

Burns Harbor Board of Zoning Appeals

Minutes of Tuesday, January 26, 2016

The Board of Zoning Appeals of the Town of Burns Harbor, Porter County, Indiana met in its regular session on Tuesday, January 26, 2016 in the Town Hall. The meeting was called to order by Board of Zoning Appeals President, Bernie Poparad at 7:00 pm.

The Pledge of Allegiance to the American Flag was recited.

Roll Call:

Tim Minier	Present
Tracy Freeze	Present
Kevin Tracy	Present
Gordon McCormick	Present
Bernie Poparad	Present

Additional Officials Present

Building Commissioner Bill Arney and Attorney Christine McMWilliams

Re-Organization

Freeze moved to make Bernie Poparad President. Minier seconded the motion. **Motion carried by all in favor vote.**

Freeze moved to make Timothy Minier, Vice President. Tracy seconded the motion. **Motion carried by all in favor vote.**

Poparad introduces new board members to existing board.

Minutes

Freeze moved to approve the minutes of December 15, 2015. Minier seconded the motion. **Motion carried by all in favor vote.**

Communication, Bills, Expenditures

No communication. Biancardi presented a 2015 activity of the BZA which reflects the variances approved last year. Report shows who applied and what was approved. The Board met five times last year. There was communication with people and different properties in town. The John Deere on 20 and the A1 Towing on the other side of 20 and the gas station at the union hall.

Poparad mentions litigation against Scotts Way.

Arney confirmed the only litigation going on is Scotts Way.

Report of Officers, Committee, Staff

None.

Preliminary Hearing

None.

Public Hearings

None.

New Business

Orientation

Poparad asked new board members to be careful about what you do and who they talk to. He also stressed new board members to do their homework. Members should familiarize themselves with a property or lot is before a meeting so no one is caught by surprise if questions arise regarding location, etc. Arney or new secretary will provide items you need and will be able to answer any questions you have. Poparad asked the board to read over all the paperwork given to them including meeting minutes.

Poparad asked Attorney McWilliams to comment on dos and don'ts and she agreed with his comments and added that decisions made on this board are final decisions and should be taken seriously. Chapter 15, Section 4 of the Town Code gives a specific overview of what your duties, authorities and necessary obligations are as it relates to holding meetings and hearings and your conduct accordingly. The BZA hears and decides appeals to orders and decisions, recommendations or otherwise that come from the building commissioner. Applications for variances and any types of special exceptions not provided under the code are heard here.

Attorney McWilliams stressed reviewing code book and become familiar with Section 15 which is where everything lies for this board. We are governed by the Indiana Statutes and there will be times when they will decline with the code provisions and those ultimately supercede and guide the way the town is allowed to proceed. Questions about Indiana law can be answered by Attorney Patton or Attorney McWilliams.

Arney is also very familiar about what can and cannot be done. You cannot proceed on any business without a quorum which will be 3 out of 5. A majority of the board will be required in instances such as appeal, final decision on an appeal, or application for variance, or special exception regardless of how many members are present since it will be a final decision. All board members need to be present for both preliminary and public hearing or they will not be able to vote on a decision since it is not fair to the petitioner. With other business, as long as there is a quorum related to either the hearings or the final decision 2 out of 3 needed to vote in favor. On final decisions all three would need to agree. This is typically how the organization works and why it's important to attend the meetings and why it's important to coordinate if someone can't be here especially if you know there is a preliminary hearing and the hearing is set.

Poparad stated Chapter 15 under administration states unruly petitioners can and will be removed from meetings. Petitioners need to be respectful to the board or they will be removed from the building. Arguments will not be allowed.

Arney says to pay attention to variances, use of property, size, width, setbacks. All the plans are public records and if you need, Lori McCormick or Arney will pull files for you. It helps to see the history of where a specific property is, especially with older properties that have gone over a huge amount of changes.

Arney states that when he is challenged it's usually someone is in disagreement with himself and what the BZA has approved or disapproved. Minute things such as violations and not on the building side, such as improper building permit, construction without a permit are the types of items written up as violations and will be brought to the board to challenge.

Poparad encourages use of the files and plans. Poparad states that there is room for changes in the code, that it's hard to understand and encourages members to share ideas to improve it.

Biancardi states if someone comes to this Board it's because they have been asked to do something through the building department and Arney has rejected them. Once a rejection letter is given to the secretary that starts the paperwork process. Paperwork for a meeting is due 10 days prior, so if the paperwork is not turned in on time they don't make the deadlines. Generally, the Tuesday prior to the meeting an agenda is sent out the agenda and any supporting documents and the previous month's minutes that you may need. A week before the meeting you will either get a notice that there is no meeting or you will get information that there is a meeting and what's on the agenda. Generally, it's sent out via email but petitioners give us hard copies, so I know that Bernie likes a hard copy and if anyone is interested in having that in advance you can have that, otherwise at the night of the meeting it will be provided at your seat.

There are files with any variance or special exception that's ever been applied for, whether they've been accepted or rejected. There's minutes from forever available. All meetings are recorded, unless there is a malfunction. We keep them for a period of three years in case there is a meeting you would like to listen to again or wanted more detail that can be pulled. Publication rules for public hearings – they have to be noticed 10 days prior to a meeting through the Chesterton Tribune and it also has to be posted here at the Town Hall. Any questions can be directed to the secretary or Arney. Blueprints, maps, plots, are available at request.

Poparad asked that if you can't make a meeting to contact the secretary or president to make them aware as the meeting may need to be postponed.

Arney states regarding the code book if it's not in our table of use it's considered a not permitted use, i.e. "s" special exception or "p" permitted use. Also, cross reference and become familiar with the Comprehensive Plan. Lori is very helpful with files, if you need.

Next Meeting: May 24, 2016 (There was no business in February, March or April)

Adjourn

Freeze moved to adjourn at 8:00pm. Minier seconded the motion. **Motion carried by all in favor vote.**

APPROVED on May 24, 2016

Timothy Minier, Vice President in absence of Bernie Poparad, President

Marge Falbo, Secretary