

# Burns Harbor Board of Zoning Appeals

Minutes of Tuesday, June 28, 2016

The Board of Zoning Appeals of the Town of Burns Harbor, Porter County, Indiana met in its regular session on Tuesday, June 28, 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:

Tracy Freeze .....	Absent
Gordon McCormick .....	Present
Timothy Minier .....	Present
Kevin Tracy .....	Present
Bernie Poparad .....	Present

## Additional Officials Present

Building Commissioner-Bill Arney  
Attorney-Christine McWilliams  
Secretary-Marge Falbo

## Minutes

McCormick moved to approve the minutes of May 24, 2016. Minier seconded the motion. Motion carried by all in favor vote.

## Communication, Bills, Expenditures

None

## Report of Officers, Committee, Staff

None

## Preliminary Hearing

None

## Public Hearing

### 1. William Scott - Job Steel dba Scott's Way - Use Variance

Poparad says we will have a Public Hearing for William Scott - Job Steel.

Poparad says before we start the Public Hearing, he would like to lay down some ground rules. Everybody will come to the podium, state your name and address. There will be no talking between people in the audience.

McWilliams says she reviewed Scott's application and found some deficiencies in it. The site plan was not included. Falbo says she was told by Scott there would be no changes to the site itself and stated a site plan wasn't needed. McWilliams says we have no dimensions or anything. Poparad says we need to know what he is going to do, where he going to put things before we go any further with this. He says McWilliams said Scott's application didn't give reasons why. McWilliams says correct. She further

says in paragraphs 1, 2, 4, 5, he answered the questions but didn't provide the reasons why those answers were applicable, which is required in the Findings.

Poparad addresses Scott asking if he understands what they are talking about. Poparad says we need a plat map and when you look at your Findings and Fact, you can't just tell us it won't be injurious to my neighbor next door but why it won't be injurious.

Poparad asks if we want to open the Public Hearing or continue next month. McWilliams says before you give Scott the opportunity to speak you need to open the Public Hearing and if it is the Board's decision to continue this, we need to allow him time to remedy his application. I think at that point it is appropriate if that is the Board's decision.

Poparad says we are going to open the Public Hearing for William Scott - Job Steel. Poparad asks the Board to decide what they want to do regarding his insufficient application. Minier moved to allow Scott to remedy his application and continue next month. McCormick said he would second the motion but stated he never received the application. McWilliams said the application was sent via email and Poparad said that was a month ago. Poparad asks McCormick if he seconded the motion so we can discuss. McCormick says yes.

Tracy asks if there is anyone here who came in special to discuss this at the Public Hearing. Al Paschen with Campland, 1171 Lions Drive, Burns Harbor says yes we came here.

Poparad asks McWilliams how to proceed. How do we know or how can you figure out what everyone wants to do without the full knowledge of what is going to be done? McWilliams says she doesn't know if the petitioner brought that information with him tonight. If he did, he could provide it orally. The Board does have the discretion to amend the Findings. If you do that you can amend the Findings and essentially the application will be in compliance. McWilliams says this can only happen if Scott came prepared with the information the Board is seeking.

Poparad asks Scott if he brought a plat map with him. Scott replies he thought the town had everything on file here. We had talked about this before. It was supposed to be on the East side of the property and that's all.

Poparad says that the Board doesn't know what's going to happen and you will need to get your paperwork in order and submit it to Falbo. Poparad tells Scott if he needs help with anything to let them know. McCormick tells Scott he needs to fill out the application better and not just check the boxes.

Poparad says since we didn't officially open up the Public Hearing we can just wait until next month. McWilliams says you can continue it. Poparad says we are going to continue the Public Hearing until next month and if Scott gets his paperwork in order we will zip right through it.

Poparad asks Falbo the date of the next meeting. She replies July 26, 2016 at 7:00pm.

2. **Kathryn A. Egolf and Scott D. Dzierba - Development Standard Variance**

Poparad says we will have another Public Hearing for Kathryn A. Egolf and Scott D. Dzierba.

