

# STARKE COUNTY BOARD OF ZONING APPEALS

53 EAST MOUND STREET

KNOX, IN 46534

PHONE: 574-772-9176

## MINUTES

May 21<sup>st</sup>, 2014

Chairperson Troike opened the meeting at 7:08p.m.

**I Pledge of Allegiance-** led by Chairperson Troike.

**II Roll Call-** Bob Troike (Chairperson), Nathan Marcum (Vice-Chairperson), EJ Rodgers (Executive Secretary), Chad Rushing (Member), Rita Berger (Member), Martin Bedrock (Attorney), Terry Stephenson (Planning Commission Administrator) (Absent), and Mary Beever (BZA Recording Secretary).

**III** Review of the meeting minutes for March 20<sup>th</sup>, 2014 – Member Rushing made a motion to approve the minutes as written. Vice-Chairperson Marcum seconded that motion. Motion carried 5-0.

**IV** Public hearing to consider a use variance request by Carol Kopala, to use an existing garage to open a small business in, on property owned by David and Carol Kopala and described as follows: Olson Shores S. ½ Lot 23 & 24-30 & Lots 1-4 Block 3, .77 acres, Parcel number 75-11-06-303-008.000-008, located at 3787 S. 625 E Knox, IN 46534.

- ◆ Chairperson Troike read the request listed above.
- ◆ Attorney Bedrock read the definition of a use variance.
- ◆ All notifications were not in order.
  - Secretary Beever explained that one of the notifications was returned to sender and that one had not been returned or signed for at all.
  - Chairperson Troike explained to the applicant that we could go forward with the meeting even though notifications were not all in order, and asked her if she wanted to continue with the hearing.
  - Applicant Kopala agreed to continue with the hearing.
- ◆ Chairperson Troike opened the meeting up to a public hearing and asked the applicant to explain why she was before the board.
- ◆ Applicant Kopala explained to the board that she wanted to open a small business in an existing garage on her property to refurbish furniture and to subsidize her income.
- ◆ Chairperson Troike asked the board members if anyone had been out to her property.
  - Vice-Chairperson Marcum explained that he had been out to her property and that he did not foresee any inconvenience to anyone with her operating a small business in that location. He added that she has ample parking and doesn't see why the board shouldn't grant her request.
- ◆ Chairperson Troike asked who in the audience is in favor of request:
  - Audience member Mr. Dotlich expressed his favor for the applicant's request.
  - Audience members in favor of the requested variance included: Mr. & Mrs. Dotlich, Kathy Larson, Kathleen Gyrion, & Ben Warren.
  - There were no audience members opposed to the request.
- ◆ Chairperson Troike closed public comment.
- ◆ Board discussed variance application.
- ◆ Chairperson Troike asked for a motion to be made by the board.
- ◆ Vice-Chairperson Marcum made a motion to grant the variance requested by the applicant at this time. Member Rodgers seconded that motion.
- ◆ Executive Secretary Rodgers stated that the public comment portion of the hearing needed to be motioned to be closed before a motion was made on the variance.
- ◆ Executive Secretary Rodgers made a motion to close the public comment portion of the hearing. Vice-Chairperson Marcum seconded that motion. Motion carried 5-0.
- ◆ Board discussion.
- ◆ Vice-Chairperson Marcum made a motion to grant the request as stated. Executive Secretary Rodgers seconded that motion. Motion carried 5-0.

