

TOWN OF NEWBURGH
BOARD OF ZONING APPEALS
MINUTES MAY 26, 2015

MEMBERS PRESENT: Jim Moore; Anne Rust Aurand; Damien Scheessele; Kris Setzekorn
ADMINISTRATIVE PRESENT: Lori Buehlman, Town Manager; Chris Wischer, Town Attorney

CALL TO ORDER

Mr. Moore called the meeting to order at 6:12 p.m. after waiting to get a quorum.

MINUTES

Mr. Scheessele moved to adopt the minutes of the previous meeting, August 25, 2014. Mrs. Setzekorn seconded and the motion carried.

REPORTS

Town Council Liaison

Mrs. Aurand said the Planning Commission will need to reconsider the Wal-Mart rezoning request at its June 1 meeting, as the plat has changed.

The Town Engineer and Town Attorney have conducted preliminary condition inspections of the Country Store, 2 Gray Street and the former Treasures and Pleasures store.

Staff

Ms. Buehlman explained the rezoning request from the Town Council for 2 Gray Street. It is currently zoned C1 but the Council would like it zoned R1 to fit the Gray Street neighborhood instead of the State Street area.

She said the Country Store has new owners but the announcement will not be official for another two weeks.

She reminded members that the BZA is the hearing authority for appeals for code violations, as well as other duties.

NEW BUSINESS

Special Use Permit for 421 W. Water Street

Ms. Buehlman said the applicants, Gai and John Griese, notified adjacent property owners by mail or by hand delivery and she has documentation on all five neighbors' notices.

Mrs. Griese explained to BZA members that she operates a small shop in her home to produce granite cheese trays, painted wine bottles, etc. She sells her work up by Indianapolis.

She uses a press to grind and shine the granite and a sander to smooth the edges. She said she made a delivery of product last November and this past March. She said she works in the basement shop four days a month, never before 10 a.m. and not after 3 p.m.

Maggie Shively, 401 W. Water Street, remonstrated against the application, charging that a new door has been added to the home, in violation of an ordinance. The new door faces her front door and is only about 15 yards distant.

Ms. Shively said the saw noise bothers her and she needs to contain the noise from the shop. Mrs. Lynda Browne, another neighbor, said she doesn't hear the noise.

Mr. Wischer said the special use ordinance can be tricky for home occupations. He said performance criteria must be met in order to grant an application. None of the criteria may be waived, but the standards may be made more strict by the governing body. Restrictions can be imposed with the approval and approval may be granted with contingencies that must be met.

He said the noise would be an enforcement issue. If the BZA approves the application and the noise problem continues, the BZA would need to consider a solution. In order to comply with the ordinance, the noise from a special use business should not exceed normal residential noise.

Mr. Griese asked Mr. Wischer if workshops are ever permitted in residential areas. Mr. Wischer said there are cases where such are permitted.

Mrs. Griese said she has reduced her radio volume, as per Ms. Shively's request and the door in question is insulated. Mr. Griese said it was not installed as part of the workshop, but to allow access to a crawl space.

Mrs. Setzekorn said she would not vote in favor of the application if enforcement issues are likely in the future.

Mr. Scheessele suggested the neighbors work out some agreement and return with the application next month. He suggested the Grieses look into noise abatement equipment.

Mrs. Setzekorn moved to table the application. Mr. Scheessele seconded and the vote was unanimous in favor of tabling.

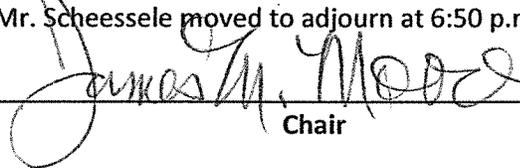
COMMENTS

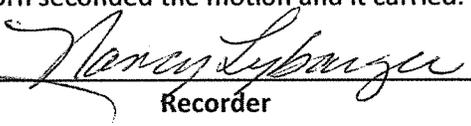
Mrs. Browne suggested the neighbors reach a compromise that allows them both to be satisfied. She noted the Grieses have tried to accommodate, as far as operating hours go. Mrs. Aurand asked if the Police Department has equipment to measure decibels.

Mr. Wischer said the burden is on the applicant to prove the noise level is no more than usual residential noise.

ADJOURN

Mr. Scheessele moved to adjourn at 6:50 p.m. Mrs. Setzekorn seconded the motion and it carried.


Chair


Recorder