

PLYMOUTH BOARD OF ZONING APPEALS

February 6, 2024

The Plymouth Board of Zoning Appeals met in regular session in the Council Chambers of the City Building, 124 North Michigan Street, Plymouth, Indiana on February 6, 2024, at 7:40 p.m. Board President Art Jacobs called the meeting to order for Board Members Mark Gidley, Brandon Richie, and Alan Selge. Board Member Paul Wendel was absent. Alternates Linda Secor and Fred Webster were in attendance but not needed. Others present were Building Commissioner Dennis Manuwal Jr. and City Attorney Jeff Houin. The public was able to see and hear the meeting through Microsoft Teams.

Board Members Gidley and Richie moved and seconded to approve the minutes of January 2, 2024. The motion carried.

Deputy Clerk-Treasurer Williams Administered an Oath of Office to the following members:

- Mark Gidley
- Brandon Richie

Gidley explains that Wendel would like us to meet before the Plan Commission but our meetings sometimes run an hour or two.

Jacobs states the Plan Commission has meetings that also run an hour or two.

Gidley comments that there are five of us waiting for the meeting versus them. He states he called and talked to the Plan Commission President Doug Feece. He understands that Booker would like for this meeting to be first just so it would prevent the situation that just happened tonight where these people had to come back versus getting done in one night. He asks how many times a year do they run into that situation. He responds by stating he does not believe it is not often enough where it takes two months to get one applicant through.

Richie adds he is impartial.

Gidley states it was Feece's opinion that we should stay where we are at.

Board Members Gidley and Selge moved and seconded to retain the current schedule of the first Tuesday of each month at 7:30 p.m. or immediately following the Plymouth Plan Commission meeting. With the exceptions of the May meeting and the November meeting being changed to the following day as to match the Plan Commission. The motion carried.

Changes in Meeting Dates:

May 8, 2024 (Wednesday)

November 6, 2024 (Wednesday)

Other Business:

Manuwal states for the BZA 2023-25 variance, he will need a letter from the Board stating that in granting the variance his flood insurance could go up.

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Jacobs comments that they signed the Findings of Fact and Conclusions of Law provided to him tonight.

Gidley asks Manuwal if he has what he needs for the State.

Manuwal states he contacted the State and it is still in their hands. He states from their aspect, the applicant still cannot do anything, because they are waiting on a Wildlife Botanical Impact Review.

Jacobs states they can raise our rates if they want but they have the final say on yes or no. He explains that it seems weird to him that they would do anything to our constitutes because they made a vote to try to move something forward, even though they have the right to still turn it down.

Manuwal explains with the Board passing the variance, that you will still have to have something to provide to the property owner stating that his rates could be raised by up to \$25.00.

Jacobs asks for clarification that it is the applicant's rates in question. Manuwal agrees.

Gidley states they went ahead and did it with the knowledge that this might be a possibility.

Jacobs agrees and that the applicant may be rejected and whatever they did would not be valid. He asks Manuwal if he got around to reading the findings and conclusions of law. Manuwal agrees. Jacobs states that is what they agreed to and talked about.

Manuwal agrees that is what was agreed upon and states it was approved at the local level. He states you still have to present a letter and it has to be signed. He states he will need a copy to put with his documents whenever FEMA comes in to audit him.

Houin states he is not entirely sure the requirements he is referring to but he will get with Manuwal and figure it out.

Gidley asks while this is going on if there is any other activity going on in that building.

Manuwal responds by stating he is working on some stuff in there.

Gidley asks if it is with his approval. He asks if he is following the law.

Manuwal responds by stating he is skating the line.

Gidley states as a Board we went the extra mile so he would hope they would go the extra mile and follow your rules.

Manuwal states he spoke with him and they had asked what they were willing to do without a state release. He states he then informed him what he could do without a state release and he technically still needs his permit but as of this moment the permit is on hold. He states he is currently waiting for the DNR to release everything. He states he is finishing up the little bit of wall space that he has as he is not supposed to be changing any of the wiring. He states he has torn down the ceiling tiles

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and he has not touched the wiring in the ceiling. He adds that is why when you drive past you will see it dangling.

Jacobs states he heard they did find the flood gates for downstairs.

Manuwal responds by stating he has heard contradictions. He states he is aware they had communicated in some of the emails he was a part of that they were asking for an order of action in the case of a flood. He states the State requires that you have automatic flood gates and what he has are manual flood gates, so he has to have an actual procedure written up for when the water starts to rise. He states they are working on that and he is currently awaiting the State.

Gidley asks if those guidelines for the flood gates have to go through him first or the State.

Manuwal responds by stating that it all has to go through the State.

Gidley states he believes we went further than we were comfortable with and he believes that is worthy of the same kind of effort from their end communicating back to us.

Jacobs states it sounds like he is even though he may be on the edge.

Manuwal states the Architect is staying in communication with him but Harman is not. He states he has stopped in the building and he has not been there when he stops.

Gidley states in order to protect yourself and to protect the city that you would have to call him to set up an appointment to meet down there.

Manuwal states each time he stops in there, they are trying to finish up what he told them they can do without the CDR.

Jacobs asks how long it will take to get the CDR.

Manuwal responds by stating the State has released the plans, but he cannot issue a permit because of the DNR as it is in the floodway.

