CITY OF RUSHVILLE

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MINUTES FOR THE SPECIAL MEETING OF THE RUSHVILLE BOARD OF ZONING APPEALS

August 13, 2018
7:00P.M.

Call to Order: The Rushville Board of Zoning Appeals met on the above date and time at the Rushville Council Chambers at 270 West 15th Street, Rushville, Indiana. Chairman Joe Rathz called the meeting to order at 7:00pm.

ROLL CALL: Phil Brashaber, Jack Harmon, Jeff Houser, Jean Kopf, and Joe Rathz.

Deputy Director Carmen Clark, Consultant Shelly Wakefield and Attorney Grant Reeves were also in attendance.

MINUTES: Mr. Houser made a motion to approve the minutes from the July 25th Special Board of Zoning Appeals meeting. Mr. Brashaber seconded the motion. All in favor. Motion carried.

Administrative Appeal: Continued
18-AA-01: An administrative appeal of the BZA staff determination regarding the re-installation of one or more manufactured homes on the property located at 123 S. Harrison Street.

The public hearing was closed at the previous special meeting.

Attorney Reeves spoke with Mr. Sumerford, the attorney for Mr. McCormick. He received the additional zoning ordinances and wishes to speak to the board again before they make their decision.

Mr. Sumerford stated that the 2015 Ordinance that identical definitions for "Used" were done interchangeably. The interpretive definition of "Used" in the current City Ordinance wanted to broaden the definition of Mobile Home Park.
Mr. Houser explained that all of the ordinances say 2 or more mobile homes. Mr. Sumerford said the word "Used", the guideline to be designated or intended to be used exercises the right to regulate the use in the City. This cast a fairly broad net. The City broadly defines this word, "Concept of Use". Mr. Sumerford spoke about the case Town of Avon vs. Harville. The Town relied on the most current Zoning Ordinance definition of junkyard. It is common sense.

Chairman Rathz said it is grandfathered under the 74 Ordinance but if you have to meet the 2015 Ordinance the specifications are stricter. You can't pick and choose which Ordinance to use. This isn't a logical argument. Chairman Rathz said he is shifting which Ordinance to use. Chairman Rathz said the issue with the Dandy case is they didn't seek out what was already in use. It was over 2 years and it lapsed. There was abandonment.

Mr. Houser stated knowingly or unknowingly you gave up the mobile home park. Mr. Sumerford said if the intent wasn't there then why keep up the state licensing.

Attorney Grant Reeves asked petitioners to speak on the state licensing process.

Chairman Rathz swore petitioners in.

Chris Thayer explained that he had to pay a renewal fee every 4 years. The state inspected at will. If there were violations they received by registered mail. Andrew McCormick said he paid $200 for the state license to be transferred. He will pay $250 in 2019.

Mr. Sumerford asked Mr. Thayer if he maintained his license even though he didn't have the state license requirement of 4 mobile homes. Mr. Thayer said he did maintain the license. Mr. Sumerford said if he relinquished his rights then he would not have maintained the state license.

Mr. Harmon said that the Central Business District was incorporated into the zoning map it was after Mr. Thayer purchased the property. When Mr. Thayer purchased it was zoned for a mobile home park. It was specifically zoned for the mobile home park in 1982. It was a legal conforming but in 2006 it became non-conforming. Consultant Wakefield said the definition of a mobile home park has never changed in all ordinances.

Mr. Sumerford said we could look back at the 2006 maps. Chairman Rathz said it was under the County jurisdiction at the time and don't know where the records are.

Mr. Harmon stated all the ordinances said 2 mobile homes. Being grandfathered ceased to exist. Chairman Rathz stated with the 74 Ordinance it stated regularly accommodated and the 2015 Ordinance states abandonment.

Chairman Rathz asked Attorney Reeves what type of motion needs to be made by the board. Does it need to uphold or overturn the director's decision? Attorney Reeves agreed it does.

Mr. Brashaber made a motion to uphold the decision of the director. He stated that focusing on the different accounts from previous ordinances, you need 2 or more mobile homes. The legal issues the petitioner brought before us isn't enough to overturn. Mr. Harmon seconded the motion. All in favor. Motion carried.

ADJOURN: Mr. Brashaber made a motion to adjourn. Mrs. Kopf seconded the motion. Meeting adjourned at 7:46 pm.

Joe Rathz, Chairman

Carmen Clark, Secretary