

MINUTES OF THE REGULAR MEETING OF THE  
MICHIGAN CITY BOARD OF ZONING APPEALS  
TUESDAY, SEPTEMBER 9, 2014

The Michigan City Board of Zoning Appeals met in a regular meeting in the Common Council Chambers, City Hall Building, 100 East Michigan Boulevard, Michigan City, Indiana, on **Tuesday, September 9, 2014**, at 6:30 p.m., the time, date and location for holding of said meeting.

Chairman Whitlow called the meeting to order, and upon roll call, the following answered present:

Ricky Jackson, Wallace Hook, Lester Norvell, Karen Janus and Al Whitlow.

Also present: Steven A. Hale, Counsel for the BZA; Skyler York, Planning Department; Janelle Robinson, court reporter.

The first item of business on the agenda was the approval of the minutes from the **Tuesday, August 12, 2014**, regular meeting.

Two corrections were noted. Petition B-111-14 and Petition B-112-14, are changed by removing the final period in the motion, replacing it with a semicolon, and including the words "the motion included adopting the findings in the Planning Department report; and that approval was subject to the conditions found in the Planning Department report".

A motion was made to approve the minutes with the corrections included.

Mr. Hook abstained from voting since he was unable to attend the previous meeting. With a remaining voice vote of all ayes, motion **carried**, and the minutes were **approved**.

***The first item of business:***

**Chairman Whitlow called for the first petition.**

**Petition B-113-14, Jim Epstein requesting a Development Standard Variance for setback relief to allow construction of an attached garage located at 506 Washington Park Boulevard.**

Jim Epstein approached the lectern on behalf of the homeowner, Jim Alex. He requested a variance of 14 feet to build an attached garage to the homeowner's property in order to pull the car in the garage and be able to open both doors, making it easier to get Mr. Alex's mother-in-law in and out of the car with her wheelchair and walker. He also pointed out that he is aware of the fire department's concern with regard to spacing, and that in their neighborhood there are other homes with that same type of spacing.

Chairman Whitlow asks for questions from the board members.

Mr. Jackson clarifies with Mr. Epstein that this does not deny the fire department access.

Mr. York comments that the fire department did express concern about the closeness in proximity, also because there is an air conditioner on the adjacent side of the property. He states that he spoke to the fire marshal and tried to come to a compromise.

Mr. York read departmental report into the record, with five conditions. Condition one being that the garage may not project more than 12 feet from the existing house, and maintain a side yard of three and a half feet.

Chairman Whitlow opens the meeting to public comment.

There being no public comments, Chairman Whitlow asks if there are any remonstrances.

Mr. York states that there are no remonstrances.

Chairman Whitlow closes the public portion of the meeting.

Mr. Alex approaches the lectern and explains that their preference is to get the 14 feet in order to get full use of their garage.

Mr. Norvell clarifies where the property line starts.

There was discussion regarding approving the 14 feet as opposed to 12 feet.

Mr. York states that he is not opposed to letting it go 14 feet, but that the whole garage not go past that pavement, including the overhang, and that it be maintained and kept free of shrubbery, piles, stacking, and things of that nature.

Counsel Hale clarifies that the revised condition one would replace the previous condition one Mr. York read in his reports.

Counsel Hale reads his reports into the record, along with the corrected condition included in the Planning Department's report.

Mr. Norvell moved to approve Petition B-113-14, requesting a Development Standard Variance for setback relief to allow construction of an attached garage located at 506 Washington Park Boulevard, and reads the conditions into the motion.

Mr. Hook asks for clarification on the reading of condition one.

After conversation regarding the wording of the revised condition one, Mr. Whitlow withdraws the motion as given, and asks for a new motion.

Mr. Norvell moved to approve Petition B-113-14, requesting a Development Standard Variance for setback relief to allow construction of an attached garage located at 506 Washington Park Boulevard to include the conditions, with the reading of the revised condition one being that the new garage may not project more than 14 feet, including overhangs.

