

**MINUTES OF
RENSSELAER BOARD OF ZONING APPEALS
Conditional of Use Meeting 2023-05
Thursday July 13, 2023 at 6:30 PM CST**

I. Call to Order:

The members of the Rensselaer Board of Zoning Appeals met on Thursday, July 13, 2023 in City Hall Council Chambers. Board Chairman Stan Haines called the meeting to order at 7:00 PM CST. Building Commissioner, Joshua Davis was asked to proceed with roll call.

II. Roll Call:

Present: Chairman - Stan Haines, Scott Malone, Secretary - Rob Dobson, Jeff Rayburn and Building Commissioner - Joshua Davis

Absent: Chad Gutwein and Sean Cawby

Guests: City Attorney - Jacob Ahler, Mike Davis, Pama Schreeg, Pat Dykes, Ned Tonner, Rick Weinrank and Bob Schenk

III. Review and Approval of Past Minutes:

Chairman Haines presented the minutes from the last BZA Hearing 2023-05, held on Thursday June 8, 2023. Motion to approve was made by Malone, second by Rayburn.

Motion Passed.

IV. Old Business:

A. Amend the BZA Rules of Public Notice

Current rule for public notice states that each petitioner is responsible for providing the newspaper legal advertisement, ten (10) days prior to the public meeting. The proposed rule consists of that the Building Department will provide the newspaper legal advertisement ten (10) days prior to the public meeting, and split the fees amongst the petitioners.

B. Amend the BZA Rules of Due Notice

Current rule for due notice states that each petitioner is responsible for sending a notice letter of public meeting. This letter is sent via certified mail and to all surrounding residents of the petitioner's property within a 250 foot radius. The proposed rule will consist of the Building Department sending out the notice letter via first class mail to the surrounding residents within a 300 foot radius. The Building Department would also provide a yard sign to inform the community about the meeting. The sign would have to be displayed in the petitioner's yard for the fourteen (14) day duration and return the sign to the Building Department. A deposit fee will be required to ensure the sign is returned, and the petitioner will have 24-hours to report a stolen and/or damaged sign while it is in their possession. Chairman Haines entertained a motion for approval for both rule changes. Motion was made by Rayburn, seconded by Malone.

Motion passed.

V. New Business:

A. Conditional Use Application; Tonner Brothers, LLC.

Pama Schreeg, Attorney Ned Tonner, and Pat Dykes addressed the board regarding the petition to grant a Conditional Use for the sales of "Outbuilding and Storage Sheds" at 1106 N McKinley Ave. The petitioners stated that they had recently received a warning for their failure to obtain approval from the board, prior to NW IN Portable Buildings selling these types of structures at the property.

The largest shed that is sold on the property is a 16' x 44' (704 Sq. Ft.)

The Building Commissioner explained that this poses an issue with the Indiana Residential Code. Anything 200 sq. ft. or less is permitted to be installed on sleds; however, 200 sq. ft. to 720 sq. ft. requires a monolithic slab, and anything over 720 sq. ft. should have a traditional residential foundation. These structures require permits so that the Building Department can ensure they are placed and installed according to state building codes and local zoning. These types of accessory buildings are being placed too close to property lines and other structures, and are being used and advertised as garages when they have combustible floors.

Additional concerns raised by the department were that since the sheds for sale are right along US 231, they should be tied down or secured and the lack of inadequate visual clearance for vehicles crossing or entering the highway from the adjacent streets.

The petitioners stated that they did not secure the sheds because most of them weigh 2,500 pounds and they do not want to ruin the pavement by using anchors.

It was agreed that the Building Commissioner and Chairman Haines would go to the property Friday morning, July 14, 2023 and inspect the setbacks. It was agreed that Chairman Haines would have the final determination of the appropriate setback for the locations and report back to the property owners and NW IN Portable Buildings. The setback will be part of the Conditional Use, if approved by the Board of Zoning Appeals. Mr. Dykes also suggested that Ed White's property be inspected, to ensure the vehicles on their lot are not obstructing the view of the roadway.

Commissioner Davis also informed Mr. Dykes of the contractor registration that is required through the City of Rensselaer. After explaining that because NW IN Portable Buildings delivers or moves structures within the city limits, the contractor registration is required. After a lengthy discussion, Mr. Dykes insisted his company only sold the sheds, therefore was not required to register. Commissioner Davis disagreed because he is acting as the general contractor. His company, not the property owner, hires the independent contractor to install the structure. Ultimately, the board decided not to make registration a condition as part of their approval. It was the opinion of the board that NW IN Portable Buildings did not bear any responsibility to ensure local zoning requirements were followed. City Attorney Ahler confirmed that the property owner is ultimately responsible for the permitting.

Chairman Haines explained that in order to approve the Conditional Use, all members must approve the following paragraphs, following with a roll call vote.

*(This procedure for a vote includes 5 paragraphs; these are listed as items i. through v. on pages 18 in Chapter 28: Rensselaer Zoning Ordinance. If any one of these does not pass, then the application is denied). Commissioner Davis then read the following paragraphs...

Chairman Haines said having heard paragraph i., he would entertain a motion to vote.

- Scott Malone: Yes
- Rob Dobson: Yes
- Jeff Rayburn: Yes
- Stan Haines: Yes
- Sean Cawby: Absent
- Chad Gutwein: Absent

Chairman Haines said having heard paragraph ii., he would entertain a motion to vote.

- Scott Malone: Yes
- Rob Dobson: Yes
- Jeff Rayburn: Yes
- Stan Haines: Yes
- Sean Cawby: Absent
- Chad Gutwein: Absent

• Chairman Haines said having heard paragraph iii., he would entertain a motion to vote.

- Scott Malone: Yes
- Rob Dobson: Yes
- Jeff Rayburn: Yes
- Stan Haines: Yes
- Sean Cawby: Absent
- Chad Gutwein: Absent

Chairman Haines said having heard paragraph iv., he would entertain a motion to vote.

- Scott Malone: Yes
- Rob Dobson: Yes
- Jeff Rayburn: Yes

- Stan Haines: Yes
- Sean Cawby: Absent
- Chad Gutwein: Absent

Chairman Haines said having heard paragraph v., he would entertain a motion to vote.

- Scott Malone: Yes
- Rob Dobson: Yes
- Jeff Rayburn: Yes
- Stan Haines: Yes
- Sean Cawby: Absent
- Chad Gutwein: Absent

Chairman Haines made a motion to approve the Conditional Use application. Motion was made by Malone, seconded by Rayburn. Commissioner Davis proceeded with a roll call vote:

- Scott Malone: Yes
- Rob Dobson: Yes
- Jeff Rayburn: Yes
- Stan Haines: Yes
- Sean Cawby: Absent
- Chad Gutwein: Absent

Motion Passed.

B. Ruth Hammonds Permit Extension

Ruth Hammonds came before the Board to ask for a permit extension. It was not approved by the Building Department since there have been prior permit renewals on a single project, which was originally opened in January of 2021. The Board of Zoning Appeals approved the permit extension for 180 days - which will expire January 2024. Ruth Hammonds was told to contact Commissioner Davis prior to the expiration of the extension, if the project cannot be completed within the six (6) months.

VI. Adjournment:

Chairman Haines adjourned the meeting with a motion by Malone, seconded by Rayburn.

Motion Carried.

Meeting adjourned at 8:10 PM CST

Next Meeting: TBD

Minutes Prepared by: Plan Commission Secretary, Jessica Call