

TOWN OF MICHIANA SHORES
Michiana Shores, Indiana 46360
Office (219) 874-3193 Fax (219) 874-3770

Meeting Minutes from Third Meeting of 2020: July 2, 2020

The meeting was called to order at 7:02 pm. CST By Mr. Bowen. The following statement was made by Mr. Bowen in relation to Indiana State Order 20-09:

Indiana Governor Eric Holcomb issued a series of Executive Orders which, among other things, declared a public health care 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 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 meeting 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 July 2, 2020. The meeting described herein was attended both teleconferenced and in person in accordance with these laws.

The Michiana Shores Public Meeting Room was equipped with a sign-in sheet, disposable masks and hand sanitizer. All those in attendance wore masks.

Roll was taken by Mr. Bowen: Mario Jobbe (in person)
Jeanne Paxton (in person)
Bob Hall (in person)
Ralph Box (in person)
Matt Bowen (in person)
Joan Lewis, Clerk Treasurer (in person)
BZA Attorney Jeffrey Gunning (teleconferenced)

Also present from the community was Teresa Massa.

A quorum was announced.

The June 25, 2020 minutes were voted and approved.

Old Business: The New STR BZA Procedure was passed out. Ralph Box asked if Paragraph D of the new procedure was correct: Mr. Bowen explained that it was corrected. Ralph Box wanted to know if this was a final version OR would be there a new version which is incorporated into the Town Ordinance. Mr. Bowen stated this was the Final Version and a corrected copy was given to Ralph Box. At that time, Mr. Bowen asked the BZA members if there were any questions with regard to the Rules and Procedures for Attorney Gunning. There were none.

New Business: Clerk Treasurer Joan Lewis passed out a STR Received list of 7 applicants. (Attachment A) Attorney Gunning then took the floor to describe in detail what was needed to proceed with the hearing process. He instructed the BZA to carefully examine the content of each application. He stated that there were ultimately three BZA decisions for each case: grant the Variance, deny the Variance or vote to continue. These three decisions require a vote at the hearing. If anything is missing in the Applicants folder, that is required for the hearing, The BZA can schedule the hearing but notify the applicant that missing required elements need to be brought to the hearing. Attorney Gunning stressed the importance of the legal description of the property. Attorney Gunning again reiterated the idea of other interested parties, specific to each case, and determined case by case by the BZA. Attorney Gunning also stated that vacant properties were also to be included in interested parties. He suggested that the BZA consider the list of proponents of the STR before its adoption be considered as interested parties. The BZA considered this but because these letters were written close to the election, The BZA concurred that they were more general and political in nature and would not be considered in the notification process. Attorney Gunning said that all applicants will have the opportunity to speak at the hearing and all interested parties will have the opportunity to speak. This includes parties that are for or opposed to the granting of the variance. A limit of 3 minutes per speaker may be applied by the BZA in the interested party portion of the meeting, if a large number of people want to comment. Attorney Gunning also stated that once we start a hearing, we must finish or vote to continue. After all comments are made, for and against, the applicant will have an opportunity for rebuttal and also a time for closing statement.

Attorney Gunning also state that our decisions may depend on having the applicant meet conditions. If the BZA imposes conditions, these become mandatory. If the applicant does not meet the conditions, the BZA may not move forward with the granting of Special Use. Attorney Gunning then strongly suggested to the BZA two conditions for granting of Special Use: 1- that the party receiving Special Use through the BZA be required to obtain a permit from the Town of Michiana Shores. 2- The successful applicant agree to items(in the affirmative), of Rules 1-17. Page 5, Section 6 titled "Permit Revocation" in the Michiana Town Ordinance, commonly known as STR Ordinance 2020-02.

Ralph Box questioned Attorney Gunning as to the redundancy of commitment 1. Attorney Gunning explained that the granting of Special Use by the BZA will run with the property and be recorded at the county: the permit is granted by the Town of Michiana Shores, Indiana and is a document between the owner and the Town of Michiana Shores. This permit needs to be renewed yearly. Attorney Gunning also said that the permit may be revoked by the Town Council and the granting of Special Use may be revoked by the BZA.

