

MINUTES OF THE REGULAR MEETING OF THE
MICHIGAN CITY BOARD OF ZONING APPEALS
TUESDAY, JUNE 8, 2021

The Michigan City Board of Zoning Appeals met in a regular meeting via Zoom on **Tuesday, June 8, 2021**, at 6:00 p.m., the time, date and location for holding of said meeting.

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

Karen Janus, Fred Klinder, Lester Norvell, Lawrence Zimmer and Kathryn Stransky.

Also present: Counsel Steven A. Hale, Skyler York, Planning Director, Janelle Robinson, Court Reporter.

The first item of business was the approval of the minutes from the **Tuesday, May 11, 2021**, regular meeting.

Attorney Hale requested two corrections be made to the minutes and that they be approved at the next regular meeting on July 13.

The first petitions called were Petitions B-104-21, B-105-21, B-106-21 and B-107-21: Colin Marshall requesting Development Standards Variance from setbacks in an R1E Waterfront Residential District to allow construction of a home located on Arndt Street, Lot 9, Lot 8, Lot 7 and Lot 6. Continued from May.

Mr. York stated that he had had conversations with Mr. Marshall regarding exploring different routes, and then read an e-mail received from Mr. Marshall stating that he wishes to withdraw his petitions.

Chairman Zimmer called for a motion to accept the withdrawal requested by the petitioner, Colin Marshall.

Moved by Mr. Klinder; seconded by Ms. Stransky.

The roll call vote was taken as follows:

<u>AYE</u>	<u>NAY</u>
Ms. Janus	
Mr. Klinder	
Mr. Norvell	
Mr. Zimmer	
Ms. Stransky .	

With a roll call vote of all ayes and no nays, the **motion was granted** and the petitions were withdrawn.

Petition B-108-21: Patrick & Marianne Grant requesting Development Standards Variance from the rear setback to allow construction of second story over attached garage area of an existing non-conforming residential home located at 302 Duneland Beach Drive. Continued from May.

Chairman Zimmer called for the departmental reports.

Mr. York first told the board he is calling this an amended report, explaining that they are now dealing with a non-conforming structure, that it doesn't meet setbacks but they're staying within the footprint, so they're not asking for more non-conformity, they're just non-conforming. He then read the amended departmental report (H.I.), wherein the department recommended approval of the petition with the following condition: One, the home must stay within the existing footprint of the existing foundation.

Attorney Hale confirmed that the notification documentation had all been received and they were free to proceed, then gave a brief summary of the attorney's report (H.I.) for the amended petition and advised the board of their options.

Chairman Zimmer called for questions from the board.

With no questions from the board, Chairman Zimmer called for public comment.

With no public comment, Chairman Zimmer called for a motion.

Mr. Klinder made a motion to accept the finding of facts, the Planning Department reports, Attorney Hale's report and approve the amended Petition B-108-21 with one condition. Seconded by Mr. Norvell.

Prior to the roll call Ms. Stransky lost her connection.

The roll call vote was taken as follows:

<u>AYE</u>	<u>NAY</u>
Ms. Janus	
Mr. Klinder	
Mr. Norvell	
Mr. Zimmer	

With a roll call vote of four ayes and no nays, the motion was granted.

Petition B-116-21: Attorney Bradley J. Adamsky for Steven Lyle Smith requesting Special Exception Use to allow for indoor self-storage buildings in a B2 District and a Use Variance to allow outdoor self-storage located at 4507 East US Highway 12.

Attorney Adamsky introduced himself on behalf of Steven Lyle Smith, owner and president of General Development Corporation of Kankakee, the owner of the property. After stating that this property has been before the board off and on, he said that they are on their last step of the project. He then gave a description of what they had done to have the property rezoned to be entirely in a B2 district in order to complete this step. He went on to state that they had received a Special Exception previously on a parcel to add a couple of additional units, and were asking the same thing the adjacent parcel, with the idea of putting in probably immediately three additional self-storage units and then maybe three in the future.

