

## MINUTES

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

March 6, 2019

#### Members Present

Jim Martin	Chairman
Phil Barrow	Vice Chairman
Richard Martin	Secretary
Brian Alsip	Member
Charlotte Sullivan	Member

#### Others Present

Alex Getchell	Senior Planner I
Lynn Gray	Legal Counsel
Julie Spate	Recording Secretary

#### Call to Order

Jim Martin called the meeting to order at 6:00 pm.

#### Roll Call & Determination of Quorum

#### Approval of Minutes

Lynn Gray pointed out a typo on page four. Phil Barrow made a motion to approve the January 2<sup>nd</sup> minutes as amended. Charlotte Sullivan seconded the motion. The motion passed, unanimously, 5-0.

#### Swearing In

Lynn Gray swore en masse anyone planning to speak.

#### Old Business

#### New Business

##### ZB 2019-01 (V) – 899 N Main St.

Alex Getchell explained this case was not presented in a timely manner. Letters were mailed without Certified Mail or Certificate of Mailing. He stated the letters were mailed in regular envelopes via the postal service without certification. The petitioner tried to get signatures from adjacent property owners on the notification list to give their consent to proceed with hearing of the case, but proper notice nor consent was received for four properties. Mr. Getchell stated the petitioners have three letters of no objection to the request submitted from immediately adjacent property owners – south, east and west across North Main Street.

Ms. Gray advised of the Board's ability to waive notification that is in excess of requirements. For example, Certified Mailing over a Certificate of Mailing. Under statutory criteria, there is no authority to

waive for action taken less than the requirements. She stated with the missing four property owners, there is not the legally required notice to hear the petition. The Board has the authority to continue the case to the next meeting due to lack of notice and require the notice only to include a Certificate of Mailing or an authorization from the four properties that are not on record as notified.

Bruce Dowler explained the four missing entities. The two churches directly across were not available. Another was a Bargersville address, and Mr. Dowler spoke with the individual's parents who confirmed that the property owner did receive the letter and did not plan to attend the hearing. The fourth was Fairview Properties and would have required a drive to their location. Ms. Gray reminded that a verification of receipt of the letter is not required. All that is required is a Certificate of Mailing provided by the post office saying it was sent. All owners around the house with whom successful contact was made were in full acceptance of the deck. Ms. Gray also explained that while the Board of Zoning Appeals has their rules of procedure, they are trumped by the statutory rules of procedure. Mr. Barrow asked if both churches are still active and as far as Mr. Dowler knows, they are. Ms. Gray reminded the Board that only a mailing to the property owner address is required.

Ms. Sullivan spoke to her concern of setting a precedent. Mr. Dowler spoke to the circumstance of having waited a couple of months mid-construction over the concern of having to wait another month.

Ms. Sullivan made a motion to continue the case to the April 3<sup>rd</sup> meeting and require the petitioner only to provide Certificate of Mailing for the four remaining properties. Brian Alsip seconded. Passed.

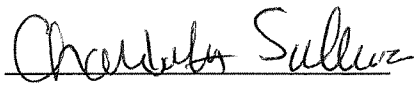
**Other Business**

**Adjournment:**

There being no further business, the meeting was adjourned.

Respectfully submitted this 3<sup>rd</sup> day of April, 2019.

  
Jim Martin, Chairman

  
Charlotte Sullivan, Secretary