McWilliams replies that this application, for the Findings, there are no facts or reasoning provided and of more importance cites Paragraph 3. The petitioner checked that it “will not” result in practical difficulties, and if that is in fact is the case, that is one of the factors the Board has to Find in order to “Grant” the Development Standard Variance. I don’t know if the petitioner wants to amend that. Egolf says she wants to amend that, I just missed it, but it should say “Will.”

Poparad asks if Egolf turned in plat map. Falbo replies yes.

McWilliams says Egolf turned in the proper documents and the only thing missing was the reasoning for her assertions which she needs for the variance. Poparad asks if she needs to sit down and go through the reasonings. McWilliams says it is similar to what we said previously, the Board can amend the Findings. So, if she wants to testify to the answers to the Board today and you accept those as sound reasoning, the Findings can be amended to reflect that.

Falbo states she asked petitioners to provide reasonings but they chose not to do so. Egolf replies she was confused because the form very clearly says “We, the members of the Burns Harbor Board of Zoning Appeals FIND”. She also says she didn’t realize the way that form is worded that this is format I had to fill out. Falbo did explain that, kind of on the spot to me, and honestly I thought because it was a garage, I didn’t need to give a whole lot of explanation. Poparad tells Egolf that since all her other paperwork was in order he would go through and amend the reasonings with her tonight.

Minier reads the paragraphs and Egolf provides her amended statements. They are as follows:

1. That the Development Standard Variance as requested **Will**  **Will Not**  be injurious to public health, safety, morals, and general welfare **BECAUSE** of the facts shown as follows: *It is a garage that’s for just personal use. Just our vehicles will be parked in there as well as for storage. No public access to the building.*
2. That the Development Standard Variance requested **Will**  **Will Not**  cause substantial adverse effect on neighboring properties **BECAUSE** of the facts shown as follows: *It’s just a garage for personal use. There’s no commercial, just storing vehicles, lawn equipment and personal stuff. I will not be blocking any neighbor’s views. There is only one neighbor that is in close proximity as far as where the garage will be. There are trees between us, there is a fence between us, we can’t even see his house. Nobody except for across the street from us will even be able to visibly see the garage.*
3. That the strict application of the Zoning Ordinance **Will**  **Will Not**  result in practical difficulties in the use of the Petitioner’s property unless the Development Standard Variance requested is granted **BECAUSE** of the facts shown as follows: *It’s just a hardship as far as all of our belongings, lawn mowers, bicycles, our vehicles being out in the elements. So that is why we need it.*

McWilliams asks why do you need a garage that is bigger than what is otherwise allowed. Elgolf replies they have three personal vehicles. We will be storing two of the in the garage. We have a lawn tractor, and my son has four wheelers and a dirt bike we need to store. So it's bigger for that reason and also to use as a work area just for the vehicles, nothing commercial. Poparad asks McWilliams if that is satisfactory. She replies yes.

Poparad asks Arney if he has anything to add. Arney replies no, but refers back to the preliminary hearing regarding a decision about the façade, such as matching the home in color. Egolf replies it will not match, but only for short time, we are in the process of re-siding the house as well. We will be going with the color the house will be re-sided in and that will probably be in the fall.

Poparad asks for public comment in favor. No comments in favor.

Poparad asks for public comment in opposition. No comments in opposition.

Poparad asks if there are any questions from the Board. No questions from the Board.

Poparad closes the Public Hearing.

Minier moved to accept the Findings of the Variance that's being requested. Tracy seconded the motion. **Motion carried by all in favor vote.**

### **3. Lance Waugaman-Curly's Custom Cycles - Special Exception**

Poparad says we will have another Public Hearing for Lance Waugaman

Poparad asks Waugaman to give a recap of what he presented last month and we will proceed from there.

Waugaman says he owns Curly's Custom Cycles. I am seeking a Special Variance to build on some property on Route 20 to open a motorcycle shop. I was here last month and was told I needed to get a Special Variance before I purchase the land and then go to the Plan Commission to finalize my request.

