SWM) and meet the buffer management area 25-foot setback requirement. Attorney Smith said the museum was therefore requesting encroachment into the BMA to satisfy SWM requirements, and he submitted a site plan and photos for the record. Chairman Harvey then read the new exhibits into the record as follows:

- Exhibit 17 Site Plan for CAC variance dated 11/20/18.
- Exhibit 18 Photo of existing conditions (including planter area), dated August 2018
- Exhibit 19 Four photos A-D, dated August 2018

Mr. Smith said the museum was proposing two SWM locations; the first would be to remove the planter area (Exhibit 18) and substitute a SWM feature. Mr. Ewing said the area would not look that much different in that existing plantings would be replaced with SWM plantings, which would improve water quality as it drains into the tidal water. Mr. Smith continued that a second SWM location is on the northern side of the site, a submerged tidal wetland that does slightly encroach into the BMA. Mr. Ewing said the changes would also treat the storm water and improve the water quality as it goes into the tidal area.

Chairman Harvey asked when the applicants would be talking to the Maryland Department of the Environment (MDE). Mr. Ewing said that the MDE permit would be submitted once the Board

of Appeals made their determination. Member Rollow asked for clarification of the SWM features on the site plan. After some additional discussion and some speculation on the CAC's comments to date, Chairman Harvey asked if the December 10th meeting would be enough time to get a better understanding of the CAC's position on the SWM solutions. Mr. Smith said he hoped that would be possible. Chairman Harvey then called for any further comment. Member Rollow asked if there are any other feasible alternatives or locations for SWM systems. Mr. Smith said no, and that the applicants were proposing a solution that appeared to be the most practical option, and which they believed actually improved water quality. Mr. Smith said efforts would be made to work with MDE and the Critical Area prior to December 10th, but also emphasized that the Board of Appeals has the final say in approving a variance in this matter.

As there were no further comments, Chairman Harvey proposed a motion to continue Subset A-2 of the request for a variance from the CAC Buffer Management Area setback requirement, §340-27-13, to allow sufficient time for the CBMM to address the concerns of the board in a way that would enable them to make a determination. Member Hunnicutt seconded the motion, which then passed on a voice vote of 3-0 in favor. Chairman Harvey thanked everyone for their participation.

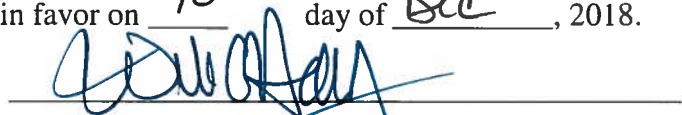
Review and Approval of Minutes

Member Rollow said he would like to review signed copies of the minutes. Chairman Harvey suggested that review and approval of the minutes be postponed to the meeting on December 10, 2018.

Adjournment

The meeting was adjourned at 7:00 p.m.

Minutes approved by 3-0 vote in favor on 10 day of Dec, 2018.



William C. Harvey II, Chairman