

PLYMOUTH BOARD OF ZONING APPEALS  
SEPTEMBER 3, 2019

The Plymouth Board of Zoning Appeals met in regular session at 124 N Michigan Street, Plymouth, Indiana on September 3, 2019 at 7:35 p.m. Board President Art Jacobs called the meeting to order for Board Members Mark Gidley, Alan Selge, and Keith Wickens. Board Member John Yadon was absent.

Board Members Selge and Gidley moved and seconded to approve the minutes of last regular meeting of June 4, 2019, as presented. The motion carried.

The following legal notice was advertised in the Pilot News on August 23, 2019:

**NOTICE OF  
PUBLIC HEARING**

The Board of Zoning Appeals of the City of Plymouth, Indiana will hold a public hearing on September 3, 2019 at 7:30 p.m. in the Council Chambers of the City Building, 124 N. Michigan St. (Garro St. entrance), Plymouth, Indiana on the following matters:

**BZA 2019-20:** Owner, Steve and Sherry Hahn, 316 Gilmore St. Hahn, 316 Gilmore St., Plymouth, IN 46563, Applicant, Roger Holston, P.O. Box 151 Walkerton, IN 46574: A Variance of Development Standards to allow a tasting room for a Koontz Lake Brewery, at parcel 503205102330000019 located at 529 N. Fifth St., Plymouth, IN 46563, zoned R-3, Traditional Residential District.

Information on these matters may be obtained at the office of the Clerk-Treasurer, 124 N. Michigan St., Plymouth, IN, and telephone #574-936-2124. Written objections to the proposal filed at the Clerk-Treasurer's office will be considered and oral comments will be heard. The hearing may be continued from time to time as may be found necessary.

If you are disabled and need special accommodations, please call the ADA Coordinator at 574-936-2948.

Abby Collins, Recording Secretary, Board of Zoning Appeals, August 23, 2019

August 23, 2019 PN304221 hepax.p

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allow a tasting room for a Koontz Lake Brewery, at parcel 503205102330000019 located at 529 N. Fifth St., Plymouth, IN 46563, zoned R-3, Traditional Residential District.

Plan Consultant Ralph Booker reviewed the findings of fact and the request from the applicant.

Wickens asked if this property has always been zoned R-3, residential. Building Commissioner Hammonds thinks it was changed in 2008 when the city-wide re-zoning went into effect. Booker said it has been commercial in the past and is currently being taxed by the county as commercial.

Applicant, Roger Holston of PO Box 151, Walkerton, Indiana, was present to discuss his request and answer questions. He explained that they have had a brewery located in Koontz Lake since 2014. They have grown substantially and are looking for another outlet for their brewery. He noted that this is a tasting room, it is not a bar or club that stays open late at night. They make a German-style beer and will also offer imported wine tastings as well. The plan is to be open no more than 5 days per week. Services includes tasting and purchasing beer as well as a full-service restaurant.

Booker asked how many employees he plans to hire. Holston said between 3 and 5. Booker asked how many he plans to employ in five years. Holston said 3 and that there is no intention to expand at this location other than maybe an outdoor patio to be utilized in the summertime. Booker asked about the hours of operation. Holston said they are initially planning to be open from 4:00 p.m. until 10:00 p.m. on Thursdays and Friday, 12:00 p.m. until 10:00 p.m. on Saturdays, and 12:00 p.m. until 6:00 p.m. on Sundays.

Gidley asked about the open carry law in relation to purchasing a growler. Holston said the growlers are sealed, tagged, and cannot be opened on the property. The federal government regulates this and therefore it is not an open container.

Jacobs offered the privilege of the floor to the board members and the public.

Tammy Baca, 920 W Madison St, voiced her disapproval of the request. She had concerns about school bus safety, traffic, and parking.

Booker read the following written (e-mail) correspondence:

Since I am unable to attend tonight's meeting, I am offering my comments. I have no objections to allow a tasting room for Koontz Lake Brewery Co. I am anticipating an improvement to the building, and the grounds, and hoping for a viable business in this location.

Sincerely,  
Rebecca Atkins  
802 W Jefferson  
Plymouth, In

Greg Compton, 703 N Michigan Street, said he does not have an opinion one way or the other, but offered information regarding tasting rooms. He frequents tasting rooms with his son and spoke of the nature of the clientele. Compton said it is not a bar where people go get drunk. He said the majority of people frequenting tasting rooms are travelers who seek out these establishments to simply taste a variety of beers.

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Selge clarified with the applicant that will not be opening until 4:00 p.m. on weekdays, so there should be no concern regarding school bus traffic.

Benjamin Oviedo, 800 Lake Avenue, who owns property near this location, said his biggest concern was the environment of the establishment and clientele who would frequent the tasting room. After hearing that it is not a bar that will be open late, he said he does not have a problem with the request. His only request of the board is to mandate that they must close by 11:00 p.m. since this is a residential area with families nearby.

Gidley asked if the brewery is advertising and trying to attract visitors from outside the area. Holston said yes. He feels the antique store next door will benefit from this. There is quite a large following of people who seek out breweries and tasting rooms as a hobby.

There were no additional comments.

**Motion:** Approve application with the stipulation that the business cannot open earlier than 4:00 p.m. on weekdays and 12:00 p.m. on weekends and they must close by 11:00 p.m. on any day of the week.

