

## MINUTES

### City of Franklin, Indiana BOARD OF ZONING APPEALS

November 4, 2015

#### **Members Present:**

Tim Holmes	President
Phil Barrow	Vice-President
Jim Martin	Secretary
Brian Alsip	Member
Rev. Richard Martin	Member

#### **Others Present:**

Alex Getchell	Associate Planner
Heath Johnson	Legal Counsel
Julie Spate	Recording Secretary

#### **Call to Order:**

Tim Holmes called the meeting to order at 7:00 p.m.

#### **Approval of Minutes:**

Phil Barrow made a motion to approve the October 7, 2015 minutes as submitted. Jim Martin seconded the motion. The members voted to approve the minutes.

#### **Swearing In:**

Heath Johnson swore in the audience en masse.

#### **Old Business:**

None.

#### **New Business:**

##### **ZB 2015-15 (UV) – Starlight Dance Academy:**

Alex Getchell introduced the case as a request by Starlight Dance Academy for 2112 Early Lane. The petition is for a use variance to allow the operation of a personal service use (dance studio) in the Industrial, Light and Gateway Overlay districts. The variance is needed as personal service uses are not permitted in the Industrial, Light zoning district. Personal service uses are permitted in the IBD and all of the Mixed Use Commercial zoning districts, including the property immediately north of the subject property. The application is complete, the public notification requirements have been met and the petition is ready for the board's consideration.

Jessica Smiley-Brown, the petitioner, wants to move her dance studio to this location. She is in agreement with the staff report. Mr. Holmes asked Ms. Smiley-Brown to review the criteria for decision. Mr. Getchell expressed staff's approval of all five criteria with some conditions.

1. General Welfare – Ms. Smiley-Brown explained it will improve the public health. The focus of the dance studio is kids with special needs and low income. The facility is handicap accessible.
2. Adjacent Property – There is a daycare facility near there and a baseball facility. Mr. Holmes explained that the criteria references whether the dance studio will or will not be injurious to the adjoining properties. Ms. Smiley-Brown doesn't believe it will be a detriment to the adjacent properties.
3. Condition of Property – Mr. Holmes explained the question to be what is special about your situation that requires the variance. Ms. Smiley-Brown highlighted the primary feature is the handicap accessibility. The building is all one level so provides ease of entrance and exiting. Mr. Holmes asked about the need for higher ceilings. The petitioner also has a cheer program, so the higher 19' ceilings accommodate stunting and tumbling.
4. Unnecessary Hardship – Mr. Holmes asked Mr. Getchell to explain the meaning of this criteria. Mr. Getchell explained the criteria is what hardship would be created if the strict application of the ordinance was implemented and you weren't allowed to do this use. Mr. Getchell stated staff found there are similar and more intense uses on adjacent properties, and because the use would be permitted on the parcel immediately north, there is an unnecessary hardship in not allowing it here. The petitioner agreed.
5. Comprehensive Plan – The petitioner confirmed that she does not feel this use will interfere with the comprehensive plan for the area.

Ms. Smiley-Brown finds the staff's recommendations acceptable.

Mr. Holmes asked for anyone wishing to speak for or against this petition or questions from the board. Mr. Barrow asked where the studio is located now. The petitioner responded in a warehouse just off Whiteland Road and 31. Mr. Martin asked if there is room for the 19 parking spaces. Ms. Smiley-Brown affirmed and Mr. Getchell added there is actually room for 20, all paved, and they just need striped.

Mr. Getchell read the staff's recommendation for approval with the following conditions:

- a. Any expansion or relocation, within the facility, of the dance studio shall require favorable action, including new findings of fact and conditions of approval, by the Board.
- b. A minimum of nineteen (19) parking spaces, at least 9' x 18' in size, shall be maintained onsite, with appropriate pavement markings, specifically for the dance studio use.
- c. An application shall be submitted to the Division of Fire & Building Safety Plan Review Branch of the Indiana Department of Homeland Security for the change of use, and the structure shall meet all building code requirements for the change of use.
- d. All applicable Federal, State, and Local permits and approvals are required.

Ms. Smiley-Brown confirmed again that these conditions are acceptable to her.

Mr. Martin made a motion to approve ZB 2015-15 with staff's recommendation and conditions.

Mr. Barrow seconded. The motion passed unanimously.

**Other:**

**ZB 2013-11 (UV & V) – Donnie Bunch – Termination – Continued to December 2, 2015:**

Mr. Getchell explained that Mr. Bunch's legal counsel had a schedule conflict for tonight so requested a continuance to the December meeting.

**Approval of 2016 BZA Calendar of Meeting Dates**

Mr. Getchell presented the 2016 calendar, reminding that last year an extra week was added for application review in December, to allow for schedule conflicts due to the four Christmas and New Year's holidays staff is out of the office between application deadline and the BZA meeting. Mr. Getchell stated that was continued this year. For the December meeting, the application deadline was moved back from the normal Monday deadline, to the prior Friday, due to the Thanksgiving holidays.

Mr. Martin moved to approve the 2016 calendar. Mr. Alsip seconded. Passed.

**Adjournment:**

There being no further business, the meeting was adjourned at 7:15p by a motion from Mr. Alsip, a second by Mr. Martin and a unanimous vote.

Respectfully submitted this 2<sup>nd</sup> day of December, 2015.

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Tim Holmes, President

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Jim Martin, Secretary