

Burns Harbor Board of Zoning Appeals

Minutes of Tuesday, April 27, 2021

The Board of Zoning Appeals of the Town of Burns Harbor, Porter County, Indiana met in its regular session on Tuesday, April 27, 2021 in the Town Hall and virtually via Zoom. The meeting was called to order by Board of Zoning Appeals President, Bernie Poparad at 7:00 pm.

This meeting was made available to the public in accordance with Governor Holcomb's Executive Order 20-09. It was streamed on both Zoom and Facebook Live.

The Pledge of Allegiance to the American Flag was recited.

Roll Call:

Bob Crecelius	Via Zoom
Travis Dunlap	Present
Jim Meeks	Absent
Timothy Minier	Present
Bernie Poparad.....	Present

Additional Officials Present

Attorney-Michael Brazil
Building Commissioner-Rob Wesley
Secretary-Marge Falbo

Also Present

Sarah Oudman
Brad Enslin
Vic Roberts

Minutes

Minier makes a motion to approve the minutes of March 23, 2021. Dunlap seconded the motion.

Motion carried by all in favor vote.

Communication, Bills, Expenditures

None

Report of Officers, Committee, Staff

None

Preliminary Hearing

None

Public Hearing

Todd and Carlee Kobitz
Ruff Luxury Inn at the Dunes

Seeking a Use Variance to open an all-inclusive dog care facility which is not a permitted use in the Downtown District.

Seeking a Use Variance for a pole barn that has an existing Use Variance dated October 23, 2011 which has current owner conditions and sits on property they intend to purchase.

Poparad opens the Public Hearing.

Todd Kobitz: We want to build a 40 x 120-foot extension off the existing pole barn and then I want to attach another 40 x 40-foot area onto that for a retail space. It will all be connected. This existing building up towards the front closer to Highway 20 we're going to remodel that and make that into our dog grooming area and that will be connected too by a fence. We will have retail, daycare for dogs, overnight boarding for dogs, grooming, etc.

Poparad asks for public comment in favor.

Eric Hull
327 Village Square

I am here tonight on behalf of the Redevelopment Commission. I have spoken a little bit with the applicant and the Redevelopment Commission is currently considering some grant proposals or some other financial incentives for this property along with what they want to do. That would obviously be dependent upon whatever the Board decides tonight.

On a personal note I think it would be great to have them come in.

Poparad: I have a letter here from Kleckner Interior Service Systems and it says:

To whom it may concern,

We were informed a dog kennel service is interested in operating their business on the old Frain Insurance property. Please be advised that we have no problem with this and think that it is a nice addition to the Burns Harbor community.

Cordially,
Larry R. Kleckner, President
Kleckner Interior Service Systems

I believe everyone has been informed that we're having a meeting tonight.

Poparad asks for public comment in opposition.

Hull: I have a question that was brought by some constituents and they were curious about what will be done to reduce noise or any noise impact that would come from the quote I heard "30 dogs locked in a giant room barking." This came from two constituents.

Kobitz: Hopefully we'll have it insulated enough where you're not going to hear anything outside. It would be just like our existing business as it is right now. When you come there, yes, you can hear dogs barking but you can't really hear that far away. We have upwards of an average of between 80-90 dogs there during the day. Everyday. We have yet to have a complaint.

Brad Enslin
323 Sherman Avenue

This is a pole barn in a Downtown District. It's going to be a big one. We went through all the trouble of coming up with a Downtown District overlay which has facade standards of its own. Are these pole barns going to meet those...?

Poparad: Mr. Hull just said they could go get grants to meet the facade standards for the building for Downtown.

Enslin: I understand that but...we could get that. How is it actually going to be built? The second thing is what happens to all the dog waste. Is that going to go into the sanitary sewer? Is it going to be taken away to a landfill? What about all the hose off run off? Is it going to go into the stormwater or is it going to go into sanitary sewer— what happens to all that? 80 dogs? That's a lot. Dogs are relentless. So that would be my next question. My last question is if it's a Downtown District, is there outdoor runs or is it all going to be contained inside the walls or are there runs that the dogs can be let out into at certain times for exercise during the day or whatever. Because that to me would be kind of getting close to outdoor storage.

Sarah Oudman
321 Clifford Way

I am here tonight as a managing partner for Village Land Company who has commercial property in the Downtown District. I am not necessarily opposed to a dog kennel in a Downtown District, but I would object if the pole barn was not brought into compliance with the Downtown District's standards that exist including the transparency on the main level and the coverage of accessory building. As Enslin mentioned about the dog runs and I guess along with that since it is a Downtown District I hadn't thought about it, but will you have some kind of screening around that building as well? Like I said, I'm not opposed to the actual use necessarily, but I am opposed to not having it in compliance with the current Downtown District standards.

Hull: I have a question. We're only discussing a use variance tonight, correct?

Poparad: All we're talking about tonight is are we going to allow it and what are we going to do about Frain's old building that's there right now and basically which is going to go away. There was a variance on Frain's old building which was for storing personal items belonging to Frain and his family. He couldn't do anything else with it.