Seconded by Mr. Hook. The roll call vote was taken as follows:

AYE \_\_\_\_\_ NAY

Mr. Hook  
Mr. Jackson  
Mrs. Janus  
Mr. Norvell  
Mr. Whitlow

With a voice vote of all ayes and no nays, Petition B-113-14 Developmental Standard Variance is granted.

The next petition called was:

Petition B-114-14 of Tipota LLC/Chris Sotos requesting a Special Use to allow a drive-thru, pick-up window for a restaurant use within a proposed multi-tenant building located on the outlot in front of Lowe's on Franklin Street.

Steve Panko approached the lectern and explained that their petition is for a drive-thru facility for a sandwich restaurant. He explained that this will be a multi-tenant building, and that they have proposed three tenants at this time. He passed around a drawing of their plan for the board to review. He shared that they have worked with Lowe's staff and all tenants, but cannot finalize the leases until they have an approval for a drive-thru.

Ms. Janus asked about him previously being there regarding a sit-down restaurant, and that she thought it was to be one restaurant, not a building with several.

Mr. Panko explained that there had been a sit-down restaurant that had previously been interested, but had decided not to move forward at this site.

Chairman Whitlow opens the meeting to public comment.

There being no public comments, Chairman Whitlow asks if there are any remonstrances.

Mr. York states that there are no remonstrances.

Chairman Whitlow closes the public portion of the meeting.

Mr. Jackson requests to abstain from voting in order to avoid any conflict of interest because he works for Lowe's.

Chairman Whitlow grants his request.

Mr. York read the department reports into the record.

Counsel Hale commented on his report, and explained to the board that the motions in this case are a little bit different, that there are a total of 14 requirements to be met. He advised the board on different options in which they could make their motion, including the conditions presented to them.

Mr. Hook moved to approve Petition B-114-14 for the Special Use to allow drive-thru pick-up window for restaurant use within the proposed multi-tenant building located on the outlot in front of Lowe's on Franklin Street. And having heard Mr. York's reading of the requirements that satisfactorily have met the requirements of the Planning Department and the ordinance, we are then approving the special exceptions that are pointed out in B-114-14 with the following conditions: That the petitioner will provide an escape-way from the drive-thru onto the private side street, satisfying the additional use requirements found in the zoning ordinance 14.06(b). Two, the petitioner will adhere to all other zoning codes with respect to the landscaping and building design. And three, the petitioner will agree to provide a sidewalk, or funding at a time that the Planning Department deems necessary to provide pedestrian access.

Seconded by Mr. Norvell. The roll call vote was taken as follows:

AYE \_\_\_\_\_ NAY

Mr. Hook  
Mrs. Janus  
Mr. Norvell  
Mr. Whitlow

With Mr. Jackson abstained from voting, a voice vote of four ayes and no nays, Petition B-114-14 Special Use is granted.

Chairman Whitlow asked if there are any other petitions.

Mr. York explained that there was another petition on the agenda, B-115-14, Brian and Lori Rush, but that they requested to table their petition for the next meeting in order to amend their petition to include another variance that was needed.

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Next item on the agenda is "Old Business".

The next item of business was approval of Findings and Orders for Petition B-111-14, L. Scott Pejic. Decision and Findings of Fact were read into the record.

It was moved and seconded that the findings and orders as read into the record by Counsel Hale be approved for B-111-14.

With a voice vote of all ayes, motion carried, and the findings and order are approved.

The next item of business was approval of Findings and Orders for Petition B-112-14, Gary and Danette Deleo. Decision and Findings of Fact were read into the record.

It was moved and seconded that the findings and orders as read into the record by Counsel Hale be approved for B-112-14.

With a voice vote of all ayes, motion carried, and the findings and order are approved.

There being no further old business, the next item on the agenda was "New Business".

Chairman Whitlow makes a request that the board meet at some point to have a training session on the policies and procedures for their meetings. This was agreed to, and a date would be set for them to get together for this.

Chairman Whitlow called for public comment. There being no public present, the public portion of the meeting was closed.

There being no further business to come before the board, the meeting was adjourned.

  
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BOARD SECRETARY