

**CITY OF NORTHVILLE**  
Board of Zoning Appeals  
March 5, 2014 – 7:30 PM  
City of Northville - Council Chambers  
215 W. Main Street

**1. CALL TO ORDER**

Chairman Stapleton called the meeting to order at 7:32 p.m.

**2. ROLL CALL:**

Commissioners:	Present:	Rolland Stapleton – Chairman James Bress – Secretary John Callahan Dominic Silvestri Sue Hooper
	Absent:	Bill Lokey – Vice Chairman (excused)
	Also present:	Jim Penn Sally Elmiger, Planning Consultant

**3. APPROVAL OF THE AGENDA:**

**Motion by Silvestri, supported by Hooper, to approve the agenda as published.**

*Voice Vote: Ayes: All. Nays: None. Motion Unanimously Carried.*

**4. MINUTES OF PREVIOUS MEETING: January 27, 2014 and February 5, 2014**

It was noted that Chair Stapleton submitted comments regarding the training session minutes; and emailed same to the Clerk's office, the other BZA members, and to Ms. Elmiger. No other comments were submitted. Ms. Elmiger said she received and accepted the comments regarding the minutes.

**Motion by Silvestri, supported by Callahan, to approve the minutes of the training session of January 27, 2014 as revised.**

*Voice Vote: Ayes: All. Nays: None. Motion Unanimously Carried.*

**Motion by Silvestri, supported by Hooper, to approve the minutes of February 5, 2014 as published.**

*Voice Vote: Ayes: All. Nays: None. Motion Unanimously Carried.*

**5. CASES to be heard – By Case:**

- A. Case is called.
- B. Appellant presents case.
- C. Board questions & comments.
- D. Public comments on the case.

- E. A motion (usually to grant the variance) is made and seconded; discussed then voted upon; the results are announced by the Chairman.

Case # 13-05  
MATTHEW & CAROLINE MOWERS  
131 RAYSON  
(Tabled-Returning)

**The applicant is seeking a variance for a pergola on premises zoned R-2, Second Density Residential District, parcel number 48-001-04-0652-004. The City of Northville's Building Official determined that a front-yard variance of nineteen and one-half (19.5) feet is needed from Section 15.01 of the Zoning Ordinance to allow the pergola in the front yard. As an alternative to the dimensional variance above, the applicant also requests a use variance to allow the pergola in the front yard.**

Discussion took place regarding whether or not it was a requirement to have all of the same Board members hear a case from beginning to end (i.e. if a case had been tabled.)

Ms. Elmiger read the following response from Cindy Winland of Crescent Consulting, Inc. regarding the question:

The law does not speak specifically to the issue of having all of the same members hear a case from beginning to end, however it does say:

Sec. 601 (6) The legislative body may appoint not more than 2 alternate members for the same term as regular members to the zoning board of appeals. An alternate member may be called as specified to serve as a member of the zoning board of appeals in the absence of a regular member if the regular member will be unable to attend 1 or more meetings. An alternate member may also be called to serve as a member for the purpose of reaching a decision on a case in which the member has abstained for reasons of conflict of interest. ***The alternate member appointed shall serve in the case until a final decision is made.*** The alternate member has the same voting rights as a regular member of the zoning board of appeals.

With respect to alternates, the same alternate that starts on a case must finish it. With respect to regular members, it is expected that they will attend every meeting, excluding the one replaced by the alternate. If a new permanent member is appointed and is necessary during the course of an ongoing case to establish a quorum, this is permitted since there is no other way to have the case completed.

The purpose of this language is to prevent alternates from being called in for specific meetings or decisions during a case and then permitting other members to step in later in the case. Each member of the ZBA is developing knowledge and opinions about the case. It is less fair to the applicant to change the composition of the ZBA in a case along the way, similar to the way a jury operates. Some people believe this is intended to prevent swaying the decision based on the person sitting on the ZBA during a meeting and others feel this is to establish consistency of the review of the case and within the group.

Member Silvestri commented regarding his understanding following a discussion with Ms. Winland. He said the direction remained unclear and he would prefer a legal opinion for clear direction

Member Callahan concurred that a legal opinion was a good idea, as he said his understanding of the explanation was different.

Chair Stapleton said he too was in favor of requesting a legal opinion regarding the matter.

**MOTION Silvestri, support by Callahan, to adjourn Case #13-05 until an legal opinion can be obtained from the City Attorney regarding the question relative to if a matter was tabled, do the same Board members that heard and voted on the tabling need to be present to un-table the matter.**

*Voice Vote: Ayes: All. Nays: None. Motion Carried Unanimously.*

**VI. PUBLIC COMMENTS (Limited to two minutes each person, not to exceed twenty minutes total time for all presenters – only on matters NOT on the agenda)**

There were no public comments.

**VII. DISCUSSION**

BZA CHECK LISTS

Discussion took place regarding a Board of Zoning Appeals check list to assist Applicants. Ms. Elmiger said the trainer supplied a sample check list for each one of the types of decisions that the Board of Zoning Appeals could make. Included was a check list for a dimensional variance; temporary buildings and uses; a use variance; and a final decision checklist. She said they used the model provided and inserted the applicable guidelines.

Ms. Elmiger mentioned that for each case, if the Board of Zoning Appeals decided to use the check lists, the top section could be filled out in advance with the applicable information.

Chair Stapleton noted his suggestion that the facts that are defined come only from the staff or consultants, and a reference to same should be included as a reminder.

A brief roundtable took place.

Discussion was held regarding the previous Planning Commission meeting, attended by Planning Consultant Wortman; and the memo from Mr. Wortman to the Planning Commission from the Board of Zoning Appeals regarding Two Front-Yard Setbacks on Corner Lots; and the Difference in Interpretation of Expansion of a Non-Conforming Structure. She said the Board of Zoning Appeals would be provided with the minutes of the Planning Commission held on March 4, 2014.

Regarding Mr. Wortman's memo dated February 14, 2014, regarding Accessory Structures in Front Yards, She said the Planning Commission took no action and did not want to change the Ordinance before the Board of Zoning Appeals took action on the case; also the Planning Commission pointed out that when they were considering garden ornaments, they were not considering something as large as the subject pergola, but something significantly smaller. She said it was indicated that if the Planning Commission were to consider the matter, it would probably not be addressing something of the size of this pergola.

Caroline and Matt Mowers expressed their understanding of the discussion held at the Planning Commission meeting held the previous evening.

Chair Stapleton thanked the Mowers for their input; and directed that any information regarding same should come from the Planning Commission itself.

Discussion took place regarding procedure relative to hearing the matter or not; and whether it should be up to the Applicant to postpone their case.

Ms. Elmiger noted a change in the fee schedule, made by the City Council in July of 2013. She said if at the meeting there was a legal quorum and the Applicant chose to wait, the Applicant would have to re-apply and pay the fee again.

The Board of Zoning Appeals discussed the check lists and said the forms would be helpful to everyone.

## **8. ADJOURNMENT:**

**Motion by Bress, supported by Callahan, to adjourn the meeting at 7:53 p.m.**

*Voice Vote: Ayes: All. Nays: None. Motion Unanimously Carried.*

Respectfully submitted,

Cindy Gray, Recording Secretary