

**Beech Grove Board of Zoning Appeals**  
**July 6, 2011**  
**Meeting Minutes**

Jennifer Henry called the meeting to order at 1:05 p.m.

**ROLL CALL:** Attending was Board members Jennifer Henry, Julie Weaver and Robert Maloof. Also in attendance was Melanie R. Mullens of the Indianapolis Division of Planning, City Attorney Brian Bosma and Clerk Treasurer Chris Duffer.

**READING OF MINUTES:** The June 1, 2011 minutes were read and approved by voice vote.

**RULES OF PROCEDURE:** Brian Bosma read the rules of procedure and swore in those giving testimony at the meeting.

**UNFINISHED BUSINESS:** None

**REHEARD PETITIONS:** Petition 2010-UVB-005 was reheard today. City Attorney Brian Bosma reminded today's witnesses that the matter before the board concerned the rezoning of the premises at 242 S. 4<sup>th</sup> and not the original school at 222 S. 4<sup>th</sup>.

The petitioner, Michelle France, of 242 S. 4<sup>th</sup> was called to the podium. She stated that all notifications had been redone. She further explained the details of her paperwork and notices and addresses that have been notified. She told of a document that parents have signed instructing them in the proper pickup and drop-off location in front of the building, not in the alley. She presented this document as evidence. More information was given as to the nature of the use of the premises and the parking situation.

The first remonstrator was Mr. David J. Duncan of the law firm Bose McKinney and Evans LLP, 111 Monument Cir. Suite 2700 representing Ms. Kathy Sturdevant. Mr. Duncan reminded the board that since this matter is being reheard prior information received is not to be considered. He further reminded that there are five specific findings of fact that must be met for the board to either grant or deny the petition, and he proceeded to enumerate them. He explained his client's position that the rezoning of this property would have a deleterious effect on the integrity of the neighborhood and gave several examples to support this position. He also stated that students from the school at 222 S. 4<sup>th</sup> have been observed walking down the alley to complete tasks assigned to them at the property in question (242 S. 4<sup>th</sup>). He explained that part of the petitioner's agreement were 5 conditions. One was there were to be no changes to the structure and that the roof had been changed from a flat roof to an A-frame roof. Another was no signs to be erected on the premises, and they contend signs have been erected. He entered into the record a petition by surrounding neighbors and an accompanying map.

The next remonstrator was Mr. Leonard Lucas of 201 S. 5<sup>th</sup>. Mr. Lucas stated he lives right on the corner and when the traffic comes through the alley they travel too fast. He further stated he would like to have speed bumps installed.

The next remonstrator was Ronette Spurgeon of 237 S. 5<sup>th</sup>. Ms. Spurgeon stated she is against the expansion of the school and her neighborhood being changed into a commercial area.

The next remonstrator was Jamie Klinge of 233 S. 5th Avenue. She would like her neighborhood to remain a residential neighborhood. She is opposed to the expansion of the Montessori school.

The next speaker was Rose Stultz of 238 S. 4th Avenue. She spoke in favor of the school. She stated that, unlike on Fifth Street, on Fourth Street the houses are not full and that the school is preferable to more renters. She gave examples to support her position. She further stated that the children are not a bother to her, rather she enjoys them.

The next speaker was Debbie Springer of 238 S. 5th Avenue. She likewise spoke in favor of the school. She explained that she was on the safety committee and that the parking issues that have been raised concerned the original school at 222 S. 4th Avenue, not the property in question at 242 S. 4th Avenue.

Mr. David Duncan spoke again and addressed the parking issues that had been addressed by Ms. Springer stating this was another example of the increased use of this property that would be granted by this variance.

