

**Borough of Gettysburg
Zoning Hearing Board
Meeting Minutes
April 30, 2014**

Please refer to the Transcript of Testimony at the hearing held on Wednesday, April 30, 2014 at the Borough Municipal Building, 59 East High Street, Gettysburg, Pennsylvania for a verbatim record of the proceedings.

The Zoning Hearing Board (ZHB) was called to order by Chair Stacey Green at 7:03 PM on Wednesday, April 30, 2014. Those in attendance were: Board Members Holliday Giles, Walton Davis and Larry G. Weikert; Board Solicitor John S. Phillips, Planning Director and Zoning Officer Scott Dellett; and Rhonda Kershner, Stenographer. Absent were Board Member Mark Weaver and Alternate Member Rodger Goodacre.

Others in attendance were: Paul Boxersox of Pennsylvania Delta Corporation, Robert Campbell of Campbell and White, and Gary Shaffer of Shaffer Design Associates, all representing the applicant; Robin Kendlehart of 42 West Broadway; Ted McPherson of 250 Carlisle Street; Jonathan Hansen of 430 Carlisle Street; Mary Malewicki of 2 West Broadway; Donald Marritz of 61 East Broadway; Margaret Gustafson of 429 Carlisle Street; John Heiser of 418 Carlisle Street; Council Members Robert Krummerich, Jacob Schindel, Becky Brown and Scot Pitzer; and Jim Hale of the *Gettysburg Times*.

Reorganization

Ms. Green turned over the meeting to Mr. Phillips, who called for nominations for Chair. Mr. Phillips said that the Board's annual reorganization was tabled at the January 22, 2014 meeting because of the absence of two board members. Ms. Giles nominated Ms. Green to serve as Chair; the nomination was seconded by Mr. Weikert. Mr. Davis moved to close the nominations. Mr. Weikert seconded. Ms. Green was elected to the position of Chair.

Mr. Davis nominated Ms. Giles for Vice Chair the nomination was seconded by Mr. Weikert. Ms. Green moved to close the nominations. Mr. Weikert seconded. Ms. Giles was elected as Vice Chair.

Ms. Giles nominated to retain Mr. Davis as Secretary. Mr. Weikert seconded. Ms. Green moved to close the nominations, Mr. Weikert seconded. Mr. Davis was elected as Secretary.

Minutes and Agenda

Ms. Green deferred on the approval of the minutes because Mr. Weaver and Mr. Goodacre were not in attendance. There were no changes or additions to the agenda. There were no outstanding decisions to announce.

Hearing of Case

ZHB-14-02 Sigma Alpha Epsilon Fraternity, 41 West Lincoln Avenue, to obtain a special exception under Section 27-1402(2)A, Extension of Nonconforming Use, to provide housing for seven additional students.

Mr. Phillips gave an overview of the procedures that would be followed during the hearing. In addition, Mr. Phillips listed the criteria that must be met in order for variance and special exception to be granted. Mr. Dellett confirmed that the hearing had been advertised and the property posted.

The applicant presented its case for a special exception to permit seven additional students at a fraternity house, an existing non-conforming use in the R-1 Low Density Residential Zoning District. Residents presented objections to the grant of the special exception. The Board went into executive session at 9:10 PM, returning at 9:20 PM.

Mr. Davis made a motion to grant the special exception, Mr. Weikert seconded the motion. Mr. Davis said it was real clear from the testimony that Sigma Alpha Epsilon was not a good neighbor. He said he lived in the north end of the Borough and knows what it is like to live near college students, particularly when they do not behave.

Mr. Davis said he must evaluate the request under the land use laws of the Commonwealth of Pennsylvania. A pre-existing legal non-conforming use has a Constitutional right to expand unless there is proof that the expansion would cause a detriment to the neighborhood. He added there is supposition and prognostication on his belief that seven more students will not make the situation any better, but that was not proof. Although he was not happy, Mr. Davis said it was his duty to apply the law as written. As the law is written, the fraternity has sufficient parking spaces and met all other requirements. The only requirement that was in question was the detriment to the neighborhood. Mr. Davis said he did not see the kind of proof to vote against the request.

Council's College Community Committee should get more active regarding this issue, Mr. Davis said. The landlord should also be more active with how the property is managed. He questioned why the Borough has not come down hard on privately owned fraternities as they have with residential rental properties.

Ms. Giles said while you concurred with Mr. Davis' comments, she would vote against the request because she has a moral and neighborly Constitutional right to stand up to the decline of behavior, whether it is five, seven or 10 more students. The neighborhood deserves the kind of care and moral service as other properties in the Borough. Ms. Giles added as a bar owner, she receives code violations for her dumpsters.

Ms. Green told the applicant's representatives it was important to hear the neighbors' complaints about the fraternity. She noted that the property owners understood they were

near a college campus and fraternities when they bought their homes; however, she suggested the fraternity needed to get its house in order.

Mr. Weikert suggested neighbors contact the Borough Code Enforcement Officer regarding trash dumpster complaints and the police for parking issues. Ms. Malewicki said neighbors have done that and they do not ticket. Ms. Green and Mrs. Giles suggested neighbors go before Council with the complaints.

On a roll call vote, Mr. Weikert, Ms. Green and Mr. Davis voted to grant the special exception; Ms. Giles voted against. The motion passed, 3 to 1.

Mr. Phillips said the Board has 45 days to file its decision memorandum; once filed, that will start the 30-day appeal period.

With no further business before the Board, the meeting was adjourned at 9:27 PM

Respectfully submitted,

Scott Dellett, AICP
Borough Planning Director/Zoning Officer