



**BOARD OF ZONING APPEALS**  
**Minutes**

**Brownsburg Town Hall  
61 North Green Street  
Brownsburg, Indiana 46112**

**Monday, July 11, 2011**

The Brownsburg Board of Zoning Appeals convened at 7:00 PM with the Pledge of Allegiance. A roll call was taken.

Members Present: Chuck Walker, Al Wolting, Tom Lacey, Nick Welte, and Eric Willman

Members Absent: None

Also Present: Todd A. Barker – Director of Planning & Building;

**C. Consideration of Previous Minutes:**

1. June 13, 2011 – Regular Meeting

**Motion:** Eric Willman made a motion to **APPROVE** the April 13, 2011 regular meeting minutes, seconded by Tom Lacey, motion was carried 5-0.

**D. Approval of Findings of Fact**

1. **BZUV-5-11-1070** **Capper Use Variance** **401 N. Green Street**

**Motion:** Tom Lacey made a motion to **APPROVE** BZUV-5-11-1070, Findings of Fact, second by Al Wolting, motion was carried 5-0.

**E. Old Business:**

1. NONE

**F. New Business:**

1. **BZUV-6-11-1071** **Jennifer (Wilkerson) Garabrant** **32 Seumin Street**

A request for a use variance from 155.208 (B)(1) of the Brownsburg Zoning Ordinance, entitled "Permitted Uses" to allow residential as a permitted use on the property. This property is currently zoned 'C-3'. Represented by: Jennifer (Wilkerson) Garabrant

Jennifer Garabrant - 274 Thornburg Parkway, Brownsburg, IN 46112. Mrs. Garabrant explained she is having trouble selling her house with a FHA loan due to the zoning of the property. To her knowledge the property has always been used as a residence. It is currently zoned a C-3 and it would not be able to be rebuilt as a residential if something should happen to the house. She indicated that she has already had one sale fall through because of the zoning.

**OPEN ADVERTISED PUBLIC HEARING**

Stan Comer resides at 1 Heritage Place in Brownsburg, IN 46112. Mr. Comer is Jennifer's real estate agent. Mr. Comer indicated that they have had a couple sales for this property fall through due to the zoning of the property, when the under writing reviews the loan they see that it cannot be re-built as a residential property and they will not approve loan.

### **CLOSED ADVERTISED PUBLIC HEARING**

Chuck Walker commented Ms. Garabrant indicated in her application, she is asking for a refund of the application fee due to the zoning updates the Town initiated, would have changed the zoning of her property. Todd Barker explained there map, included in each members packet, of the proposed zoning changes along Main Street, including this property. Mr. Barker explained that Ms. Garabrant asked for a refund due to the fact the town would likely make this parcel a residential zoning classification when the zoning is updated. Mr. Barker stated that the board could make a recommendation, regarding the refund request, to the Town Council.

Tom Lacey asked if this was a new situation because of the housing market and new requirements from mortgages. Ms. Garabrant said that she did not have this problem when she purchased the home.

Tom Lacey asked the board if there will be more of these situations in the future. Should we take a look at this and get ahead. Todd Barker stated he has had a lot more calls from mortgage companies with this same issue, this year as opposed to previous years. Mr. Barker indicated that he is not aware of how many times the house has changed hands in the last 50 years but never had a problem before.

Al Wolting asked for clarification. The property is currently zoned C-3 and it is a residential home and they are requesting for a residential use? Todd Barker replied, the property is currently zoned C-3 and the area surrounding this property is all zoned C-3, however most are used residentially.

Tom Lacey asked Stan Comer if this type of request will satisfied the mortgage company. Stan Comer replied – yes.

Al Wolting asked if the variance is approved, will the property be able to be used as either a residential or commercial property? Todd Barker indicated that this property could be used either way, until a zoning amendment would take place.

**Motion:** Tom Lacey made a motion to **APPROVE** the variance **BZUV-6-11-1071**, second by Al Wolting, motion was carried 5-0.

Todd Barker stated the refund request letter would be presented to the Town Council for their consideration. Tom Lacey recommended the BZA take no-action on the refund request.

### **2. BZDV-6-11-1074 Starbucks Coffee Company 1085 N. Green Street**

A request for a Development Standard Variance from 155.257 (J) of the Brownsburg Zoning Ordinance, Entitled "Drive-Through Stacking" to reduce the minimum required vehicle stacking spaces from the order box. Represented by: Amy Comer Elliot, Attorney for petitioner.

Amy Comer Elliot - 71 W. Marion Street, Danville, IN. This property was developed many years ago, previously it was a Taco Bell and Starbucks bought it. Starbucks is an individual custom order restaurant, as compared to fast food "pre-made" restaurant. They do not have items ready for a customer, which could cause delays in the production of the product being served. Starbucks stated they did not realize they violated the section of the Brownsburg Zoning Ordinance by moving the board. In 2010 Chase Bank and Northfield Drive were under construction and it was impossible to get a accurate traffic analysis. Ms. Comer stated this allowed time for Starbucks to see if the moving of the board improved or did not improve the productivity line. The data does show that there is an increase in the productivity.

Scott McAdams resides at 42 Woofield Place Danville, IN. Mr. McAdams is the General Manager for Starbucks Coffee. Starbucks took a pro-active measure to improve their customer service.

Chuck Walker stated Starbucks should have known that a permit was needed.

Scott McAdams stated he has been working with Todd Barker and Jon Blake to make sure Starbucks is in compliance.

Tom Lacey stated he is concerned with the public safety issues.

Amy Comer stated the traffic study was done twice by VS Engineering. There has not been any stacking that has backed up onto a public thoroughfare. The drive-thru is in the rear of the building not in the front of the building and not by any major thoroughfare. Starbucks did not block the intersection behind Elegance Restaurant.

Scott McAdams stated 33% or 34% of the traffic comes from 267 the rest of the traffic comes in the rear entrance.

Todd Barker stated the zoning ordinance requires four (4) vehicles stacking spaces from the order box to the window; and six (6) vehicle stacking spaces from the call box to the end of the line without impeding on travel lanes or parking spaces.

OPEN ADVERTISED PUBLIC HEARING

CLOSED ADVERTISED PUBLIC HEARING

Amy Comer and Scott McAdams stated they are o.k. with the signage recommendations from staff.

**Motion:** Al Wolting made a motion to **APPROVE** the request for BZDV-6-11-1074, seconded by Tom Lacey; motion was carried 4-1.

**G. Reports from Officers, Committees & Staff:**

**1. NONE**

**H. Communications & Bills**

1. Todd Barker reminded the board that there will be a Comprehensive Plan Workshop Wednesday, August 3<sup>rd</sup>, 2011 and to please fill out a survey that is on the Town of Brownsburg's web-site.

**I. Adjournment: 7:43PM**

**Motion:** Nick Welte made a motion to **ADJOURN**, seconded by Tom Lacey, motion carried 5-0.

---

Eric Willman, President

ATTEST:

---

Dawn Brown, Recording Secretary