The chairwoman of the board, Ms. Henry wanted to clarify that this was a continuance and consequently previous testimony could be considered or whether this was a new hearing in which case additional testimony would have to be given because that which was heard before is not to be considered. City attorney, Brian Bosma, took a moment to examine the minutes from the previous two meetings and concluded that the decision was rescinded not the petition, therefore previous testimony could be considered. Mr. Duncan respectfully disagreed with Mr. Bosma's assessment and in light of that decision wanted to bring forward information about David Kingen, who represented the city in the original matter, had recommended approval of the original request. However, Mr. Kingen had had a prior business relationship with the petitioner and consequently his original approval should be stricken from the record. Ms. Henry clarified with Mr. Duncan that Mr. Kingen was a representative of the city and has therefore represented several people in the city concerning zoning issues.

At this point Mr. Bosma requested a 10 minute recess so that he might check with the attorney that attended the meeting last month. Ms. Henry called for a 10 minute recess.

Upon recommencement Mr. Bosma stated that he had a conversation with the other attorney and she had concurred with Mr. Duncan's assertion that this was a new hearing. He further clarified that Mr. Kingen's comments are not included in the original paperwork and therefore would not be included in this hearing. However the original petition and findings of fact and attachment D with the five conditions are still part of the record.

Melanie Mullens with the Indianapolis Division of Planning gave the staff report and stated that at the June meeting the previous decision was rescinded due to lack of proper notice. Staff does recommend denial of this petition as it is not in step with the comprehensive plan. Staff further does not believe there is an unusual and unnecessary hardship. Staff believes that if there is any expansion of the school it should be carried out at the site of 222 S. 4th Avenue.

Michelle French came to the podium for her rebuttal. She stated that the current petition request is so that they may raise money to expand the current school. This is the reason for the petition and in this regard creates a financial hardship situation. She explained that the roof change was not at the new location of 242 S. 4th Avenue rather that construction took place at the original school, 222 S. 4th Avenue. Nothing has been changed at 242 S. 4th Avenue. She reiterated that

at no time are any children older than 36 months taught or housed at this location. She referred to a state document that licenses the location and limits her to 12 children. She stated there was a small sign affixed to the premises itself that designates it as the "cottage". She enumerated other steps she has taken in an attempt to be a good neighbor.

Ms. Henry questioned Ms. French and clarified that she was not intending to permanently expand the school to the new location. Ms. French answered "that is correct". Ms. Henry also clarified that on attachment D item number 1 that the temporary variance shall expire on 7/1/2013. Ms. Henry further clarified that Ms. French is claiming that the unusual hardship of the economy is the reason for this variance request. Ms. French replied yes.

Mr. Duncan spoke in rebuttal and reiterated their point about this being a deleterious change to the neighborhood. He further rebutted Ms. French's claim that this is an unusual economic hardship, he explained that this isn't really what she's talking about and case law would show this. He also stated that the provision for having no more than 12 children on the parcel at any one time cannot be monitored. He made a point that a sign has been erected which violates the original conditions.

Ms. Henry made a motion to approve variance 2010-UVB-005, including attachment D, reading each line of attachment D and added Line 6, "Any existing signs shall be removed from the premises." Ms. Weaver seconded the motion. During discussion, Ms. Henry clarified from Ms. French the nature of the older children visiting the new location to do laundry.

The vote was taken and it was "yes" unanimously, the variance was passed.

**SPECIAL REQUESTS:** None

**CONTINUED PETITIONS:** None

**NEW PETITIONS:** None

**MISC:** None

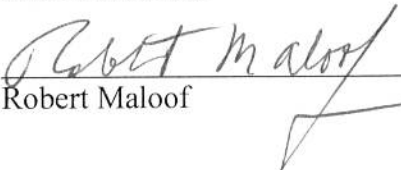
**COMMENTS FROM BOARD MEMBERS:** None

The next meeting will be on August 3, 2011 at 1:00 p.m.


**ADJOURNMENT:** Jennifer Henry adjourned the meeting at 2:41 p.m.

\_\_\_\_\_  
Jennifer Henry

\_\_\_\_\_  
Rick Greenfield

  
\_\_\_\_\_  
Robert Maloof

  
\_\_\_\_\_  
John Corbin

  
\_\_\_\_\_  
Julie Weaver

  
\_\_\_\_\_  
Chris Duffer, Secretary