Clerk Treasurer Joan Lewis then passed out the Commitment Sheet (attachment b) and Indiana Citizen Planners Guide, Part 2, titled "Board of Zoning Appeals Basics (attachment c). Attorney Gunning then referred to Page 10, Paragraph 4 of the Guide, "Special Use Criteria Example". Attorney Gunning then explained that the BZA can apply special conditions to each applicant as in the examples. (highlighted area on attachment c).

Attorney Gunning discussed the New Fact Finding Worksheet. He noted that items 11 and 12 should not be included.

Attorney Gunning then discussed the Rules of Commitment and showed where the two rules, discussed earlier, would be included that the BZA should accept: Mr. Bowen asked for a motion to accept the first Rule of Commitment, that an applicant obtain a Permit through the Town of Michiana Shores, IN after the granting of Special Use by the BZA: a vote was taken by roll: Paxton: Aye; Bowen:Aye; Box:Aye; Hall: Aye; Jobbe:Aye.

Mr. Bowen asked for a motion to accept the second Rule of Commitment to be rules 1-17 of the Rules of Revocation in Michiana Shores Town Ordinance 2020-02. A roll vote was taken by roll: Paxton:Aye; Bowen:Aye; Box:Aye; Hall: Aye; Jobbe: Aye.

Mario Jobbe asked if item 5 B in the Ordinance could be changed on our commitments: Mr. Bowen explained no, that it is part of the Town Ordinance and already incorporated into town law.

Attorney Gunning said that the Commitments form should be set out with the letters of notification to all applicants and interested parties. He again stressed to use the legal description of the property. He repeated that we can change or add conditions on a case by case basis. Attorney Gunning also said we needed to record the grant of Special Use and it was agreed that the Clerk Treasurer would perform this duty.

Attorney Gunning recommended that the BZA accept the New Rules of Commitment Sheet. Mario Jobbe made a motion, Jeanne Paxton second. A vote was taken by roll: Paxton: Aye; Bowen: Aye; Box: Aye; Hall: Aye; Jobbe: Aye.

Attorney Gunning recommended that the BZA accept the Fact Finding Worksheet without items 11 and 12 from the first draft. Mario Jobbe made a motion, Ralph Box second. All approved by a roll vote. Paxton: Aye; Bowen: Aye; Box: Aye; Hall: Aye; Jobbe: Aye.

Mr. Bowen then changed the direction of the meeting by starting the process of review of applications of Special Use. It was suggested by Ralph Box that the BZA start the hearings with three, or a few cases, then ramp up to more as time goes on. That suggested was informally agreed to by all members because of the novel nature of the process and to ensure proper handling of each case. Mr. Bowen then announced the first three cases: 3821 Hiawatha Drive, 325 Oakland Drive and 3624 Birchwood Trail . Mr. Bowen then told each BZA member to drive or walk to each applicant property on an individual basis . This assessment cannot be made together or in a quorum in anyway.

The folder for 3821 Hiawatha Drive was reviewed. The application was complete, the payment was made, the merchant certificate was included, the legal description needs to be checked, A discussion ensued about the proximity of White Ditch to this property. **THE BZA AGREED THAT THE PROPERTY'S PROXIMITY TO WHITE DITCH SHOULD NOT AFFECT ITS CONSIDERATION FOR THE VARIANCE.** A vote was taken: Paxton: aye; Bowen: aye; Box: aye; Hall: aye; Jobbe: Aye.

The folder for 325 Oakland Drive was reviewed; the payment was made, the home inspection report was needed, the merchant certificate was included. It was asked for the owner to provide a rough diagram of the parking, location and size.

The folder for 3624 Birchwood Trail was reviewed. The payment was made, the home inspection report is needed and a diagram for parking was asked for.

It was agreed that each owner should be told what items were needed to complete the paperwork for the hearing.

The telephone connection to BZA Attorney Gunning was terminated at 9:45 pm. It was announced that the next meeting would be held on July 9, 2020 at 7 pm. CST

The meeting was adjourned by Mr. Bowen at 9:46 pm CST.

Attachments: a, b, c, d