He then continued into the second part of the petition, being a Use Variance to allow outdoor storage. He went on to explain this would be to park vehicles, boats, RVs and cars at the rear of the southern part of the property, which is shielded from Highway 12 with the storage units, to the south by a natural buffer of land behind it, and a pond to the east.

Chairman Zimmer called for the departmental reports.

Mr. York read the departmental reports (H.I.), wherein the department recommended approval of the proposed Special Exception Use for Petition B-116-21.

Chairman Zimmer asked if they would need to take a separate vote on the Special Exception Use and Use Variance, to which Attorney Hale stated they would need to have two separate motions and two separate votes and provided an explanation as to why.

Attorney Hale gave the first part of his attorney's report (H.I.) when his connection was lost. Chairman Zimmer called for questions from the board while waiting for him to reconnect.

Mr. Klinder stated he had noticed B2 is not acceptable for indoor or outdoor storage without the variance allowance, to which Mr. York explained that for the outdoor storage they have to get a Use Variance because it doesn't allow outdoor by right. Explaining the indoor storage he explained it's by right with the Special Exception Use, giving the board the opportunity to make sure that they're meeting the standards as outlined, and that they're not asking for any variances so they've got to meet the standards.

With no further questions from the board Chairman Zimmer called for public comment.

With no public comment, Attorney Hale reconnected to conclude his attorney's report.

Attorney Hale commended Attorney Adamsky's presentation, stating the board is familiar with Special Exception Uses and the standards Mr. York described in his report, and then advised the board of their options.

Chairman Zimmer called for a motion for the Special Exception Use portion of the petition.

Mr. Klinder made a motion to approve the requested Special Exception Use as part of B-116-21 based on the facts by the Planning Department, Attorney Hale's report and as stated in the finding of facts. Seconded by Ms. Janus.

The roll call vote was taken as follows:

AYE _____ **NAY**

Ms. Janus
Mr. Klinder
Mr. Norvell
Mr. Zimmer

With a roll call vote of four ayes and no nays, the motion was granted.

The next part of Petition B-116-21 was the Use Variance. Attorney Adamsky stated this part of the petition was for outdoor storage, then continued by explaining the topography and buffers surrounding the area on the property. He further said it's a non-permitted use, which is why they are asking for the Use Variance and why the petition was broken into two parts.

Chairman Zimmer called for the departmental reports.

Mr. York read the departmental reports (H.I.), wherein the department recommended approval of the proposed Use Variance for Petition B-116-21 with the following conditions: One, all outdoor storage will need to be screened from view and will need to be located behind any existing or proposed buildings. Two, the outdoor storage must be located no less than 100 feet from Meer Road in the rear of the property and properly screened.

Attorney Hale confirmed that the notification documentation had all been received and they were free to proceed, then gave a brief summary of the attorney's report (H.I.) for the Use Variance portion of the petition and advised the board of their options.

Chairman Zimmer asked the area on the plat on the southern part and how they plan to use the area for storage given the topography changes in property and the pond. Attorney Adamsky stated that if they did anything in that area, such as leveling it off for parking vehicles, it would be done with all of the proper permitting with the county and state. This was followed by conversation regarding the wetland protections on the property and that there wouldn't be any entrance onto the property off of Meer Road, but rather by the existing cutout on the parcel, or most likely the main entrance on the adjacent parcel off of 12.

Mr. Klinder asked about the screening around the outdoor facility and if it would include physical mechanical screening or if it would include forestry and the land itself. Attorney Adamsky explained that the area behind it is zoned residential, even though it's not residential in use, and that at least rod iron fencing would be required, and that there are acres of natural woodland behind the property. Mr. York then commented that this would protect people from the visual impact and also protect is being stored.

With no further questions from the board, Chairman Zimmer called for public comment.

Dalia Zygus introduced herself to the board, then asked how they would prevent people from storing flammable materials. Attorney Adamsky explained that that's more related to the indoor storage since it would be visible on the outdoor storage, then explained what had previously been covered on the subject in the previous petition.

