

**LOWELL BOARD OF ZONING APPEALS MEETING  
JUNE 9TH, 2016**

President Konradi called the meeting to order at 6:40pm. The Pledge of Allegiance was recited. Recording Secretary Dianna Cade called the roll. Members answering the roll call were David Foust, Chris Van Dyke, and Jim Konradi. Sean Brady was absent. Also present were Town Attorney Nicole Bennett, Planning Consultant Jim Mandon, Town Manager Jeff Sheridan, Building Administrator Carl Ferro, Councilman Chris Salatas, Councilman Edgar Corns and 8 (eight) citizens.

**APPROVAL OF MINUTES**

Mr. Van Dyke made a motion to approve the May 12th, 2016 regular meeting minutes, seconded by Mr. Foust, and carried by voice vote of all ayes.

**PUBLIC HEARING:**

**BZA #16-017 – 5950 175<sup>th</sup> Ave., Lowell, IN, Therese Birkmeyer - Variance from Developmental Standards** – in order to erect a fence that is more than three (3') feet in height which is not allowed as stated in Ordinance §155.090(B).

Theresa Birkmeyer approached the podium and stated her name and address. She stated that we bought the house planning on putting up a fence for our dogs, our dogs can jump a 3' (three) fence easily and we did not know about the corner lot rule. Our situation is unusual in that our lot shape is odd shaped and the side street angles toward our property and the house is L-shaped. She further explained her hardship due to the layout of her lot and the backyard pond on the property.

Mr. VanDyke asked for clarification on the location of the fence on the copy of the survey that he has. Mrs. Birkmeyer confirmed the dashed line indicated the proposed fence. Discussion followed on the exact location of the fence. Mr. Konradi stated, the way the petition is worded you are only asking for a variance on the height of the fence, not the location. Mrs. Birkmeyer stated that is correct. Discussion followed on the variance requested on the petition. Attorney Bennett stated the variance is for 3' (three) in height. Mr. Mandon discussed the requirements for fences on corner lots. Mr. Mandon stated he is suggesting a compromise, to permit the 6' fence but not right to the property line, because of visibility issues and negative aesthetic issues to the house right to the north. Mr. Mandon discussed the issues relating to the hardship she has with this lot. Mr. Mandon is suggesting that a 6' fence be allowed but approximately 10' (ten) off the property line. Mr. Mandon explained the location to the petitioner.

Attorney Bennett stated to clarify her request, before the public portion is opened. It is for 3' (three) variance for the fence all the way around the property, staff recommendation is for a variation of ten' (10) in on the front yard portion. The consideration for the Board to her variance is to whether it will be granted or denied with any conditions.

The public hearing was opened. With no one to speak for or against the petitioner, the public hearing was closed.

Mr. VanDyke made a motion to approve the 3' (three) variance as set forth in the plat of survey as set forth with the condition that the front property facing Marion Dr. be moved in 10'(ten) from the property line, seconded by Mr. Foust and carried with a roll call vote of all ayes. Mr. Konradi stated to approve the variance as requested except to move the front portion of the fence back 10'(ten).

**VARIANCE APPROVED.**

**BZA #16-018 – 122 S. Union, Lowell, IN, James Baiel Jr., - Variance from Developmental Standards** – in order to construct an accessory structure with a side and rear setback less than what is allowed as stated in Ordinance §155.033(B).

Mr. James Baiel approached the podium and stated his name and address. He stated that he is looking for variances since his property is so narrow. He stated his existing garage is 1.5' off the west side of property and about 2' (two) off the north side of property. I do want to build a new garage where the existing garage is and I want to move it 3' (three) off the property line towards our property. He stated he has a 75' (seventy-five) pine tree in his yard which is impeding his moving the garage to conform with the setbacks. Mr. Konradi asked what the current size of the building is. Discussion followed.

Mr. Mandon read a portion of his staff report (see attached). He stated he feels the petition should be allowed the variance with the condition that it resembles the primary structure on the property.

The public hearing was opened. With no one to speak for or against the petitioner, the public hearing was closed.

Mr. VanDyke made a motion to approve the two requested variances, one being a rear setback of 12' (twelve) and two' (2) side setback with the condition that the exterior matches the primary structure, seconded by Mr. Foust, and carried with a roll call votes of all ayes.

**VARIANCE APPROVED WITH CONDITION REAR SETBACK OF 12' AND SIDE VARIANCE SETBACK OF 2' AND EXTERIOR OF THE NEW STRUCTURE MATCHES EXISTING STRUCTURES.**

**BZA #16-020 – 401 E. Hilltop, Lowell, IN, Levi Weirich, - Variance from Developmental Standards** – in order to erect an accessory structure that is bigger than is allowed and does not meet the rear setback requirement as stated in Ordinance §155.075(A)(a)(B)(a).

Mr. Levi Weirich approached the podium and stated his name and address. He stated that he is applying for 2 (two) variance for the size and for the location of the proposed structure. The proposed structure would be located on the side yard of his lot, but it is also the largest portion of his lot so it makes the most sense aesthetically to put the garage

there. It's also near his existing garage and would allow him to put in the least amount of asphalt as a second driveway and also he would not have to put in a culvert or any additional drainage on the perimeter. If I can come off my existing driveway, it will also face the front of my home. I am trying to keep the curb appeal to my property. He needs the storage for his classic vehicle, his kid's toys, and he also has a lot of woodworking equipment. It is a hobby of his and he would like to set up a small woodworking area where he can work on his hobby. With his existing garage he cannot do this, he just does not have enough room.

Mr. Konradi opened the public hearing.

Mr. Paul Palmer, approached the podium and stated his address is 409 E. Hilltop Ct., Lowell, 2 (two) houses south of Levi's house. He would like to know exactly where the building would be located. He was shown a site plan, and stated that he has no questions.

Mr., Dirk Port, 410 E. Hilltop, Lowell, lives across the street from Levi and he also wanted to see the site plan so he could see where the building was going to be located.

Mr. Konradi stated that we will not close the public portion of this meeting. He stated we will have to continue this meeting until next month or hold a special meeting. He stated that he has a conflict of interest with the client and he cannot vote on the petition, leaving only two voting members here so we have to continue the public hearing. Mr. Sheridan stated we will have to continue it until the next regularly scheduled meeting because we are not prepared to call a special meeting at this time and we would have to do it tonight. It will be next month before we have enough people to take a vote. Mr. Sheridan stated you will not have to re-advertise so there will be no extra cost.

Attorney Bennett stated that the next regularly scheduled meeting will be July 14<sup>th</sup>, 2016. Mr. VanDyke made a motion to keep the public hearing open, seconded by Mr. Foust and carried with a roll call vote of all ayes.

Mr. Konradi stated that your petition is continued until the next regular meeting.

**NEW BUSINESS:**

**COMMENT:**

**ADJOURNMENT:**

With no further comments or questions Mr. VanDyke made a motion to adjourn the meeting at 7:05 pm, seconded by Mr. Foust, and carried with a voice vote of all ayes.

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Jim Konradi, President

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Chris Van Dyke, Secretary