

TOWN OF MICHIANA SHORES
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February 25, 2021

BZA Minutes from the in-person meeting

The meeting was called to order at **7:05 pm CST** by President Matt Bowen.

Roll was called:

- Ralph Box, Member, present
- Mario Jobbe, Vice President, present
- Bob Hall, Member, absent
- Matt Bowen, President, present
- Jeanne Paxton, Secretary, present

A quorum was announced.

President Matt Bowen also noted that Clerk Treasurer Joan Lewis was present, as well as Deb Chubb, Michiana Shores Code Enforcement Officer. (Officer Radke was also present)

The following statement was made by **President Matt Bowen** in relation to **Indiana Order 20-09**:

Indiana Governor Eric Holcomb issued a series of Executive Orders which, among other things, declared a public health emergency and suspended various state statutes. On March 18, 2020, Town officials were notified that the Michiana Shores Fire Station and Public Meeting Room were closed to the Public by order of the Chief of the Michiana Shores Fire Department. On March 23, 2020, the Governor issued Executive Order 20-09 which specifically addressed public meetings and the Indiana Open Door Law. The Executive Order, along with the opinion and guidance issued by the Indiana Public Access Counselor allowed for meetings to be held by videoconference or teleconference. This allowance remains in effect for the duration of the public health emergency that was declared in Executive Order 20-02. Thus, this allowance was in effect on the night of February 25, 2021. The meeting herein was attended in person and was held in accordance with these laws.

The meeting room was equipped with hand sanitizer, disposable masks, a sign in sheet and antibacterial wipes. The front doors remained opened the entire meeting, adding to air flow through the room. All attendees were socially distanced. Officer Radke took the temperature of all attendees.

President Matt Bowen then stated that anyone in attendance who wanted to speak in any manner with regard to the STR cases should make sure they have signed in. He also confirmed that all attendees had their temperature taken by Officer Radke and that all in attendance must wear a mask; failure to do so will result in ejection from the meeting.

President Matt Bowen then declared that the BZA rules of procedure shall govern the meeting: Disorder or disruption may result in ejection and removal. Members of the public may only speak to the Board as part of the public hearings. All comments must be directed through the chair. No personal attacks will be tolerated. No public comments will be taken at any time other than during the hearings.

President Matt Bowen also said the terms Applicant/Petitioner and Application/Petition would be used interchangeably.

A review of the BZA minutes of January 21, 2021 then took place. Several minutes were taken by the members to read and review the minutes. President Matt Bowen asked for a motion to approve the minutes; Member Ralph Box made a motion, Marion Jobbe second; all were in favor; minutes were approved.

President Matt Bowen then asked for a motion to move Old Business to the end of the meeting; Secretary Jeanne Paxton made a motion, Member Ralph Box second, all were in favor: Old Business was moved to the end of the meeting.

Petition 002-2020 325 Oakland, Michiana Shores, Indiana; Petitioner Joseph Shanahan was called by President Matt Bowen.

Secretary Jeanne Paxton read the legal and common description of the property.

President Matt Bowen then asked Secretary Jeanne Paxton if the folder was complete (all paperwork with regard to the case was complete). She answered yes.

Clerk Treasurer Joan Lewis administered the oath and Joseph Shanahan was sworn in. Joseph Shanahan then began his statement for requesting a Special Use Grant. He said that he and his family had been residents of Michiana Shores for “3 decades plus” and he had raised his children, coming here and enjoying the community. He said that after his children grew up and got older, they started renting the place because they weren’t coming out as often. He stated that he had close relationships with all his neighbors and mentioned that he knew many long-standing residents of the town. He said that he hasn’t had any complaints about his renters. He mentioned that due to the pandemic, he has lost all of his income and needs to rent the house. He closed by mentioning his love of Michiana Shores.

President Matt Bowen asked the BZA Members for questions for the petitioner. Secretary Jeanne Paxton asked the petitioner if he realized that if the Special Use was granted that his house would become a “Tourist House” as defined by Indiana State Department of Health, Environmental Division, Rules 410 IAC 6-2.1 and asked him if he is in compliance with these pool rules. Joseph Shanahan described his pool as being in compliance and that he even had the diving board removed some years back.

There were no further questions. As a closing statement, Joseph Shanahan reiterated his desire to be a good neighbor and to follow the rules.

