

Burns Harbor Board of Zoning Appeals

Minutes of Tuesday, June 22, 2021

The Board of Zoning Appeals of the Town of Burns Harbor, Porter County, Indiana met in its regular session on Tuesday, June 22, 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	Present
Travis Dunlap	Present
Jim Meeks	Present
Timothy Minier	Present
Bernie Poparad.....	Present

Additional Officials Present

Attorney-Michael Brazil
Building Commissioner-Jack MdGraw
Secretary-Marge Falbo

Minutes

Minier makes a motion to approve the minutes of April 27, 2021. Crecelius seconded the motion.

Motion carried by all in favor vote.

Communication, Bills, Expenditures

Poparad: We have a resolution regarding the participation of the Board members by electronic means of communication.

RESOLUTION NO. 2021-01

**A RESOLUTION OF THE BOARD OF ZONING APPEALS
OF THE TOWN OF BURNS HARBOR ESTABLISHING THE POLICY
BY WHICH MEMBERS OF THE BOARD OF ZONING APPEALS
MAY PARTICIPATE BY ELECTRONIC MEANS OF COMMUNICATION**

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WHEREAS, P.L. 88-2021 (HEA 1437), SEC. 5, amended IC 5-14-1.5-1 et seq. (Act), effective April 20, 2021 by amending IC 5-14-1.5-3.5 to prescribe new requirements by which members of the governing body of a public agency of a political subdivision may participate in a meeting by any electronic means of communication;

WHEREAS, a member of the governing body may participate by any means of communication that:

- Allows all participating members of the governing body to simultaneously communicate with each other; and
- Except for a meeting that is an executive session, allows the public to simultaneously attend and observe the meeting.

WHEREAS, the Act requires the governing body to adopt a written policy establishing the procedures that apply to a member's participation in a meeting by an electronic means of communication and may adopt procedures that are more restrictive than the procedures established by IC 5-14-1.5-3.5(d); and

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF ZONING APPEALS OF THE TOWN OF BURNS HARBOR, INDIANA.

- Section 1. (a) The provisions of the Act, including definitions, apply to this resolution.
(b) This resolution shall be known as the "Electronic Meetings Policy" of the Board of Zoning Appeals and applies to the Board of Zoning Appeals and any committee appointed directly by this Board or its presiding officer.
- Section 2. (a) Subject to Sections 3 and 5, any member may participate in a meeting by any electronic means of communication that: (i) allows all participating members of the governing body to simultaneously communicate with each other; and (ii) other than a meeting that is an executive session, allows the public to simultaneously attend and observe the meeting.
(b) A member who participates by an electronic means of communication: (i) shall be considered present for purposes of establishing a quorum; and (ii) may participate in final action only if the member can be seen and heard.
(c) All votes taken during a meeting at which at least one member participates by an electronic means of communication must be taken by roll call vote.

Section 3. (a) At least fifty percent (50%) of the members must be physically present at a meeting at which a member will participate by means of electronic communication. Not more than fifty percent (50%) of the members may participate by an electronic means of communication at that same meeting.

(b) A member may not attend more than a fifty percent (50%) of the meetings in a calendar year by an electronic means of communication, unless the member's electronic participation is due to:
(1) military service;
(2) illness or other medical condition;
(3) death of a relative; or
(4) an emergency involving actual or threatened injury to persons or property.

(c) A member may attend two (2) consecutive meetings (a set of meetings) by electronic communication. A member must attend in person at least one (1) meeting between sets of meetings that the member attends by electronic communication, unless the member's absence is due to:
(1) military service;
(2) illness or other medical condition;
(3) death of a relative; or
(4) an emergency involving actual or threatened injury to persons or property.

Section 4. The minutes or memoranda of a meeting at which any member participates by electronic means of communication must:

- (1) identify each member who:
(A) was physically present at the meeting;
(B) participated in the meeting by electronic means of communication; and
(C) was absent; and
- (2) identify the electronic means of communication by which:
(A) members participated in the meeting; and
(B) members of the public attended and observed the meeting if the meeting was not an executive session.

