

BOARD OF ZONING APPEALS MEETING

JANUARY 14, 2013

The meeting was called to order at 5:30 p.m. by Acting Chairperson Becky Williams. Committee members present were: John Brown, Jason Decker, Eric Nicely, Jonathan Smith, and Becky Williams (5). Also present were Planning and Zoning Administrator Tom King and Deputy Planning and Zoning Administrator Brody Walters.

Mr. Nicely nominated Ms. Williams to be Chairperson. Jonathan Smith seconded and it was approved 4-0. Ms. Williams abstained.

Ms. Williams nominated Jonathan Smith to be Vice-Chairman. Mr. Nicely seconded and it was approved 4-0. Jonathan Smith abstained.

Jonathan Smith moved to approve the minutes of the December 19, 2012 meeting as written. Mr. Nicely seconded, and the minutes were approved 3-0. Mr. Brown and Mr. Decker abstained.

Ms. Williams welcomed Mr. Brown and Mr. Decker to the Board.

ADMINISTRATIVE APPEAL, 01-13 - Michael Smith of Mini Engine Repair requests one (1) administrative appeal concerning the use of an outdoor wood furnace. The subject property is located at 217 W. Third Street and is zoned C-2 (Central Business).

NOTE: 1255.09 Performance Requirements

***(a)(5) Odors:** No malodorous gas or matter shall be permitted which is offensive or produces a public nuisance or hazard on any adjoining lot or property.*

***(a)(6) Air Pollution:** No pollution of air by fly-ash, dust, vapors or other substances shall be permitted which is harmful to health, animals, vegetation or other property or which can cause excessive soiling.*

1. The applicant is requesting an administrative appeal of the decision held by the Planning and Zoning Division that the continued operation of an outdoor wood burning furnace is in violation of one or more of the Performance Standards listed above.

Recommendation:

1. No recommendation provided.

Jonathan Smith said that he is not aware of any relationship between him and Michael Smith, the applicant. Mr. Nicely recused himself because of a business relationship he has with the applicant.

Mr. Walters stated that a notice of violation was sent to Michael Smith on January 15, 2012 regarding excessive smoke and odors relating to the use of an outdoor wood furnace at his business at 217 West Third Street. A second letter was sent on February 16, 2012 and shortly thereafter, the nuisance ceased.

Michael Smith, 28911 Georgia Road, said that there were complaints several years ago, the EPA came out, and they recommended he raise the stack. There are now two stacks so it is up about 25'. He said that since these recent complaints were received, he has waited longer in the season to use the furnace because the Day Care at the Church had their window opens. He said he does not burn anything illegal or burn oil; he burns untreated pallets and ash trees he gets from the City. Jonathan Smith asked what is different this year from last year. Michael Smith said that in the past he has tried to get the furnace going quickly and this year they are getting it started slowly, and they don't burn on Sundays. The Board reviewed documentation from the EPA provided by the applicant. Mr. King distributed information regarding outdoor furnaces from various websites. He said that he has not witnessed the heavy smoke and odor this fall; it has materially improved. He said if the applicant would agree to continue current operations, he would be willing to close enforcement on this matter.

Kevin Zychowicz from the First United Methodist Church Board of Trustees said that the church as a whole has no problem with the furnace. He said that they have had some complaints in the past, but they have no opposition with the current operations of it. Kevin Rantanen, 113 Silver Maple Drive, said they he hopes they are allowed to burn wood. He said it sounds like the problem is not as bad as it used to be, and he has never witnessed the smoke. City Councilman Joe Lawless said that he is very much against prohibiting the use of this wood burner.

The applicant withdrew his request for the Administrative Appeal. Mr. King said that he would close enforcement based on the improved operations and lack of complaints. He said no further action is necessary.

There being no further business, Jonathan Smith moved to adjourn the meeting. Mr. Nicely seconded and the meeting adjourned at 5:59 p.m.

Respectfully submitted,

Mary Jo Sutton