

**TOWN OF HARRISBURG, NORTH CAROLINA
HARRISBURG TOWN HALL
BOARD OF ADJUSTMENT MEETING
TUESDAY, OCTOBER 3RD, 2023
6:00 PM**

MINUTES

1. CALL TO ORDER

Ian Patrick called the meeting to order.

PRESENT: Kevin Hutchins, Monica Long, Ian Patrick, Michael Branham, Brandon Ross

ABSENT: Kevin Schaffner (attended via Zoom)

STAFF: Zac Gordon, Shelley Dehart, Carly Bedgood

B. ROLL CALL

The secretary of the Board conducted roll call.

C. AGENDA ADOPTION

Monica Long made a motion to adopt the agenda as presented. Brandon Ross seconded the motion. **The motion was unanimously approved (5-0).**

D. SPECIAL PRESENTATIONS - NONE

2. CONSTENT AGENDA

A. Approval of September 5th, 2023, Meeting Minutes

Monica Long made a motion to approve the meeting minutes. Kevin Hutchins seconded the motion. **The motion was unanimously approved (5-0).**

3. PUBLIC HEARINGS - NONE

4. OLD BUSINESS - NONE

5. NEW BUSINESS

A. Board Training- Administrative Appeals

Planning Director, Zac Gordon, started the meeting off by giving a brief PowerPoint overview of an Administrative Appeal process. Zac went over what the job of the Board is during this process. The question that is to be answered for an administrative appeal is whether the zoning administrator or other staff is incorrect according to the Harrisburg Ordinance. The UDO is the land use regulations for the town and there may come a point where something is not crystal clear and someone may disagree, if they disagree, they are able to appeal. The applicant will have to show how the decision is wrong. The statues outline the time of appeal, within 30 days from receipt of the written notice of determination. Only people withstanding under G.S. 160D-1402(c) or the local government may appeal an administrative decision. The official who made the decision shall transmit to the board all documents and exhibits constituting the record upon which the decision appeal from is taken.

October 3rd, 2023

BOA Minutes

Attorney, Keith Merritt

Keith Merritt started off his presentation introducing himself. Keith has been doing this for 33 years, his practice involves a lot of representation of government from anything with special use permits, zoning, and appeals or you name it we have probably done it at any given time. Usually an administrative appeal, the staff is on trial, the decision that the staff made is what is being considered by you guys. You need an attorney for the staff and for the board to advise you. It is not uncommon to have multiple attorneys involved. If I could tell you one thing about a Board of Adjustment Board, it is a quasi-judicial board. You guys are judges just like being in court. You shouldn't be talking to any of the applicants or gathering any information outside of the hearing. Your role is a judge, your decision is based upon what happens in front of you at the hearing. Either side has the opportunity to call witnesses, they will all be sworn in and can be asked questions. At the end of the day your job is to take what happens at that hearing and come to a decision. You do not have to make a decision that night, but you cannot go have other conversations with everyone about it. It is a public hearing so your discussion has to be where everyone can see what is going on. One of the other ways people can get in trouble is if you have a bias before going into the hearing. There is a decision that has been made by one of the Planning folks and the first opportunity they have to appeal is to you guys. Now you are in the role of making a decision of, there is some part of the UDO that needs to be interpreted. After you hear from both sides you will make a decision of what you think the UDO means. That is what is coming up at the end of the month. You listen to the evidence that is presented, and you will make a decision of what you think is the right thing. I will try to help you guys in your decision-making process, what I cannot do is tell you what I think about anything. I cannot make the decision, that is not my role.

6. ADJOURNMENT

There being no further business, Kevin Hutchins made a motion to adjourn with a second from Michael Branham. **The motion was unanimously approved (5-0).**

Adopted on the 10th of January, 2024

Ian Patrick, Chairperson

Carly Bedgood, Board Secretary