A few minutes were taken by the members to review the Finding of Fact with regard to the case. President Matt Bowen then asked for a vote: Vice President Mario Jobbe, Yes with condition of adherence to Public and Semi Public Swimming Pool Rule 410 IAC 6-2.1: Member Ralph Box,

Yes with same condition; Secretary Jeanne Paxton, Yes with same condition; President Matt Bowen, Yes with same condition : the Special Use Grant was granted. (Attachment a).

Joseph Shanahan was then administered the Commitments which included the Indiana Public and Semi-Private Swimming Pool Rule 410 IAC 6-2.1 by Clerk Treasurer Joan Lewis.

President Matt Bowen then called Petition 010-2020, 213 Pokagon, Michiana Shores, IN; Petitioner Jennifer Tse to begin.

Secretary Jeanne Paxton read the legal and common description of the property.

President Matt Bowen asked Secretary Jeanne Paxton if the folder was complete: she said yes. Clerk Treasurer Joan Lewis administered the oath and Jennifer Tse was sworn in.

Jennifer Tse began her opening statement expressing her and her husband's long desire to have a home in Michiana Shores and that by buying 213 Pokagon they were realizing one of their dreams. Jennifer Tse said that during the pandemic, they lived in the home full time. Their desire is not to have a total rental property but to have the option of renting if they need or wish to. She repeated that they love the house, invested in nice furnishings and have no intention of renting indiscriminately: she stated that they would not be using a rental agency and all rentals would go through her personally. She also said that she loved the house and the area and that she and her husband are planning on retiring in the home.

President Matt Bowen asked the board for questions. Secretary Jeanne Paxton asked if her husband was present and willing to sign the commitments if the Special Use Grant might be given: Jennifer Tse replied yes, that her husband could come to the meeting if need be, he was at 213 pokagon with the kids. Jeanne Paxton also mentioned the trash ordinance and asked Jennifer Tse if she could move her cans back after trash day. She replied Yes. Secretary Jeanne Paxton also asked if Jennifer Tse could store any beach accessories if they weren't in use: she replied Yes.

President Matt Bowen then asked for any remonstrations. No attendees remonstrated but a letter from Joan McPeck of 220 Dreamwold, was read by Member Ralph Box (Attachment b) The letter was in opposition to the Special Use Grant.

President Matt Bowen then asked Jennifer Tse for a closing statement. Jennifer Tse reiterated her desire to be a good neighbor and her love and commitment to the house. She said she did not know Ms. McPeck.

A few minutes were taken by the members to review the case and Finding of Fact. President Matt Bowen then asked for a vote: Secretary Jeanne Paxton, yes; Vice President Mario Jobbe, yes; Member Ralph Box, yes; President Matt Bowen, yes: Special Use was granted. (Attachment c)

Clerk Treasurer Joan Lewis then administered the Commitments to Jennifer Tse for 213 Pokagon.

President Matt Bowen then announced the Hearing for Petition 0012-2020, 3618 Birchwood Trail, Michiana Shores, IN, Petitioner Greg Huhn and Giselle Coehlo.

Secretary Jeanne Paxton then read the legal and common description of the property.

President Matt Bowen then asked if the file was complete: Jeanne Paxton answered almost: about “99 %”. She then asked if the Petitioner could be sworn in due to a question on the application.

Clerk Treasurer Joan Lewis administered the oath and Greg Huhn and Giselle Coehlo were sworn in. Then Secretary Jeanne Paxton told them there was a question on the application that was not filled out correctly: the question was current use of the property which they answered as single family. Secretary Jeanne Paxton said that this answered the question of current zoning of the property and not the present use: “was the home currently a rental, second home, (vacation home), primary residence or vacant. It was noted by Secretary Jeanne Paxton that there exists a Homestead Exemption which means that this was their fulltime home and their domicile. Greg Huhn said that the time of purchase they had different intentions with regard to the home and that also during the pandemic, they were using the home a lot. Secretary Jeanne Paxton pressed them on an answer to the application question about the current use of the home. Greg Huhn concluded that this was a vacation home.

Greg Huhn made his opening statement: He and Giselle always loved the area and on Father’s Day of 2015, they came and looked at 3618 Birchwood and made the purchase from Jennifer and John Willey. At the time of purchase, the home had an above ground pool and they removed the pool and installed an in-ground pool. Greg Huhn also included that at the time of the pool installation, he obtained all the proper permits. He included that the new pool has an automatic pool cover.

