

March 14, 2014

Dear Team,

Given that I will not be with you in physical body on Tuesday, I'd like to submit my thoughts via this letter for inclusion with your discussion on procedures in the work session. I'm writing this while flying to Atlanta so pardon the typos and less-than-perfect dictation.

I was incredibly frustrated at the Public Hearing on Mia Nelson's case. I'd like to call out several concerns about the process and raise a few questions on how to handle use of information.

1. We were inundated with new information both from Larry and from Ms. Nelson just prior to and during the Hearing. It was way too much information (for me) to digest before the deliberations. I believe there is a protocol for providing the Commissioners with information at least 7 days prior to meetings.
 - a. Might it be possible to have applicants submit their handouts a few days prior to the Hearing? I was seeing some issues with her data during the meeting, but it wasn't until I got home and could use a ruler and protractor that I could pinpoint the errors. Ms. Nelson was able to steer the discussion to "the view" issue, which to me should only matter in determining if the reduction in view to neighbors would negatively impact their property values. She was slick in her using green dots to hide the creek cutting into the NE corner of her property, misleading scales on the footprint, and doing the view comparisons of a 20 foot versus 30 foot roof line rather than no variance versus 5 feet of building.
 - b. The last minute introduction of the potential Riparian Area of Gender Creek and then last second retraction was disastrous. That (and Ms. Nelson's threat) completely rattled those residents who had come to present arguments against the variance. Plus, Larry used the latest date he could find on Gender Creek (a 1979 USGS Map) which may not be very accurate to the situation. I understand we much go with what information is provided to us, but what if that information is not accurate? And might it be possible to have a continuance of the meeting if something that big comes up at such a late time?
2. We should stick to time limits set forth in our procedures.
 - a. Ms. Nelson talked way too long. Other than the handouts, she did not add anything that wasn't already in the staff report...except for The Threat (addressed later herein).
 - b. One resident talked for over 15 minutes on the engineering required to build on that parcel. Interesting yet maddening as it had nothing to do with our work.
3. We should be given all information submitted by those who send in letters.
 - a. There were 2 or 3 letters in the original meeting packet. Larry handed out another 4 or 5 at the meeting. But there were another 8 that we never saw. And some of what we saw was not complete – for example, I saw Rieseck's email in the last minute email, but I never saw his diagrams until a resident showed them to me.
4. I'm not clear on what ex parte information needs to be declared by commissioners. I understand conversations with others and things like visiting the site should be duly noted. However, I had pulled data from the Tax Assessor's website on home sizes on Gender Creek and Windy Way. I had printed tables of this information for all of us and the Applicant.

Yet I was told when I brought it up that the declaration was not relevant. Does public information need to be declared?

5. If a Commissioner wants to add information, when is the appropriate time to do so?
 - a. On at least three occasions, I tried to introduce the fact that Ms. Nelson's proposed house would be the 4th largest on those two streets. I also presented the average square footage of houses in that neighborhood. I did not feel that information was allowed to be considered.
 - b. Later when I used this information in the dissent that Nan and I wrote, we were told it was new information to the Public Hearing and thus not allowed.
6. What is the protocol for moving to continue a Hearing? I said three times, heard by others, that I did not feel I was ready to make a decision (I had not had time to look at all the new information, and I did not know what other Commissioners thought on some of the Criteria). I guess I should have just blurted out that I move to continue the meeting. In past meetings, the Chair has heard a Commissioner say something and then asked for someone to make a motion. Does any acknowledgement from the Chair need to happen before a Commissioner makes a motion?
7. The discussion in the deliberations never flowed.
 - a. It felt like someone would make a point, and then we were redirected. As it stands right now, I have no idea of what Sherry thinks, other than she voted for the variance. I saw Ron voted to pass, yet he had made an earlier comment about his not seeing that any property rights would be taken away if the variance were denied (this is actually in the minutes). This position seems to me to fail criteria B and D. I got the gist of Nan's dissent (no one is guaranteed a 3 bedroom, 2 car garage home – i.e, Ms. Nelson could alleviate her expressed hardships by building a smaller structure), Again, I think the issue of relative house size is very important here (she was asking to build the 4th largest house).
 - b. We did not reach a consensus on two of the criteria on the first pass and agreed to come back to them. Yet we only returned to the discussion of one later in the deliberations. Given that there was some expressed confusion on what the criteria actually meant, I believe failing to go back to both issues was a serious oversight on our part.
 - c. I felt cut off when I tried to get clarification from another Commissioner's comment. I thought our job is to come to understand each other's positions and insights in order to render our own best decision.
8. The discussion I the work session about when Commissioners could ask questions seemed to have a throttling effect on us. I do not know the history of the Commission, but it feels like we are being discouraged from engaging with people who speak at Public Hearings.
9. I'd like some clarification on Larry's role in deliberations. Issues kept getting deferred to him. I much appreciate Larry's work in putting together the staff report and his insight into practices and history. But I don't think Larry has the final say on what we do. For example, Nan asked Larry if the proposed drive-way would increase run-off into the creek. Larry said he thought not. From my prior days as an engineer, I don't see how it could not affect run-off. Larry's comment was his opinion. It was not a statement of fact. Again, Larry's wisdom is crucial, but I think we should also keep in mind that he does not make the decision.

I have one last concern for purposes of this letter regarding our last meeting. The lawyer's recommendation to reject the dissent was understandable given the "new information" (actually, the

only thing new was the photo – I had all the other stuff in my head but never got a chance to speak), However, we were also told we had the option to “reconsider the motion to vote.” I was not clear on what this meant. Katherine and Larry were clearly in favor of not opening this door. As I now think about it, I think reconsidering the motion means a revote. Given the confusion in the deliberations, it might have been useful (and within the Public Hearing criteria), for us to re-open the vote. We could have each stated why we voted as we did. I don’t know if this would have changed anyone’s mind, although I suspect it would have. And that approach would not have violated rules regarding introduction of new information. Again it felt like we were rushing to get out of the meeting without really understanding what was going on.

I graciously thank you for wading through this letter. I look forward to getting clarification.

I look forward to seeing you all in April, if not before.

Respectfully,
Helen