

**LOWELL BOARD OF ZONING APPEALS MEETING
SEPTEMBER 08, 2016**

President Konradi called the meeting to order at 6:35pm. The Pledge of Allegiance was recited. Recording Secretary Dianna Cade called the roll. Members answering the roll call were Jim Konradi, Chris Van Dyke, Sean Brady and Ryan Thiele. David Foust was absent. Also present were Town Attorney Nicole Bennett, Building Administrator Carl Ferro, Planning Consultant Jim Mandon, Councilman Will Farrellbegg, Councilman Edgar Corns, Councilman Christopher Salatas and three citizens.

APPROVAL OF MINUTES

Mr. Brady made a motion to approve the August 11th, 2016 regular meeting minutes, seconded by Mr. Van Dyke, and carried by voice vote of all eyes.

PUBLIC HEARING:

BZA #16-024 – 5534 Malibu Dr., Lowell, IN, Randall Blane, Parcel #45-19-24-251-013.000-008 - Variance from Developmental Standards – in order to erect an accessory structure that is not located in the rear quarter of the lot and is larger than what is allowed as stated in Ordinance §155.075(A)(1)(a)(B)(1)(a). Variance for location - structure proposed to be located in the front of the property.

Variance size - is 300' sq. ft. Allowed 200' sq. ft. structure is 500' sq. ft.

Mr. Randall Blane approached the podium and stated his name and address. He referred the Board to the survey that was attached with his petition. He stated that they had purchased the vacant lot next to them. Last year they fenced the property in and this year they are looking to put up a shed for storage of mower and other items. However, the allowed size of 199' (one hundred ninety nine) sq. ft. seemed a little tight and he was looking to make it a little bigger. He stated, judging by the utility locates, he would have to stick the shed pretty far out to get away from those and to put it more towards the front, still in fencing area to make it more convenient and not eliminate more space in the yard. Mr. Mandon asked the petitioner why he wanted to place the shed so far away from the principal structure. Mr. Blane stated it is just for storage and I did not want to have it so close to the house. Mr. Mandon stated but what it will result in, is that it is right next to the house next door. Mr. Blane stated we will be 10' (ten) or 15' (fifteen) ft. off the property line. Discussion followed on the location of the shed. Mr. Mandon stated you would only need one variance if you located the shed in the rear of the property. Discussion followed. Mr. Mandon stated that there has to be some sort of a hardship or reason why you need this. From a locational stand point there really is no hardship placing it here (he was indicating on the petitioners survey) in his opinion that is difficult to show. The size variance is a much easier hardship to indicate, since you have a lot of materials to store. Mr. Mandon stated that he is recommending to place the shed in the rear yard and ask for the size variance only. Discussion followed on the location of the shed. Mr. Blane stated that he would like to keep the petition as is and request the two variances.

Mr. Konradi asked the petitioner if he planned on making a driveway to the shed. Mr. Blane stated no. Mr. Konradi asked if the function of the shed was mainly storage. Mr. Blane stated yes and he has some side hobbies, one of which is that of restoring older vehicles. Mr. Blane stated that one of the vehicles that he is working on is currently stored in his garage and that would be moved to this structure to be stored, not worked on. Mr. Thiele asked if the fence went all the way across the front. Mr. Blane stated yes.

Mr. VanDyke asked for a clarification on what the recommendation from the staff was. Mr. Mandon stated it was to locate the shed in the rear quarter of the lot and if that was done the petitioner would only need one (1) variance. Mr. Konradi stated the petitioner is sticking to his original request.

Attorney Bennett asked the petitioner where the gates in his fence were. Mr. Blane stated there are two gates and indicated on the survey where the gates were located. Discussion followed.

Attorney Bennett asked the petitioner what the future use of the rest of the lot would be. Mr. Blane stated possibly a pool and a garden, and mostly for the kids and dogs to run around in.

Mr. Brady asked for clarification on the combining of the two lots into one. Discussion followed. Mr. Brady asked the petitioner how he was proposing to get the vehicle to the shed and that there was not going to be an access driveway. Mr. Blane stated that there was a double door gate that he would utilize and drive the car thru the grass, no driveway. Discussion followed.

Mr. Konradi opened the public hearing. Mr. Konradi read into record a letter that was sent by a remonstrator (that letter is attached to the minutes). Mr. Konradi stated that the letter was signed by J. B. Hall, member, and the letterhead was HB Property Mgmt LLC, with an address of 701 E. 137th Ave, Crown Point. With no one in the audience to speak for or against the petitioner the public hearing was closed. Discussion followed regarding the letter that was sent and the procedure of the re sub of the two lots into one lot. Mr. Blane stated there were 28 (twenty eight) letters in total sent and this was the only one received against correct? Attorney Bennett asked for clarification from the petitioner. Mr. Blane stated the certified letters. Attorney Bennett stated so that the record is clear; the letters were sent to 28 (twenty eight) property owners within 300' ft. (three hundred) of your parcel. Mr. Blane stated that is correct. Attorney Bennett, stated which is required by ordinance and state statute. Attorney Bennett stated as a remonstrator, the letter was written that Mr. Konradi has read into record. These are two separate issues, we have one remonstrator on this petition. Mr. Konradi stated that is correct. Attorney Bennett asked Mr. Mandon if he handled the re sub. Mr. Mandon stated yes.

Mr. VanDyke stated he wanted to be clear on why the petitioner does not want to move the shed to the rear of the property. Mr. Blane stated when the locates were done, they indicated a lot of underground utilities, it appears they are mostly cable. To go far enough

back to be out of the way of the utilities it appears the shed would have to be located close to the middle of the yard. Discussion followed on the location and amount of feet of his utility easements. Attorney Bennett stated that if you were to consider building in the easement, you would need a variance for that. Mr. Blane stated I am not considering building in the easement.