# STARKE COUNTY BOARD OF ZONING APPEALS

53 EAST MOUND STREET

KNOX, IN 46534

PHONE: 574-772-9176

- V Public hearing** to consider an area variance request by Rick Reinholt, to make an outdoor eating area, on property owned by Richard L. & Susan D. Reinholt and described as follows: Hays & Terrys Lot 13, .17 acres, Parcel number 75-11-07-203-036.000-008, located at 3498 S. Cr. 210 Knox, IN 46534.
- ◆ Chairperson Troike read the request listed above.
  - ◆ All notifications were in order
    - Secretary Beever explained that one adjoining property owner was not listed on the affidavit, but was given a copy of the public notice and asked to sign another one.
    - Member Rushing asked Attorney Bedrock if this was acceptable acknowledgement of the public hearing.
    - Attorney Bedrock stated that it was.
  - ◆ Attorney Bedrock read the area ordinance.
  - ◆ Chairperson Troike opened the public hearing to comment.
  - ◆ The applicant, Mr. Reinholt, explained his intent to the board that he is wanting to create an outdoor dining area that wraps around the front and side of his restaurant with a fence.
  - ◆ Chairperson Troike asked who in the audience was in favor of the request:
    - Audience members Ben Warren, Carol Kopala, Rick Reinholt, and Suzie Reinholt were all in favor of the request.
  - ◆ Applicant Reinholt explained also that there is a water drainage issue around the building and that he is willing to correct this problem at his cost.
  - ◆ Chairperson Troike asked if there was anyone in the audience opposed to request:
    - Audience member Mrs. Dotlich asked how close the eating area was going to be to the street and if it was going to interfere with entrances and exits of the building.
    - Vice Chairperson Marcum stated that he visited the location and went through the plans with the applicant. He added that what the applicant is proposing to do isn't going to go any further than the current drive-up is now and that it will stop the water from backing up and becoming icy by the door. He also, added that it would be good for people in the summer in swimming suits to not have to enter into the building.
    - Audience member Commissioner Norem suggested that it would be a good idea to consult with the highway superintendent over the drainage issue going on to make sure there is no road hazard created.
    - Applicant Reinholt stated that there was a new drain put in a few years ago down the street.
  - ◆ Chairperson Troike asked if there were any further comments from the public. Since there were no further comments or questions Chairperson Troike asked to closed the public comment portion of the hearing.
  - ◆ Vice-Chairperson Marcum made a motion to close the public comment portion of the hearing. Executive Secretary Rodgers seconded the motion. Motion carried 5-0.
  - ◆ Board questioned the applicant:
    - Executive Secretary Rodgers asked the applicant if there was a drain on the side road.
    - The applicant stated that there is but it backs up frequently in the winter.
    - Executive Secretary Rodgers asked if it was a county maintained drain.
    - The applicant stated that it was.
    - Attorney Bedrock added that Purdue was going to correct the drain problem there a few years ago but did not.
    - Vice-Chairperson Marcum added that the applicant would be correcting the drainage problem at his cost and not at the cost of the county.
    - Chairperson Troike asked if the area was going to be raised to help divert the water.
    - Applicant Reinholt stated that it is going to have to be raised some and grated properly. He added that a curb will help a lot of the drainage issue.
    - Chairperson Troike asked if the curb will serve as a retention wall.
    - Applicant Reinholt replied yes.
    - Attorney Bedrock asked if what the applicant was proposing was going to be any further out than where the cars are currently parking.
    - Applicant Reinholt replied that it is actually going to be less.
    - Executive Secretary Rodgers added that there is a lot of parking in the back.
    - Chairperson Troike added that it will be getting the customers accustomed to parking in the back of the building.
    - Executive Secretary Rodgers asked the applicant if he gets a lot of foot traffic down there in the summertime.

# STARKE COUNTY BOARD OF ZONING APPEALS

53 EAST MOUND STREET

KNOX, IN 46534

PHONE: 574-772-9176

- The applicant replied that he gets a lot of golf cart traffic and foot traffic.
- ◆ Board discussion over request.
- ◆ Member Rushing asked if this was the final floor plan with dimensions.
  - The applicant stated that this was his proposal, but as far as boundaries were concerned yes.
- ◆ Executive Secretary Rodgers asked if there was a certain amount of clearance you have to have from the street side to the curb side.
  - Member Rushing added that the building set backs probably are not in compliance with the ordinance already, but the request wouldn't be worsening the problem that already exists per say.
  - Secretary Beever added that the ordinance states the setbacks need to be thirty feet back because of it being a corner lot.
  - Chairperson Troike added that the ordinance rule was written after the building was already built and that is why it is up to the BZA's discretion. He added that he agreed with Commissioner Norem to have the highway supervisor come out and take a look at it and give his opinion on it.
  - Attorney Bedrock added that having the highway superintendent out to take a look at it to make sure the drainage is not adversely changed should be made a condition of the variance. Also, to do what the highway superintendent recommends as far as getting rid of the water.
- ◆ Member Berger asked the applicant if there were three tables going across the front of the building on the street side.
  - The applicant explained that the tables are a rough draft but the dimensions of the deck will not be changed.
- ◆ Member Berger asked the applicant how far it will be from the street.
  - The applicant replied that it will be nine and a half feet from the road.
- ◆ Executive Secretary Rodgers asked if it is a parking area currently.
  - The applicant replied yes.
  - Executive secretary Rodgers added that it will probably make it a little bit more safer getting in and out of there as it is a congested corner.
- ◆ Member Berger asked if the tables are going to set far enough back from the road.
  - The applicant explained that the fence will be nine and a half feet away from the road and that the tables will be in side of that.
- ◆ Member Rushing asked if the wrought iron fence will be anchored in the concrete.
  - The applicant replied yes that it will be anchored in the concrete.
- ◆ Vice-Chairperson Marcum made a motion to grant the variance with the stipulation that Mr. Reinholt consult with the highway department about the water drainage issue to make sure that the water is draining properly. Executive Secretary Rodgers seconded the motion. Motion carried 5-0
- ◆ The applicant asked if he needed to contact the highway superintendent.
  - Chairperson Troike replied yes that he should contact the highway department and also asked Secretary Beever to also be in contact with the highway department as well.
  - Secretary Beever added that Mr. Reinholt may need to come in after he consults with the highway superintendent, for a deck permit.
  - Chairperson Troike added that we should also ask the highway department to contact us back regarding his findings on the matter.