So tonight's Public Hearing is to decide if we are going to allow the dog kennel into the Downtown District and are we going to eliminate the use variance for Frain's old building so he can add on to that building. Is everyone clear on that? Building Commissioner McGraw is that what you figure too?

Building Commissioner McGraw: I just want to comment on a few things that people have said. From what we've seen so far, the preliminary drawings of what he's doing, you're not even going to know there's was a pole barn there after this is built. Right now we're just trying to bring in a new business into the Downtown District.

Yes, he is going to go with the façade and try and meeting as many standards as possible but we're not talking about any of that tonight, all we're trying to do is bring in a new business, a thriving business. I have personally been to Kobitz' place in Valparaiso and witnessed what he does there. It is very well kept. There are no dogs allowed outside at night. They are all kept in their own quarters. Inside the building that he's at now, when you walk in there you can't even tell it's a clinic because it doesn't smell. It's fresh, it clean. He keeps his building very clean. He is planning on keeping that location and expanding to Burns Harbor. As far as everyone that I've talked to and that was Curley's, Bebe's, the bar, were all excited that we're finally going to get something else that's going to draw people to the Downtown District. This will absolutely do that. He's done his homework and knows that this area is a good area. I have so far no issues. I have spoken with many of the local commercial owners and they are all for it too as you saw in the letter that you read tonight.

Enslin: All these commercial owners...the whole town is full of pole barns. That's all we've got along Highway 20 is pole barns. They're not going to object to another pole barn because they think that's the cat's meow.

Building Commissioner McGraw: Again, we're not here...the pole barn issue is going to be addressed. All he is trying to do is make sure that he's allowed to bring that business into the Downtown District. That's what we're trying to get done. What the pole barn's going to look like and what the entire building structure is going to look like is not what we're discussing tonight. When he goes to build, we will look at the drawings and we will make sure that they fit in compliance as best as possible or if we have to do variances, we will address them at that point. We're just trying to address that we've got a great business that's going to bring an income into Burns Harbor.

Vic Roberts

I am not in total opposition. Makes me feel better that you went and did some homework in visiting the existing facility. That is huge for me. Thank you for doing that.

I have a couple of questions. First of all, I thought I would be one of the owners within 300 feet. I was just curious how you guys check that because I do own land within 300 feet. I was not notified. Someone told me about it and that's why I'm here tonight. How do you guys police that?

Carly Kobitz: Can I answer that? I pulled up a map and went more than 300 feet because there wasn't that much around me (the property) and it would show me who was in that area. There were only seven.

Roberts: In the future I would like to be notified. In the past when I applied for a variance a surveyor or somebody would give me a map and they would draw the radius on there...

Carly Kobitz: Nobody did that for me, I did that all on my own. I had to ask somebody else how I was supposed to figure out who was in 300 feet.

Roberts: I hope that the Town will guide you to their building standards to build something that will meet what the Town is asking for. That would be my hope.

Building Commissioner McGraw: We did do our homework and we apologize for people that didn't get the letter but since becoming building commissioner I understand what it's like trying to figure out who owns what property, where and what...

Attorney Brazil: Roberts is here, so he has notification.

Roberts: I'm just saying in the future it would be nice to know. Like I said a surveyor would prepare a radius of the property so people would know who is within the 300 feet.

Attorney Brazil: In the future, the County GIS should be used to determine that, and it is the responsibility of the applicant not the Secretary or anyone on this Board.

Roberts: What if they're wrong? Then how do you guys know?

Building Commissioner McGraw: As Poparad said from the very beginning, this meeting is to allow Kobitz to come in with his business.

Roberts: Again, I'm not opposed to it. My uncle is a veterinary. He has kennels, been around them all my life, yes, they smell. Been to the dog pound in Porter County looking at rescue dogs for our family and yes, they smell. So, it's nice to hear you guys are taking good care of your stuff. Is there a maximum amount going to be required of dogs? Is there a limit that you allow as a Town? Is there any role that the Health Department has in this? Because there are going to be restaurants in the area. Are they going to be washing out of the ground or washing out into a drain? How is that going to affect future prospects for possible restaurants? Things like that. You have storm drainage for heavy rain, how does that affect the cleaning of their stuff. Does it go down the storm drains--things like that. And again, I'm not opposed to it. There are just questions I want to know. That's all. It's kind of a health hazard. That's all I'm getting at. I'm sure you guys know how to take care of that, but inquiring minds would like to know how you are going to deal with it. That's all and thank you for your time.

Poparad closes the public comment in opposition.

Todd Kobitz: We pick up the dog waste (feces) and put it in doggie bags and we put it into a dumpster, and it gets hauled away to a landfill. The urine, yes, we wash that out into ground. We use a wysiwash system. It's built specifically for dog kennels to kill bacteria, odors and things like that. We also have a deodorizer that we use. Everything we use is safe for animals and safe for the environment. We are in this for good animal care and good dog care.

I guess if we come here we'll have 50 kennels, that's our plan. I have travelled around the country doing dog training and visiting kennels. I have seen bad kennels. I've been to some that stink. The main thing is we pride ourselves on not smelling like a dog kennel at our current location. We have a lot of people come in for a tour any day of the week during normal business hours.

