

CITY OF NORTHVILLE  
Board of Zoning Appeals  
Training Session  
January 27, 2014 – 7:00 PM  
City of Northville – Council Chambers  
215 W. Main Street

## 1. CALL TO ORDER

Chairperson Stapleton called the meeting to order at 7:08 p.m.

## 2. ROLL CALL

Commissioners:	Present:	Rolland Stapleton – Chairman Bill Lokey – Vice Chairman James Bress – Secretary Dominic Silvestri Ryan McKindles Sue Hooper
	Absent:	Patti Mullen ( <del>unexcused</del> ) John Callahan ( <del>unexcused</del> )
	Also present:	Sally Elmiger, Planning Consultant Cindy Winland, Crescent Consulting

## 3. TRAINING SESSION

**Motion by McKindles, supported by Silvestri**, to adjourn the Regular Board of Zoning Appeals meeting and reconvene as a Committee of the Whole.

***Voice Vote: Ayes: All. Nays: None. Motion Unanimously Carried.***

Cindy Winland of Crescent Consulting, Inc. introduced herself and described her qualifications to provide training to members of the Board of Zoning Appeals (BZA). She made a presentation, assisted by slides, which outlined the functions of the Board of Zoning Appeals and described the process the BZA follows. In addition, she detailed finding of fact procedures and how to apply the facts to the variance criteria in the Zoning Ordinance. Additional information was provided about crafting a motion and recording each member's evaluation of the criteria for that motion.

Notes of the presentation follow:

- The BZA is a quasi-judicial body. They Board determines ~~decide~~ if an applicant for a variance has met his burden of convincing the Board members of his case, so that the Board will grant ~~under what circumstances it is okay to break~~ the variance sought, which creates an exception to existing applicable the law.
- The functions of the BZA include the following:
  1. Interpretations of the Zoning Ordinance. ~~Do we always interpret it this way?~~
  2. Administrative decisions. Consider if ~~Should have~~ the Administrative Official should attend meetings and be in the room when the BZA is deliberating the decision in question.

3. Dimensional variances. This is a variance in dimensions set forth in the ordinances, and can be measured. ~~anything that can be measured.~~
  4. Use variances. Allows for a use that is not permitted under the law on the parcel. Can a use variance create spot zoning? It depends on how the parcel is Master Planned. Under a use variance, the BZA can approve a specific use (vs. re-zoning a parcel, which could potentially allow a number of new uses).
- Process for the Board of Appeals. ~~Just like~~ Similar to grocery shopping. There are Three main components:
    1. Look at findings of facts. What happened?
    2. Deliberate. What's important? Have to use the criteria in the ordinance.
    3. Make decision.
  - Findings of Fact. Anything that is considered a "fact" needs to be recorded in the minutes.
  - BZA is responsible for determining the findings of fact. Needs to determine if the information presented is factual. Only facts provided by City Staff and its consultants are facts. If needed facts are not provided, the BZA should identify ~~make~~ a list of the information needed, then table the decision to a specific date, and assign responsibility of obtaining the needed facts to the appropriate party.
  - What is competent evidence (or a fact)? Information that can be documented. Opinions are not facts.
  - Purpose of the public's input is to gather empirical facts, not opinions. The BZA can ask members of the public questions at the meeting to help uncover facts. However, a member of the public does not need to answer if they ~~don't want~~ desire not to.
  - Rules about Speaking.
    1. Avoid any judgmental statements.
    2. Physical characteristics. These are important regarding findings of facts as long as they are pertinent.
    3. Staff, consultant or agency reviews.
  - The BZA should have bylaws that describe how to address procedural questions, term limits, etc.
  - Minutes need to record what is "done," not what was discussed.
  - The BZA should not re-design "on the fly." ~~Need BZA is~~ to stick to the variance request. However, the BZA can create conditions for a variance as long as they relate to the criteria in the Zoning Ordinance. If the BZA does not place conditions on a variance at the time of the decision, it cannot place conditions on the variance as a subsequent meeting.
  - Variances ~~run with~~ attach to the property, not the owner or use.
  - Voting. Variances require either a majority of the membership (the whole board, not just those present at the meeting), or a 2/3 majority of the membership (again, the whole board, not just those present at the meeting).
  - If a variance request is granted after a request by a non-owner of the property, the variance still stands. Staff should vet the applicant to confirm ownership, or get the owner's written permission for the variance.
  - Dimensional variances have four court tests:
    1. Reasonable use of the property. ~~If we don't grant~~ this variance is not granted, is there any another reasonable use for this parcel? This test is not about money (more profitable use). It's about whether the ordinance requirement makes sense, as determined by a reasonable person.
    2. Substantial justice is done. Fairness question. Will the variance be fair to the applicant? The neighboring property owners? Others in this same situation? The future?
    3. Unique characteristics. Refers to the physical characteristics of the property. Examples: Change in road right-of-way width; overhead power line easement requirements, topography.
    4. Not self-created. Are they seeking "forgiveness"?
  - Conflict of interest. If a BZA member has a conflict ~~with~~ on a specific case
    1. They should ~~tell~~ report to staff about it before the meeting in case an alternate is needed.
    2. If the BZA member attends the meeting, they should recuse themselves at the time the case is heard, and leave the room.

3. Procedures can be added to the bylaws that allow a BZA member to reveal the conflict and ask the other members if they think it constitutes a conflict.
- BZA members ~~can~~ may be excused from voting on a case if they have a conflict. However, they cannot abstain from voting for any other reason.
  - Cases that are tabled must be tabled to a specific date. Otherwise, the case ~~need~~ must ~~to~~ be re-published and the process started ~~all-over~~ again. As if new.
  - If, during the deliberation, it becomes obvious that a smaller variance would meet the applicant's needs, the applicant must offer the smaller variance; the BZA cannot say "we will approve the variance if you reduce it from twelve feet to five feet."

**Motion by McKindles, supported by Hooper,** to adjourn Committee of the Whole and reconvene the Regular Board of Zoning Appeals meeting.

*Voice Vote: Ayes: All. Nays: None. Motion Unanimously Carried.*

The recording secretary was directed to distribute the notes of the meeting to the BZA members so that they could review them and comment on them before finalizing.

#### 4. ADJOURNMENT

**Motion by Silvestri, supported by Lokey,** to adjourn the meeting at 9:07 p.m.

*Voice Vote: Ayes: All. Nays: None. Motion Unanimously Carried.*

Respectfully submitted,

Sally Elmiger  
Recording Secretary