Jacobs asks how long it will take for the DNR.

Manuwal responds by stating when he first went in and spoke to Harman about it that he told Harman that it would be 3-6 months.

Jacobs states the last thing he would want to do is hinder a project by any means if they are accepting it as a project, they are behind. He states he is unsure if there is anything they can do to help with that or give them any ideas.

Manuwal responds by stating the only thing he can do is contact DNR to see where it is at. He states it is out of our hands at this point.

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Jacobs asks if Harman could contact the DNR. Manuwal agrees. Jacobs asks if he has a number to contact them. He states if he can do it then you shouldn't have to do it.

Manuwal responds by that Martin has the number and that he does not believe it is at a point where anyone locally can have control of it as it is at the State level.

Gidley states with the assumption that there is a lot more snow and then there was a quick thaw with the river increasing, he asks where we would be with FEMA and the DNR on that project if it was flooding.

Manuwal responds by stating right now as it sits, it would not affect it as nothing has happened. He states he has not really done anything as far as the structure. He explains he has added some division walls inside.

Jacobs asks upstairs or downstairs.

Manuwal responds by stating upstairs. He states he has done nothing that will be impacted by flood at this point. He explains he can't do anything until the State gives him approval to do this work in the flood way.

Jacobs states he gets confused when he says the State because the State has already approved everything.

Manuwal responds by stating the State Department of Natural Resources (DNR).

Gidley comments that the State's Building Department has approved what Harman is doing but the DNR has not.

Manuwal comments that he reaches out every once in a while, to find out where they are at to make sure they have not forgot to send him a copy of it as well.

Houin states he is aware Brent Martin is acting on behalf of the property owner and has submitted the applications. He states he believes Manuwal and himself are on the same email chain for that and there is a lot of documentation. He states he does recall flipping through that and finding a photo of the old flood gates installed so they did find them and have them. He states we will certainly keep in contact with them throughout this process.

Jacobs asks for the downtown ice cream shop if they are still making burgers in there.

Manuwal responds by stating as far as he knows, they are not.

Jacobs asks for clarification that they are not supposed to.

Manuwal responds in agreeance and states they were supposedly shut down because they were putting in a grill. He states he spoke with them mid-Summer and informed them that if they put a grill and a hood that they would have to have State release. He states nothing has been filed with the State.

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Jacobs states that's a big concern for him for the protection of a Firefighter. He states a fire in there would be very poor on us.

Manuwal states when he went in there, they were not grilling in there but rather in the alley. He explains they were dragging the grill out into the alley.

Jacobs comments they are not even allowed to do that. He asks if they have to get food permits, similar to the food trucks.

Gidley asks if they have to get permits from the Health Department.

Manuwal responds by stating that food trucks do have to get permits from the Health Department.

Jacobs asks if they have to get permits from anyone else to set one up and do it.

Houin responds by stating that has been an ongoing discussion. He states they should get a license from the city as a Transient Merchant. He explains it is in the same way as the temporary fireworks or Halloween stores do. He states there is not currently an enforcement process for that so they have been working through that.

Manuwal states on that note he will bring something up in the city code. He states they are allowed to set up for the Blueberry Festival and the Farmer's Market, but it says nothing about the Mayor's Month of Music.

Houin states another revision that the Clerk-Treasurer suggested is that they update the city ordinance to exempt them from any public events or festivals. He explains that would be things like Mayor's Month of Music, ARTS in the Street, etc.

Richie comments that he would like to suggest if you have to have someone to go and inspect that purple taco truck that parks down on Jefferson Street that he would gladly volunteer for that role.

Manuwal states he did tell them that we would eventually be enforcing the Transient License and they came in the next day to pick one up.

Houin comments they are currently in the process of educating the vendors so they are aware of the requirements.

Gidley states it is good that the public knows because each time he drives by one of those if they are actually legal. He states he is glad that we are publicly having this conversation with the media present.

Richie states last year it seemed like there was a new one every weekend.

Houin states they are legally required to have a Health Department permit and that is legally enforced by the Health Department. He states the city ordinance for the license requires them to

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provide a copy of that Health Department permit and also submit to a background check. He states they are simple requirements and it is rather inexpensive. He explains it is \$10/day or \$50/year.

Manuwal states when he sees one, that is he stopping and letting them know that they need to do this and trying to get everyone educated as it has not been enforced for however many years.

Jacobs states he did not really start seeing them in the city until Covid came around.

Gidley states the food truck phenomenon is not really new.

Jacobs asks for clarification on the early statement that you are not allowed to grill food in an alley and block one off unless you get an ordinance of some sort to do that. Manuwal agrees.

Gidley asks if all the construction behind that buildings up to code for the deck.

Manuwal responds by stating it is to the bare minimum code. He states there were some hurdles on that and when she comes back, she plans to do more to beautify it.

Gidley asks if she needs a variance. Manuwal responds by stating she does not. Gidley asks for clarification on the permitting process.

Manuwal responds by stating he told her what was required and was going over on a regular basis for a while.

There being no other business, Board Members Selge and Richie moved and seconded to adjourn the meeting. The motion carried and the meeting adjourned at 8:00 p.m.



Kyle Williams—Recording Secretary