For the noise, at our current location, we do take the dogs outside to play but we have indoor playrooms as well. The dogs are not outside for an extraordinary amount of time and we don't have them outside carrying on. If you visit doggie day camps you will see many dogs outside running together, we don't have that. We'll do five or six dogs outside running around together playing and they are always supervised.

Also, the dogs are fenced in. I'd like to do a double fence to prevent the dogs from getting out. We have a fence screen that we put up that is eye appealing to the public and it's also better for the dogs because they can't see any distractions out there. We have tops for the kennels. Fenced in tops and we put screening over that as well so the dogs can't get out.

We are open from 8:00am to 6:00pm and the staff is there from 6:00am to 11:00pm. (These will be the same hours we'll have here.) Typically the last run happens between 9:00 and 9:30pm. Then the staff finishes cleaning up and they go home. We do not allow the dogs to be unsupervised outside.

Carly Kobitz: I'm going to circle back to the dog waste. We do as everybody does with their dogs. We picked up the poop and put it in the garbage. If you have another way to get rid of your dog's poop...that's what we do, we put it in the dumpster. We make sure it's always picked up all the time. That's what people do with their dogs.

Poparad: The only other thing I heard is the Health Department. You have no permits.

Todd Kobitz: When we opened ours, we went through Porter County and there is nothing regarding the Health Department in Porter County.

Carly Kobitz: We are located in a place where there are restaurants around us. We are a very clean facility.

Poparad: I don't know if any of you know where their current facility is located. They're at 55 Morthland Drive in Valparaiso. Stop in and have a look, I would do that.

I think we answered all the questions.

Roberts: Did you set a capacity for how many you will have at a maximum? My concern there is—let's say 20 years from now you guys sell the place and you won't have an owner that is as responsible as you. How can the Town control that? How will the town be protected down the road after you guys are no longer the owners? Is that a fair question?

Poparad: It's up to the Building Commissioner to say they are not in compliance with what you were allowed.

Roberts: I guess what I didn't hear is how many dogs would be the maximum.

Building Commissioner McGraw: As far as us saying how many dogs he is allowed to have, that is something we can research and look into. Right now that's in the air. We're just trying to get the business to be approved to come into our Town and then we'll work with all the numbers.

Attorney Brazil: This is probably something that needs to be stated but as the building commissioner was saying is that somebody would enforce compliance. This is a variance so there is nothing to go back on so we should address that issue.

Building Commissioner McGraw: If you're going to allow a business to come in I think you need to trust that business to be appropriate with their numbers and go from there.

Poparad: Discussion by the Board.

Crecelius: I have a couple comments. I think that Todd Kobitz has laid it out for us in a very logical way that makes sense for the Town. It seems they thought of a lot of angles that are being addressed tonight. They have a very successful business that they want to duplicate in our Town.

Regarding the number of dogs, I don't know what the Board feels but I want to throw this out there. Something in verbiage to not have an unreasonable number of dogs based on a totality and circumstances to show that the health and safety of the dogs is in jeopardy. Just my opinion on something if want to address like Attorney Brazil mentioned. That's all.

Attorney Brazil: That's a safe way of doing it. As long as it's something that we can interpret by either the building commissioner or the fire inspector. I think that's probably a good idea. It could cause problems if somebody wanted to push it, but I don't foresee it to be an issue.

Minier: Just remember why we're here. It's the fact of whether a kennel is going to go in the Downtown District. This isn't about getting into the nitty gritty with regard to the building. That will be taken care of separately. If we start trying to say how many dogs are going to be allowed, we are basically hamstringing the next step because if there are any changes that need to be done you're right back here again. It's inappropriate under the circumstances to go that direction right now and again going back to the business of whether we are going to allow a kennel to come in. As far as the second variance, I think it's a moot point after looking at everything here. So, it really comes down to just one thing, a kennel in the Downtown District. If we focus on that tonight I think that's where we'll find our solution.

Poparad: I thought long and hard about this. I think if we stick to what we have here, what the petitioner and the Public Hearing is for, we'll be alright. Then we'll look at the possible RDC grants to help them along. We'll get the façade standards in order with the building commissioner and the fire liaisons and go from there.

I just need somebody to make the decision about what we want to do, and we'll get the findings down and go from there.

Attorney Brazil: I think Minier was correct on the variance for the pole barn, that's moot. It's going to change the use of it, so we have to address that later. He'll need a new variance for that because he's not going to store Mr. Frain's stuff in that pole barn anymore. That will go away and a new variance will replace that for what he's going to do with it.

Poparad closes the Public Hearing.

Poparad: Let's hear what you want to say.

Minier makes a motion to approve the dog kennel being proposed be put into the Downtown District with a variance. Dunlap seconded the motion. **Motion carried by all in favor vote.**

Old Business

None

New Business

None

Good of the Order of the Community & Any Other Business

None

Announcements

None

Adjourn

Minier motions to adjourn at 7:50 pm. Dunlap seconded the motion. **Motion carried by all in favor vote.**

APPROVED on June 22, 2021

Bernie Poparad, President

Marge Falbo, Secretary