Poparad says you actually came to us to make sure you are able to build on that property before you put any money out.

Arney says to clear up what he stated, it's a Special Use, just so the Board knows. It is permitted but it is listed under our Special Use.

Poparad asks if everybody knows where the property is located. It was made known that everyone knew where the property is located.

Waugaman refers to last month and says a lot of my customers are very, very wealthy. They are from Canada, east coast, west coast, NFL players, etc.

Poparad asks for public comment in favor. No comment in favor.

Poparad asks for public comment in opposition. No comment in opposition.

McWilliams says one of the requirements of a Special Exception is to provide a narrative, for example, this Use is going to comply with the Eight Standards listed in the Town Code. To my knowledge that was not submitted with the application but is required for you to grant the Special Exception.

Poparad asks if we can get that and do it right now. McWilliams replies yes, if you want to run through those standards and see if Waugaman thinks he can answer why he thinks or how he thinks he will be in compliance with them. Arney says he thought that Waugaman answered them at one time but must not have turned them in and remembers they had spoken about this. Waugaman replies yes we did.

McCormick says it is my interpretation that “commercial” is permitted in RC2. He definitely fits the commercial definition. Minier says no, we talked about that in some detail last time because the property was not completely retail and that was the issue. Because of the actual work that was being performed versus just the retail. Arney says it is auto sales no matter how you look at it. He’s financing, leasing, purchasing and he is also repairing. I looked at the same thing McCormick is saying, it is kind of retail but in the scheme of things, and as building commissioner, I wasn’t comfortable making that decision because it is auto sales. A motorcycle is a licensed vehicle that is on a highway.

Poparad says he just looked at the first three standards, and asks if Waugaman wants to go ahead and answer them? Waugaman says yes.

**The Eight Standards can be found in Chapter 15, Page 48, Section B, 15-4-6 of the Town Code.**

1. The Special Exception shall be designed, constructed, operated and maintained in a manner harmonious with the character of the adjacent property and the surrounding area. **Will**  **Will Not**
2. The Special Exception shall not inappropriately change the essential character of the surrounding area. **Will**  **Will Not**
3. The Special Exception shall not interfere with the general enjoyment of the adjacent property. **Will**  **Will Not**
4. The Special Exception shall represent an improvement to the use or character of the property under consideration and the surrounding area in general, yet also keeping with the natural environment of the site. **Will**  **Will Not**
5. The Special Exception shall not be hazardous to the adjacent property, or involve uses, activities, materials or equipment which will be detrimental to the health, safety or welfare of persons or property through excessive production of traffic, noise, smoke, odor, fumes or glare. **Will**  **Will Not**
6. The Special Exception shall be adequately served by essential public facilities and services, or it shall be demonstrated that the person responsible for the proposed Special Exception shall be able to continually provide adequately for the services and facilities deemed essential to the special use under consideration. **Will**  **Will Not**
7. The Special Exception shall not place demands on public services and facilities in excess of available capacity. **Will**  **Will Not**

8. The Special Exception shall be consistent with the intent and purpose of this Chapter and the objectives of any currently adopted Comprehensive Plan.  
**Will**  **Will Not**

Poparad asks if there are any other questions. There are no questions.

Poparad closes the Public Hearing.

Poparad asks for a motion.

Minier moved to accept the Special Use Variance for this property. Tracy seconded the motion. **Motion carried by all in favor vote.**

Poparad welcomes Waugaman to Burns Harbor.

**Public Hearings**

None.

**Old Business**

None.

**New Business**

None.

**Good of the Order of the Community & Any Other Business**

None.

**Announcements**

None.

**Adjourn**

Minier moved to adjourn at 7:45pm. Tracy seconded the motion. **Motion carried by all in favor vote.**

**APPROVED on July 26, 2016**

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Bernie Poparad, President

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Marge Falbo, Secretary