## VI New Business-

- ◆ Board discussed the budget.

## VII Old Business

- ◆ Attorney Bedrock brought up that there is a pending matter between the BZA and the Fords. The judge over the matter asked for findings of facts. Mr. Bedrock added that there is a problem with preparing the findings of facts due to two of the board members who attended the hearing over the Ford matter are no longer board members. He added that he consulted with Marty Lucas on the matter and that they are trying to figure out a solution to the problem. Mr. Bedrock went on to say that it is possible that the BZA board may have to re-hear the hearing in order to compile their own finding of facts on the matter. He added that as of tonight the board was not taking any actions regarding the Ford/Dotlich matter.

# STARKE COUNTY BOARD OF ZONING APPEALS

53 EAST MOUND STREET

KNOX, IN 46534

PHONE: 574-772-9176

- ◆ Chairperson Troike thanked Mr. Bedrock for all the leg work he is doing regarding the correct procedures on this matter.
- ◆ Vice-Chairperson Marcum asked Attorney Bedrock if Executive Secretary Rodgers and he were present at the meeting.
- ◆ Attorney Bedrock responded that they were not.
- ◆ Executive Secretary Rodgers asked when the meeting in question had taken place.
- ◆ Attorney Bedrock replied that it was last year in July
- ◆ Executive Secretary Rodgers added that it must have been during fair week.
- ◆ Attorney Bedrock added that he listened to the tape. Then he asked audience member Ms. Dotlich if on the transcript he was correct, that neither Mr. Rodgers nor Mr. Marcum were present at that meeting.
- ◆ Ms. Dotlich added that they were not at that meeting.
- ◆ Member Rushing asked Attorney Bedrock if it is possible that they may have to re-hear the issue.
- ◆ Attorney Bedrock responded yes.
- ◆ Member Rushing asked if it was specifically over the permit.
- ◆ Attorney Bedrock responded yes and briefly explained to Mr. Rushing why he had advised not to issue the permit.
- ◆ Chairperson Troike added that he thought that the board at the time denied it due to the Judges prior ruling in the matter. He added that until Mr. Bedrock is able to determine what the board needs to do that there isn't anything that can be done till then.
- ◆ Vice-Chairperson Marcum stated that he recalled discussing it at a meeting.
- ◆ Chairperson Troike added that it was probably the following meeting that he was remembering the discussion from.

## **VIII New Business-**

- ◆ Chairperson Troike asked if the numbers on the budget were the same as last year's numbers.
- ◆ Secretary Beever added that the office supplies had increased by two hundred dollars.
- ◆ Executive Secretary Rodgers made a motion to approve the budget for 2015. Vice-Chairperson Marcum seconded the motion. Motion carried 5-0.

**IX** With no further business to come before the board Member Rushing made a motion to adjourn, seconded by Member Berger. Motion carried 5-0. The May 21<sup>st</sup>, 2014 meeting adjourned at 7:54 p.m. local time. This meeting was recorded for file in the zoning office. The next meeting of the Starke County Board of Zoning Appeals is scheduled for June 18<sup>th</sup>, 2014 at 7:00 p.m. local time, in the Starke County Government Building, located in Knox, IN.