

# SULLIVAN GREEN SEAVY LLC

TO: Town Council  
Dara MacDonald

FROM: Barbara Green

DATE: February 19, 2019

RE: Appeal by Michael R. Haney of the Board of Zoning and Architectural Review's ("BOZAR") December 19, 2018 Decision Denying a Request to Demolish a Single-Family Residence located at 20 Third Street

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Included in this packet are materials for the above-referenced appeal of a BOZAR decision to be held at 5:00 P.M. on February 19, 2019.

Public wishing to testify should sign in at the beginning of the hearing so that the Council can judge how much time to allot for public comment.

## **PACKET MATERIALS<sup>1</sup>**

This packet includes the following materials:

1. Applicant's Statement of Appeal and referenced documents<sup>2</sup>
2. Staff Response/Staff Report
3. Applicant's Reply

## **ORDER OF PROCEEDINGS**

The public hearing will proceed as follows:

- |    |  |                   |
|----|--|-------------------|
| 1. | Opening of hearing and remarks by Mayor and Town Attorney. | <b>5 minutes</b>  |
| 2. | Applicant opening statement and witness testimony.         | <b>15 minutes</b> |
| 3. | Staff response.  | <b>15 minutes</b> |
| 4. | Public Comment.  | <b>15 minutes</b> |
- (Anyone wishing to speak should sign in prior to the hearing.)*

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<sup>1</sup> Letters received from the public will be introduced at the hearing.

<sup>2</sup> The Appellant's opening statement refers to materials in a drop box. They are included in the packet and will not be accessed via dropbox.

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|----|---|-------------------|
| 5. | Applicant reply/closing.                        | <b>5 minutes</b>  |
| 6. | Questions by Council of staff and/or applicant. | <b>10 minutes</b> |
| 7. | Close public testimony portion of hearing.      |                   |
| 8. | Town Council deliberation and decision.         | <b>20 minutes</b> |

## **ROLE OF COUNCIL IN THE APPEAL AND DECISION**

### *1. Role of Council*

The appeal of the BOZAR decision is *de novo*, meaning that Council will base its decision on the record of the hearing and the relevant Code provisions.

### *2. The Record*

The record of the hearing includes the packet materials, and the testimony and public comment introduced at the hearing on February 19, 2019.

### *3. Decision of Council*

Based on the record and the relevant Code provisions, Council will decide if:

The application to demolish the structure at 20 Third Street should be denied (i.e. uphold BOZAR's decision)

The application to demolish the structure at 20 Third Street should be approved, or approved with conditions (i.e. overrule BOZAR's decision).

## **APPLICABLE CODE PROVISIONS<sup>3</sup>**

Section 16-22-150

Sections 16-22-10 to 180

Section 16-22-190

Sections 16-2-10 to 16-2-60

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<sup>3</sup> See Applicant's Statement of Appeal and Staff Response.

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## **OVERVIEW OF ISSUES IN DISPUTE**

Generally speaking, the primary issue is whether the application to demolish the property at 20 Third Street complies with the applicable Code provisions. The sub-issues raised in the pleadings are:

1. Under the applicable Code provisions, should the demolition of the property be viewed in isolation from the proposed replacement structure?
2. Under the applicable Code provisions, are harmful effects of demolition relevant to determining whether a structure should be demolished? If yes, is there evidence on the record about harmful effects?
  - a. Under the applicable Code provisions, Is the impact on “attainable housing” relevant to determining whether a structure should be demolished?
3. Under the applicable Code provisions, is the statement that the structure “conveys relationship” with other structures relevant to determining whether a structure should be demolished? If yes, is there evidence on the record to support the statement?
4. Under the applicable Code provisions, is the statement that “the structure exemplifies the most appropriate development for the property” relevant to determining whether a structure should be demolished? If yes, is there evidence to support the statement?
5. Under the applicable Code provisions, is the statement that denying the application will “protect the existing/unique character of the Town” relevant to determining whether a structure should be demolished? If yes, is there evidence to support the statement?
6. Under the applicable Code provisions, is the statement that that demolition of the structure will result in “the loss of a period of significance” relevant to determining whether a structure should be demolished? If yes, is there evidence to support the statement?
7. Under the applicable Code provisions, is the statement that the demolition of the structure would result in wastefulness and unsustainability relevant to determining whether a structure should be demolished? If yes, is there evidence to support the statement?
8. Under the applicable Code provisions, is the statement that “the demolition will

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degrade the fabric of the Town” relevant to determining whether a structure should be demolished? If yes, is there evidence to support the statement?

9. Do the applicable Code provisions require the applicant to provide mitigation?

10. Do the proposed conditions of approval of the demolition satisfy the applicable Code provisions and/or resolve any concerns about the application?