

BOARD OF ZONING APPEALS  
OF THE CITY OF DECATUR / MINUTES

February 6, 2018

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A meeting of the Board of Zoning Appeals of the City of Decatur, Indiana was called to order by Chairman Kitson on Tuesday, February 6, 2018 at 5:00 pm at City Hall, 172 N 2nd St, Decatur IN 46733.

Present at the meeting were: Steve Hakes, Greg Kitson, John Schultz, and Dave Haggard. Also in attendance were Tim Baker, City Attorney; Curt Witte, Superintendent Building/Zoning; and Sharon Braun, Assistant. Absent was Bill Stuckey.

Upon motion by Schultz, seconded by Hakes, the minutes of the previous meeting were approved as presented. Motion carried, 3-0.

Braun stated notices for the evening's open business meeting were posted on Friday, February 2, 2018 at the Decatur Public Library, the Adams County Courthouse, City Hall, and notice was printed as an article in the Decatur Daily Democrat.

Baker introduced Bob Eherenman, attorney from Fort Wayne IN, as representative for the city on two issues, that being –

- Mark Gambill, 839 N 10<sup>th</sup> St, Decatur IN 46733, lack of cooperation with restrictions placed by Special Exception to operate a home occupation
- Cottonwood Mobile Home Park, 521 S 13<sup>th</sup> St, Decatur IN 46733, lack of maintenance

Regarding the Gambill property, the home occupation was approved in January 2016. Since that time, Gambill's home occupation has grown into a full-time business. Gambill has acquired additional properties in the area on which he has parked vehicles pertaining to his business.

Eherenman stated the Board of Zoning Appeals (BZA) can enforce the restrictions which were initially put in place. The BZA can ask a judge (1) to enforce the terms of the Special Exception or (2) the BZA can try to revoke the Special Exception due to lack of compliance. Either way, the case will probably be resolved through the courts. However, it is more expeditious to enforce the terms of the Special Exception than to revoke.

Chairman Kitson asked for comments from the board. Karbach stated, Gambill also uses his additional properties for storage. Eherenman responded that using the additional lots for business is a zoning violation, the special exception granted his to use one location for his business.

Upon motion by Haggard, seconded by Schultz, the Board of Zoning Appeals authorized Eherenman to proceed as outlined. Motion carried, 3-0.

Regarding the Cottonwood Estates, 521 S 13<sup>th</sup> St, Decatur IN 46733, the property has greatly deteriorated over the years and holds many abandoned dilapidated mobile homes.

The property owner Nick Kos has not allowed the city to inspect the premises. Eherenman advised that under the unsafe building law, if the property owner refuses to comply, the city is permitted to perform inspections upon obtaining a warrant. Eherenman will contact Justin Wall, legal counsel for Kos, to ask permission for inspection. Depending on Kos's response, Eherenman will proceed with the next step.

Chairman Kitson asked Eherenman if action from the BZA is required; Eherenman replied no.

Eherenman explained that the unsafe building law is very stringent. The Health Department will be involved with the inspections also. However, the Health Department will be looking at sanitary conditions. The Building Department will be looking at building code violations. The Decatur Fire Department and Police Department will also be assisting with inspections.

Baker expressed his appreciation for Eherenman's assistance in representing the city in these two matters.

Mayor Meyer expressed concern for the families currently residing in the dilapidated mobile homes.

There being no further business to come before the board, upon motion by Schultz, seconded by Hakes, the meeting was adjourned at 5:40 pm. Motion carried, 3-0.

Respectfully submitted,

Sharon Braun  
Recording Secretary