

LOWELL BOARD OF ZONING APPEALS MEETING
November 8th, 2018

Vice President Konradi called the meeting to order at 6:31 pm. The Pledge of Allegiance was recited. Recording Secretary Dianna Cade called the roll. Members answering the roll call were Jim Konradi, Manny Frausto, and Ryan Thiele. Chris VanDyke and Sean Brady were absent. Also, present were, Director of Planning and Development Aj Bytnar, Town Manager Jeff Sheridan, and Town Attorney Nicole Bennett.

APPROVAL OF MINUTES

Mr. Frausto made a motion to approve the September 13th, 2018 regular meeting minutes, seconded by Mr. Thiele and carried by voice vote of all ayes.

FINDINGS OF FACT:

Vice President Konradi read into public record the Findings of Fact for **BZA #18-024**. An application for a variance of use to allow a single-family residence at the property located at 110 N. Nichols. This parcel is currently zoned R4 multi-family. Single Family residence is not allowed as stated in the Town of Lowell Zoning Ordinance §155.034 (2) This petition has been filed by Richard and Mary Bullard, 318 W. Brookfield St., Lombard, IL 60148 The parcel is located at 110 N. Nichols, Lowell, IN,

Mr. Thiele made a motion to approve the Findings of Fact, seconded by Mr. Frausto, and carried with a roll call vote of all ayes.

MOTION PASSED 3-0

PUBLIC HEARING:

BZA #18-027 An application to request a Variance from Developmental Standards from the requirements of Ordinance 155.082 Entrance/Drive Standards. Petitioner is requesting an increase in the driveway from a maximum of 24' to 33'. Petition has been filed by Chrisandy Inc., 640 W 50 N Valparaiso, IN., for property located at **729 Village Parkway, Lowell, IN. Parcel #45-19-22-176-010.000-038**.

Mr. Bytnar stated that the public hearing is for an application to request a variance from developmental standards §155.082 driveway/standards. The petitioner is requesting a driveway width of 33' the allowed is a maximum of 24' at the right of way. He noted that several lots in the subdivision have been previously approved for a driveway width to match the 3-car garage. He discussed that in previous years the discrepancy had been allowed. He discussed the Town's driveway requirements.

Chris Adams, Sierra Homes, 741 Village Parkway. He stated that he is building a new home for a client that has a 3-car garage and the client would like his 3-car driveway to extend all the way to the curb. He noted it has been done numerous times in the subdivision without a variance until it was noticed when he turned in his permit.

Mr. Frausto asked the staff if the standard for a driveway was 24'. Mr. Bytnar stated yes and discussed driveway standards versus the Town's ordinances. He noted that it is a modern thing to have a 3-car garage and it was something that was not contemplated when the ordinance was written.

Vice President Konradi opened the public hearing, no remonstrances were heard and the public hearing was closed.

Mr. Bytnar stated that Attorney Bennett has been drafting the Findings of Facts based on the Boards discussions and decisions for each BZA application. He asked the Board to flip to portion of the application where the petitioner has filled out the Findings of Fact for his request for a variance of developmental standards. He stated the BZA is required by state law to make their decision based on these Findings of Fact. He stated the discussion the Board has for each petition needs to mirror these 3 items for a Variance of Developmental Standards. He noted the previous variance was for a Variance of Use which has a higher burden of proof for the petitioner. He stated in this case the Board is approving 3 items. He discussed each one and their criteria. Mr. Bytnar stated that when Board members make a motion to either approve or deny they need to make the motion based on these Findings of Fact. Mr. Bytnar stated that after a motion is made and seconded and before the final vote the Findings of Fact need to be called out. He noted that they can adopt their own or agree with the Findings of Fact that the petitioner has presented and include that in the motion. He noted the Board's decision has to be based on these Findings of Fact for a variance of developmental standards.

Mr. Thiele made a motion to approve **BZA #18-027** which is an application to request a Variance from Developmental Standards from the requirements of Ordinance 155.082 Entrance/Drive Standards. Petitioner is requesting an increase in the driveway from a maximum of 24' to 33', seconded by Mr. Frausto. Vice President Konradi stated that the motion has been made and seconded with the following Findings of Fact noted:

1. The approval will not be injurious to the public health, safety, morals and general welfare of the community;
2. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner; and
3. The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property.

However, the zoning ordinance may establish a stricter standard than the practical difficulties standard prescribed by this subdivision ICC 36-7-4-918.5.

Motion was passed with a roll call voice of all ayes. MOTION PASSED 3-0

NEW BUSINESS:

Mr. Bytnar discussed the 2 chapters of the Indiana Citizens Planners Guide that was emailed to the Board members. He discussed in generality the 2 chapters that were emailed; BZA Basics and Rules of Procedures. He noted that everything that the Board does is prescribed by the 36 series of Indiana planning law. He stated the way the Board

makes their decisions is based on the Findings of Fact. He continued stating that any discussions by the Board should center around those criteria and it should be included as part of the motion. He stated that it is very important that if anybody was to challenge a decision made by the BZA the Findings of Fact will be essential to the court proceedings. Mr. Bytnar stated that he would like the Board to have their discussions based on the Findings of Fact so that it will not be necessary to bring Findings back for the next meeting, it slows down development. He stated that in the coming months he will be having more training for the Board and he would like the members to review the information that was emailed to them for future discussions.

ANNOUNCEMENTS: Next regularly scheduled meeting is 12/13/18 at 6:30pm

PUBLIC COMMENTS: NONE

ADJOURNMENT:

With no further comments or questions, Mr. Frausto made a motion to adjourn the meeting at 6:52pm, seconded by Mr. Thiele and carried with a roll call vote of all ayes.

Jim Konradi, Vice President

Ryan Thiele, Secretary