

Village of Bellaire

Zoning Board of Appeals

Robert Massey, Chairman

Dan Bennett, Kevin Keiser, Lori Smalley, Colette Stanish

ZONING BOARD OF APPEALS MEETING MINUTES

April 13, 2015

1. **Call to Order:** Chairman Massey called the meeting to order at 7:00 p.m.

2. **Roll Call Attendance**

Present: Dan Bennett, Lori Smalley, Colette Stanish and Robert Massey

Absent: Kevin Keiser

Staff Present: Lori Luckett, Zoning Administrator

Also Present: Bryan Graham and Aaron Kirt

3. **Approval of Agenda:** The members agreed to reorder the agenda to move New Business Item c) "Training Session" after the approval of the agenda. The amended agenda was approved.

Motion by Bennett, seconded by Stanish, to approve the agenda as amended.

Motion carried by unanimous voice vote.

4. **Training Session:** Village attorney, Bryan Graham, was in attendance to review the responsibilities of serving as a member of the zoning board of appeals and the decision making process involved. Mr. Graham informed the members that they have the hardest job in small government because they make decisions that affect people's property. People who come before the zoning board of appeals are friends, relatives and acquaintances. He noted that because members live in a small community, the inclination is to want to help. Unfortunately, from a legal perspective, as a member of the zoning board of appeals, their job is not to be helpful, but to make the right legal decision. Mr. Graham explained that one of the functions of the zoning board of appeals is to hear requests for variance. This is an administrative function resulting in an administrative decision. If the decision is based on proper procedure and following the approval standards in the zoning ordinance, courts will "bend over backwards" to uphold the zoning board of appeals' decision if appealed. Mr. Graham went through the process for a hearing before the zoning board of appeals noting that it is much like preparing for trial - evidence is gathered, exhibits are noted. Members were advised that they are responsible for building a record that may be appealed to the courts. Mr. Graham explained that the types of matters that may be considered by the zoning board of appeals including interpretation of ambiguous language in the zoning ordinance, appeals of the zoning administrator's decisions; and requests for variance. He reviewed the two types of variances, use and dimensional, and explained when granting a variance may be appropriate. Mr. Graham cautioned the members that because there is a process for enacting the zoning ordinance, and granting a variance undoes that process, it may be more appropriate to amend the zoning ordinance rather than to relax a standard. Mr. Graham discussed conflict of interest and noted that each member has a constitutional duty to be an impartial decision maker. He advised the members to be careful about discussing a request outside of the meeting, noting that both sides of an issue may want to approach a member.

Mr. Graham reviewed the steps in the public hearing process and his sample application and findings of fact, explaining that it is important not to shortcut the process in order to achieve a particular result. According to Mr. Graham, the attorney's role is not to tell the board what decision to make; but to render a decision that is able to be defended.

5. **Approval of the August 12, 2014 meeting minutes:** The minutes were approved as written.

Motion by Stanish, seconded by Bennett, to approve the minutes of the August 12, 2014 meeting as written. Motion carried by unanimous voice vote.

6. **Public Comment on Agenda Items:** None presented.

7. **Old Business:** None presented.

8 **New Business**

- a) **Election of Officers:** There was discussion between the members about who would fill the respective positions. Chairman Massey asked whether there was a policy or procedure to change officers at the end of each year. Zoning Administrator Lockett said that there was not. After brief discussion officers were elected.

1) Robert Massey agreed to remain as Chairman. Bennett moved and Stanish seconded, to nominate Robert Massey for Chairman, to close nominations and to cast an unanimous ballot.

2) Dan Bennett agreed to serve as Vice-Chairman. Stanish moved, Massey seconded, to nominate Dan Bennett as Vice-Chairman, to close nominations and to cast an unanimous ballot.

3) Lori Smalley nominated Colette Stanish to serve as Secretary. Stanish graciously declined. Smalley agreed to serve as Secretary. Bennett moved, Massey seconded, to nominate Lori Smalley as Secretary, to close nominations and to cast an unanimous ballot.

Chairman Massey called the question on the nominations of the respective officers. The vote was unanimous.

There was discussion about providing notice of the newly appointed members to the board. Smalley inquired about the members and their terms. Lockett said that she would provide the terms of office for each member so they know when their respective term expires.

b) **Review of Zoning Board of Appeals Rules of Procedure**

There was discussion about information provided to applicants when requesting a hearing before the zoning board of appeals. Smalley requested clarification of conflict of interest. After discussion the board agreed to approve the rules as written.

Motion by Chairman Massey, seconded by Stanish, to approve the Zoning Board of Appeals Rules of Procedure without changes. Motion carried by unanimous voice vote.

- 9. Correspondence/Reports:** Zoning Administrator Luckett informed the members that Mary Campbell of M.C. Planning & Design had been retained to assist the village in updating the zoning ordinance. Ms. Campbell will be in attendance at the Village of Bellaire Planning Commission meeting on May 5, 2015 to review the timeline and update process. Luckett reported on the number and type of permits that had been issued since the beginning of the year. Luckett reviewed and reminded member of the training requirements for membership and explained that the MSU Extension training DVDs were available for member viewing.
- 10. Member/Public Comment:** None presented.
- 11. Adjournment: Meeting adjourned at 7:57 p.m.**

Minutes compiled by:
Lori Luckett, Zoning Administrator & Recording Secretary
Minutes are subject to approval.

Approved: _____
Robert Massey, Chairman

Date: _____