With no further public comment, Chairman Zimmer called for a motion.

Mr. Klinder made a motion to approve the Petition B-116-21 as to the requested Use Variance to allow for outdoor storage in the area, the finding of facts of the Planning Department, Attorney Hale's report, and to include the two conditions set forth by Mr. York. Seconded by Mr. Norvell.

The roll call vote was taken as follows:

<u>AYE</u>	<u>NAY</u>
Ms. Janus	
Mr. Klinder	
Mr. Norvell	
Mr. Zimmer	

With a roll call vote of four ayes and no nays, the motion was granted

Next item on the agenda is "Old Business".

The next item of business was approval of Findings and Orders for Petition B-109-21, MC Donuts, LLC. Having presented the board with a printed copy of the Findings and Orders in their entirety, Attorney Hale stated that an appropriate motion would be to approve the proposed decision and findings of fact as presented in written form. It was moved and seconded that the Findings and Orders as submitted be approved for B-109-21.

The roll call vote was taken as follows:

<u>AYE</u>	<u>NAY</u>
Ms. Janus	
Mr. Norvell	
Mr. Zimmer	

Abstained by Mr. Klinder. With a roll call vote of three ayes, motion carried, and the Findings and Orders were approved.

Next was the approval of Findings and Orders for Petition B-113-21, Lamar Advertising. Having presented the board with a printed copy of the Findings and Orders in their entirety, Attorney Hale stated that an appropriate motion would be to approve the proposed decision and findings of fact as presented in written form. It was moved and seconded that the Findings and Orders as submitted be approved for B-113-21.

The roll call vote was taken as follows:

AYE _____ NAY

Ms. Janus
Mr. Norvell
Mr. Zimmer

Abstained by Mr. Klinder. With a roll call vote of three ayes, motion carried, and the Findings and Orders were approved.

Next was the approval of Findings and Orders for Petition B-114-21, Lamar Advertising. Having presented the board with a printed copy of the Findings and Orders in their entirety, Attorney Hale stated that an appropriate motion would be to approve the proposed decision and findings of fact as presented in written form. It was moved and seconded that the Findings and Orders as submitted be approved for B-114-21.

The roll call vote was taken as follows:

AYE _____ NAY

Ms. Janus
Mr. Norvell
Mr. Zimmer

Abstained by Mr. Klinder. With a roll call vote of three ayes, motion carried, and the Findings and Orders were approved.

Next was the approval of Findings and Orders for Petition B-115-21, Stolte & Whitehead Appeal. Having presented the board with a printed copy of the Findings and Orders in their entirety, Attorney Hale gave a summary of the appeal hearing that was presented and heard by the board, where the petition was denied with the revocation was upheld. He then explained that an appropriate motion would be to adopt the decision and findings of fact as distributed in written form to the board. It was moved and seconded that the Findings and Orders as submitted be approved for B-115-21.

The roll call vote was taken as follows:

AYE _____ NAY

Ms. Janus
Mr. Norvell
Mr. Zimmer

Abstained by Mr. Klinder. With a roll call vote of three ayes, motion carried, and the Findings and Orders were approved.

Next item on the agenda is "New Business".

Mr. York stated that the next regular meeting would be in person in council chambers in the hybrid form, where people can also join the meeting virtually. He went on to explain that Attorney Hale would need to go over the rules that are applicable to the board members and that they will need to adopt a policy for the board, which Attorney Hale stated he would provide to the board before the next meeting. Mr. York also informed everyone that City Hall still has a mask requirement and masks will need to be worn for the meeting.

Chairman Zimmer called for public comment.

Tom Kulavik asked when the Dunkin' Donuts would go in. Mr. York answered that it would probably be end of summer and went over the approvals they are getting to get it going. This was followed by conversation stating that they will be tearing down the old building and building a new building.

With no further comments from the board or public comment, Chairman Zimmer adjourned the meeting.



BOARD SECRETARY