Mr. Thiele made a motion to approve the variance for #16-024 5534 Malibu Dr., 300' ft (three hundred) size variance and the location of the shed not being placed in the rear quarter of the property, with the condition that the 6' ft. (six) fence remains all the way around, that the exterior of the structure matches that of the existing primary structure and no driveway is put in, seconded by Mr. Brady and carried with a roll call vote with 3 (three) ayes, 1(one) nay. Mr. Konradi, Mr. Brady and Mr. Thiele voting aye and Mr. VanDyke voting nay.

VARIANCE PASSED

BZA #16-027 – Property located at 17645 Morse St., Parcel #45-19-23-253-002.000-008 - filed by Lowell Animal Hospital LLC, 28837 S. Yates Ave. Beecher, IL – Special Use Variance, in order to operate a Veterinary Clinic which is a special use in this zone (B2) as stated in ordinance §155.038(A)(3)(a). Decision to be forwarded to the Town Council.

Ms. Nicole Giese, representative for Lowell Animal Hospital LLC, approached the podium and stated her name and address as 28837 S. Yates Ave., Beecher, IL. Ms. Giese stated that we are looking to place an animal clinic at that location. It will be strictly medical, no boarding or grooming facility. The only animals that will be housed there on an overnight basis will be the ones that are under medical care. She stated there should not be a noise issue.

Mr. Brady asked the petitioner if the overnight animals would be inside. Ms. Giese stated yes. Mr. Konradi asked if there would be any outside kennels. Ms. Giese stated no. Mr. Konradi asked if they would be moving into the existing building. Ms. Giese stated yes.

Attorney Bennett asked if there were any proposals to changing or adding to the building at this time. Ms Giese stated no. Attorney Bennett asked if it was domestic animals ie: cats and dogs. Ms. Giese stated yes.

Mr. Mandon stated that staff recommendation is to support the petitioner. He stated the reasoning being that there are some uses that are permissible in this particular zoning that will cause many more problems for the surrounding properties than this one will. Mr. Mandon stated that he is recommending approval with the stipulation that no outside kennels or boarding of animals exterior to the building are allowed.

Attorney Bennett asked the petitioner her role with the LLC was. Ms. Giese stated a managing member and co-owner. Attorney Bennett asked the petitioner her position with the animal hospital. Ms. Giese stated practice manager.

Mr. Konradi opened the public hearing, with no one to speak for or against the petitioner the public hearing was closed.

Attorney Bennett stated you had provided a purchase agreement, so for the purposes of the interest of the Lowell Animal Hospital and this property, it is based on this purchase agreement. It was executed with it's addendums on August 3rd, 2016. Ms. Giese stated that is correct. Attorney Bennett asked Ms. Giese if everything was moving forward at this point. Ms. Giese stated yes. Attorney Bennett asked if they had a closing date. Ms. Giese stated no. Attorney Bennett asked if they had any anticipation on the closing date. Ms. Giese stated the end of October. Attorney Bennett stated obviously part of that is the condition of this being finalized I am sure. Ms. Giese stated yes.

Mr. Vandyke made a motion to send a favorable recommendation to the Town Council to approve the Special Use Variance with the stipulation that no outside kennels or no overnight boarding of animals, seconded by Mr. Brady and carried with a roll call votes of all ayes.

VARIANCE PASSED

FINDINGS OF FACT:

Mr. Konradi read into record the Findings of Fact for BZA #16-023 – 320 Tulip Lane, Lowell, IN, Kathy & Chris Salatas, - Variance from Developmental Standards – in order to erect an accessory structure (garage) that is located less than the 15' ft (fifteen) which is required for rear setback, encroaches on an easement and is larger than what is allowed as stated in Ordinance §155.075(A)(1)(A)(5)(a)(B)(1)(a). Variance – structure will be located approx. 5' ft. (five) into easement, size variance requested is 520' sq. ft. (five hundred twenty).

Attorney Bennett stated prior to asking for a vote on the Findings of Fact, I would like to point out two things and request a motion to amend the record. Attorney Bennett stated as set forth in the minutes and voted on at the last hearing. What was stated in the record by my calculations, which was in error, were some misplaced dimensions as to the specific variances. Specifically your approval was for 11'ft.(eleven) 4" in. (four) as the variance for the rear set back which in fact should have been 11'ft. (eleven) 6" in. (six) and 6' ft. (six) 8" in. (eight) was the approval for the variance within the 10' ft. (ten) eastment which should have been 6'ft.(six) 6" in. (six). The record is clear in sense to what the approvals are for in regards to the measurements of the placement as to what Mr. and Mrs. Salatas had set forth. I am asking for a motion to amend each of those measurements just for the record. The minutes and the Findings of Facts are correct. This is to correct the specific dimensions of a 2" in. (two) modification. Once again an error on my part not on what the intention of what this body was. To 11' ft. (eleven) 6' in. (six) as to the rear set back and 6'ft. (six) 6" in. (six) as to the variance relating to the construction within the easement. Mr. VanDyke made a motion to accept the amendment, seconded by Mr. Brady and carried with a roll call vote of all ayes.

Mr. VanDyke made a motion to accept the Findings of Fact, seconded by Mr. Thiele and carried with a roll call vote of all ayes.

COMMENT:

ADJOURNMENT:

With no further comments or questions, Mr. Brady made a motion to adjourn the meeting at 7:27 pm, seconded by Mr. Thiele, and carried with a voice vote of all ayes.

Jim Konradi, President

Chris Van Dyke, Secretary