**Moved by** Alan Selge, **Seconded by** Keith Wickens.

**Vote:** Motion carried by unanimous roll call vote (**summary:** Yes = 4).

**Yes:** Mark Gidley, Greg Compton, Keith Wickens, Art Jacobs.

Next, Booker reviewed his recommendations regarding the establishment of rules and procedures for the Plymouth Board of Zoning Appeals:

### **Plymouth BZA Rules of Procedure**

#### Filing of Proposals

Proposals to the Plymouth Plan Commission shall be submitted to the Plan Commission Office, City of Plymouth Clerk's Office, 124 N. Michigan Street, Plymouth, Indiana, 46563, until the end of the day on the 15th day of the month or the previous business day. The Proposal shall be submitted on the appropriate forms as provided at the Plan Commission Office for:

- Variations of Developmental Standards
- Variations of Use
- Special Uses
- Administrative Appeals

Proposals must include a site plan, legal description of the property, and any other pertinent information necessary to review the matter. The BZA shall hear each proposal filed within 60 days of its filing.

#### Notice of Hearing

The BZA shall give notice of public hearings at least 10 days prior to the date set for the hearing by legal notice in the Pilot Newspaper. The Plan Director shall also send a notice of a public hearing to abutting property owners and other persons he deems to have an interest in the matter by regular mail prior to the hearing. The cost of the legal advertising shall be paid for by the BZA.

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Staff Report

The Plan Director shall prepare the agenda for the regular BZA meetings and submit a written staff report on each proposal at least 5 days prior to the BZA members.

Conduct of Hearing

1. Appeals before the BZA will be heard in the order of filing, except, at the discretion of the Plan Director, cases involving the same property or owner may be heard in sequence.
2. The President or presiding officer shall introduce each proposal and may request a report from the Plan Director on the proposed matter. The President shall then allow the petitioner, or his representative, to present the proposal. The BZA shall not take action on a proposal if the petitioner or an agent of the petitioner is not present. The presentation of the proposal shall be limited to 5 minutes, unless otherwise permitted by the BZA.
3. If there are any questions by the BZA, they may ask the petitioner prior to the opening of the public hearing.
4. The President will entertain a motion to open the public hearing, and if approved, will open the hearing.
5. The President will recognize persons interested in speaking in favor of the granting of the proposal. Those persons will be given 5 minutes each to speak unless otherwise permitted by the BZA.
6. The President will then recognize persons interested in speaking against the granting of the proposal. Those persons will be given 5 minutes each to speak unless otherwise permitted by the BZA.
7. Statements by a group representative of an area or interest in the matter shall be given by a representative of that group. Additional comments by members of that group will only be heard if they represent another point or new information.
8. The President may permit the petitioner to answer any questions or offer rebuttal to comments made by the public. The petitioner will be given 5 minutes to do so unless otherwise permitted by the BZA.
9. The President may permit additional comments from the public as necessary to clarify any issues. Those persons will be given 5 minutes each to speak unless otherwise permitted by the BZA.
10. The President will entertain a motion to close the public hearing, and if approved, will close the hearing.
11. The President will then allow the BZA to discuss the proposal and entertain motions for approval, denial, or other recommendations.
12. The voting by the BZA shall be in alphabetical order by last name except for the President, who shall vote last.
13. A majority vote by at least 3 BZA members is required to act on a case.

Findings of Fact

On each proposal that requires certain written findings by Ordinance or State Code, the BZA will complete the appropriate Findings of Fact form as required. For a

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proposal to be approved, at least 6 members must find that all requirements for that request have been met. The Plan Director will keep all signed Findings of Fact forms in that case file.

Action by BZA

Action on proposals before the BZA will be in accordance with Indiana Code, 36 series, and other appropriate laws. Approvals, action, and recommendations require the vote of at least 6 members. If a petition is denied, it will not be considered again by the Commission for a period of 1 year from the date of denial by the BZA.

Booker noted some errors where Plan Commission should state Board of Zoning Appeals, "he" should be updated to "he/she", and the quorum for BZA should be 3 not 6.

Board Members Wickens and Selge moved and seconded to approve rules of procedure with corrections as discussed. The motion carried.

In other business, City Attorney Surrisi discussed the city's plan regarding a dilapidated house located at 11190 Manor Drive and how the city and county can work together in the future in regards to properties located within the 2-mile zone. Surrisi stated that the county has more power to enforce regulations within the 2-mile zone than the city does. This is because those located within the 2-mile zone but outside the city limits are required to follow the city's zoning ordinance, however enforcement outlined in the zoning ordinance is limited and can only result in letters to property owners, accessing fees, and ultimately placing unpaid fees as a lien on a property. The zoning ordinance does not have provisions to take physical action on a property located outside the city limits. The city attorney and building commissioner are slated to speak with the county on September 19<sup>th</sup> at their regularly scheduled Unsafe Building Committee meeting. He invited the public in attendance with concerns about this property to attend that meeting and voice their opinions.

Gidley said he is glad to hear that the city and county will discuss how to handle the 2-mile zone. He feels the people living in this "grey" area have not been represented for many years and it is time to settle how cases will be resolved in the future.

Several representatives from the neighborhood spoke about their concerns including Pam Berry and James Stuckmeyer. Those concerned were instructed to attend the Marshall County Unsafe Building Committee meeting on September 19<sup>th</sup> at 9:00 a.m. at the Marshall County Building.

Commissioners Selge and Wickens moved and seconded to adjourn the meeting. The motion carried and the meeting adjourned at 8:39 p.m.

  
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Abby Collins – Recording Secretary