Section 5. No member of the Board may participate by means of electronic communication in a meeting at which the Board may take final action to:

- (1) adopt a budget;
- (2) make a reduction in personnel;
- (3) initiate a referendum;
- (4) impose or increase a fee;
- (5) impose or increase a penalty;
- (6) exercise the Board's power of eminent domain; or
- (7) establish, impose, raise or renew a tax.

- Section 6. (a) If an emergency is declared by:
 (1) the governor under IC 10-14-3-12; or
 (2) the Town Council president under IC 10-14-3-29;
 members are not required to be physically present for a meeting until the emergency is terminated.
- (b) Members may participate in a meeting by any means of communication provided that:
 (1) At least a quorum of the members participate in the meeting by means of electronic communication or in person.
 (2) The public may simultaneously attend and observe the meeting unless the meeting is an executive session.
 (3) The minutes or memoranda of the meeting must comply with Section 4 of this resolution.
- (c) All votes taken during a meeting at which at least one member participates by an electronic means of communication must be taken by roll call vote.

Section 7. This resolution shall be effective from and after adoption by this Board and compliance with IC 36-5-2-10.

PASSED AND ADOPTED this 22nd day of June, 2021.

**BOARD OF ZONING APPEALS OF
THE TOWN OF BURNS HARBOR**

Bernie Poparad, President

Timothy Minier, Vice-President

Robert Crecelius

Travis Dunlap

James Meeks

ATTEST:

Marge Falbo, Recording Secretary

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Dunlap makes a motion to approve Resolution 2021 01 establishing the policy by which members of the Board of Zoning Appeals may participate by electronic means of communication. Minier seconded the motion. Motion carried by all in favor vote.

Preliminary Hearing

Brett Kingdom and Sandra Purnell
286 Melton Road

Seeking a Developmental Standards Variance for an accessory building that is larger than what is allowed in an RC2 Zone.

I am Brett Kingdom and I would like to build a 32 x 40 garage on our property.

Poparad: Does everyone know where the house is located? They have made some serious improvements to it right now. It was abandoned for quite a while.

Building Commissioner McGraw: The only reason this was rejected is the size which is not allowed in a RC2 zone.

Poparad: Will it have siding and match the house?

Kingdom: Yes

Poparad: Is all the paperwork in order?

Falbo: All the paperwork is in order.

Minier: This will be for personal use and it's not for commercial? No businesses.

Kingdom: It's for personal use. No businesses.

Minier: I am assuming it's going to have access to Old Porter Road.

Kingdom: Yes, sir. There will be doors on both sides.

Meeks: What are you going to park in there?

Kingdom: My boat, vehicles, tractor.

Meeks: No semis.

Kingdom: No.

Meeks: A question for Attorney Brazil. Does the State of Indiana need to be notified because they are not on the list of neighbors?

Attorney Brazil: They have to be included as a property owner. They should have been notified.

Meeks: You will have to notify the State of Indiana.

Purnell: Who do you send that to?

Poparad: Building Commissioner McGraw see what they have to do because we're going to have other people with the same situation.

Building Commissioner McGraw: Yes, I will.

Crecelius: Will you be storing any hazardous materials in there?

Kingdom: No.

Poparad: Is the railroad on that list?

Meeks: I'm sure neither one of them (State and railroad) are going to respond but we need to make the effort to send them one.

Poparad: Right.

Meeks: Going forward let's make sure we notice everybody that's on the Highway because if Kingdom was going to put in a culvert he would have to have something from the State.

Poparad: That would be the two main ones (State and railroad) and those are the ones you don't think of.

Crececius makes a motion to set a Public Hearing for Brett Kingdom and Sandra Purnell on July 27, 2021. Meeks seconded the motion. Motion carried by all in favor vote.

Public Hearing

None

Old Business

None

New Business

None

Good of the Order of the Community & Any Other Business

None

Announcements

None

Adjourn

Meeks motions to adjourn at 7:15 pm. Minier seconded the motion. Motion carried by all in favor vote.

APPROVED on July 27, 2021

Bernie Poparad, President

Marge Falbo, Secretary