Greg Huhn said that they have had some issues and they have installed security cameras. He stated that they desire a Special Use Grant to rent: that they have had many families rent their home and people seem to love it, and they have had repeat customers. He mentioned that they have had noise complaints, but the neighbors let him know about it afterwards. He expressed his desire to rent to families.

President Matt Bowen then asked the board for questions: Member Ralph Box stated that not having a fence around the pool would make him vote against the Special Use Grant. Greg Huhn stated that he would be willing to erect a fence per town code around the pool and would also adhere to Public and Semi-Public Swimming Pools Rule 410-IAC 6-2.1. If he was granted Special Use.

Secretary Jeanne Paxton then asked Greg Huhn about noise complaints as reviewed and conveyed by Renee at the Long Beach Police Department: 2/29/2020, 5/25/2020 and 11/22/2020 ; all having to do with loud noise.

Greg Huhn was aware of the incidents and said that the 11/22/2020 1:15 am call was due to his contractor being allowed to use the home and that there was a party. Greg Huhn apologized for the loud music. Greg Huhn said that his neighbors had called for noise.

President Matt Bowen then asked for remonstrations: Member Ralph Box then read a letter from John J McDonnell stating his grave opposition to the Grant of Special Use (Attachment D)

President Matt Bowen then asked for remonstrations from the public. Olivia Banda was administered the oath by Clerk Treasurer Joan Lewis and Olivia Banda was sworn in. Olivia

Banda stated that she was not entirely against the idea of rental homes; that she had a good relationship with Jennifer and John Willey who have a legal rental home across the street from her and the Willey's were respectful and hands-on rental owners but she was in firm opposition to the Special Use Grant for 3618 Birchwood. She said that the property attracted party people due to the pool and that she understood people have parties but that 3618 Birchwood attracted renters that had the main goal of parties and there were parties there all the time.

President Matt Bowen then asked for a closing statement by the petitioners: Greg Huhn said he believes he can rent in a responsible way and that he will abide by the rules. He said he will talk to the neighbors about the renters. Giselle Coehlo also spoke and said sometimes she likes louder music because she comes from Brazil. She said she wanted to share her joy of the home and their pool, the lake and the beautiful neighborhood with people that might not be able to afford these things. She said they will not disturb the community. Greg Huhn also made mention they travel a lot, but they would be responsible and they would respect the neighbors. President Matt Bowen asked the BZA to review the petition and Finding of Fact. President Matt Bowen then asked for a vote: Ralph Box, yes with conditions of the fence and the acceptance of the adherence to 410 IAC 6-2.1. ; Vice President Mario Jobbe, yes, same conditions, Secretary Jeanne Paxton, No; President Matt Bowen, yes with the same conditions. Special Use was granted (Attachment e)

President Matt Bowen then called for Petition 0014-2021, 3809 Manawa, Michiana Shores, IN to be heard.

President Matt Bowen asked Secretary Jeanne Paxton if the file was complete: she answered yes but that the house title had changed from ownership by Taylor Lindstrom to Mr. Bears Cottage LLC on February 7, 2021 and that the necessary paperwork to identify Taylor Lindstrom as a legal agent in the LLC would have to be seen.

President Matt Bowen asked the gallery if any remonstrators were present for the case : there were none. He then asked for a motion to continue the case since Taylor Lindstrom was not present. Vice President Mario Jobbe made a motion, Ralph Box second, all were in favor: the petition is continued.

New Business: Debb Chubb was asked if there were STR Petitions coming up: she stated there were a few but not complete.

Old Business: Increasing the fee for the BZA STR application was discussed. A letter from Laura Nirenberg, Town Attorney was read. It was decided that President Matt Bowen would ask the Town Council and Town Attorney Nirenberg to draft a Public Hearing on increasing the BZA STR fee from \$150 to \$250. President Matt Bowen had reviewed the costs incurred by the BZA for implementation of each STR and had concluded that the costs of the public notification, certified letters to Interested Parties, along with the cost of doing business: BZA Secretary pay, Code Enforcement pay and Officer at the Meeting pay, that the increase is well justified.

The next BZA Meeting will be April 1, 2021, 7:00 pm CST at the Michiana Shores Public Meeting Room. The Meeting was adjourned at 9:10 PM CST.

(Attachment f: sign in sheet) _____

