

**BOARD OF ADJUSTMENT/PLANNING COMMISSION
CITY OF LAKE SHORE
CITY HALL
MINUTES
JANUARY 14, 2013
9:00 AM**

Dick Miles called the meeting to order at 9:00 a.m. Members of the commission present: Dick Miles, Dave Baldwin, John Ingleman and Tom Diemert; Council Liaison Susan Amacher; Zoning Administrator Teri Hastings; City Clerk Patti McDonald. Commission member Mark Nelson and City Engineer Mark Hallan were absent. There were 2 people in the audience. A quorum was present and the Commission was competent to conduct business.

Election of Officers – Dick asked if anyone was interested in the chairmanship of the Board of Adjustment. John Ingleman expressed an interest in the position.

DAVE BALDWIN NOMINATED JOHN INGLEMAN FOR THE CHAIR POSITION. TOM DIEMERT SECONDED THE NOMINATION. JOHN INGLEMAN ACCEPTED. MOTION PASSED UNANIMOUSLY.

DICK MILES NOMINATED DAVE BALDWIN FOR THE VICE CHAIR OF THE COMMISSION. TOM DIEMERT SECONDED THE NOMINATION. DAVE ACCEPTED. MOTION PASSED UNANIMOUSLY.

Dick Miles passed the gavel to John Ingleman.

MOTION BY DICK MILES TO APPROVE THE MINUTES FOR DECEMBER 10, 2012 BOARD OF ADJUSTMENT/PLANNING COMMISSION AS CORRECTED. DAVE BALDWIN SECONDED THE MOTION. MOTION PASSED UNANIMOUSLY.

PUBLIC HEARING – There were no public hearing items.

NEW BUSINESS – There was no new business.

OLD BUSINESS

Noise Issues – Michelle and Bruce Zirbes came before the Commission to further work through their noise issues from Zorbaz. Michelle reiterated that the noise from Zorbaz is a troublesome on Friday and Saturday nights particularly from 10:00 p.m. to 2:00 a.m.

Dick Miles thanked Michelle for all the documentation she provided to the Commission. He said it has given him a lot to think about. He is not familiar to the noise that is generated at the establishment. He would like to be able to deal with the concerns. He said that Michelle commented that there was not much of a problem in 2011. The liquor ordinance was in the process of possibly changing and it wasn't approved that year. Dick thinks that there should be some dialogue established between Zorbaz, the Zirbes and the City; he feels if Zorbaz can conform in 2011 they should be able to consistently abide.

Dave Baldwin asked what is the city councils opinion on this issue. Teri explained what the proposed changes to the liquor ordinance were in 2011. It was proposing to add the noise issue; it

wasn't approved. The city council asked that it go to Planning and Zoning and the Commission has the ability to hold a public hearing to make changes to the zoning ordinance; however, the council does have final approval.

John Ingleman asked if there is a nuisance noise ordinance for the city. This is the ordinance that is followed. When there are complaints it is monitored by the Police Department. John feels it is prudent to negotiate an agreement between Zorbaz and concerned neighbors. He thinks this is a reasonable first approach. Tom Diemert asked if the City has contacted Zorbaz about the issues. Teri said not formally, the Police Chief has talked with Lee Johnson at Zorbaz.

Dick Miles asked about the notes that Michelle supplied regarding the days and times of the instances. Two of the dates were live bands outside. He would like to establish a committee of a couple Commission members and someone from Zorbaz to move forward with an agreeable outcome to the objectionable noise. He would like to include the readings that the Police Department has recorded. Michelle said that it is always within the db levels allowed.

Teri Hastings said she has spoke with the City Attorney regarding changes to the ordinance and as we move forward he said it should not be subjective language. She said that the Chief and a couple council members should be involved on the proposed committee.

John asked which direction the Commission should go. Teri said that the committee could be appointed to come up with ideas to satisfy the Zirbes. Michelle said that they are willing to talk with Lee Johnson and invite him to the property. The Zirbes don't want to go through another meeting like the one in March of 2011 regarding the noise issues. She would like this done with integrity. Dick said he views this as a very difficult situation and wouldn't want them to think they are criticized for their nuisance concerns.

Teri said that Lee Johnson did change the direction of the speakers and she thinks it may have created more of an issue.

John Ingleman agreed that it's a thorny issue and would like to establish a committee to review the problem and come up with a resolution without an ordinance amendment.

Susan Amacher asked if there were other written complaints about the noise from Zorbaz. Teri said in the Zirbes information there were a few concerned neighbors. There haven't been complaints to Planning and Zoning. Susan said that ordinances are written to be flexible. She said a change may be considered when there is a group of written concerns (stressing – written) compared to one written complaint.

Michelle said that even if the neighbors aren't complaining theirs is a valid complaint. John said it would be useful if there were more formal written complaints. Teri thought that a neighborhood survey could be sent regarding the noise issues to get feedback. Bruce thinks the survey is a good avenue; however, he would like to see it remain anonymous.

John Ingleman asked if the committee could put together the survey. It could and if the survey is sent to a specific area, then the identity wouldn't need to be known.

Michelle said that this is strictly with Zorbaz. They haven't had a problem with Bar Harbor.

The committee will be made up of the Zirbes, two commission members (Dave Baldwin and John Ingleman), the Chief of Police, Lee Johnson (or a representative from Zorbaz) and a couple

members from the City Council. Susan will make a presentation to the Council at the January 28th meeting.

The committee will recognize the issue and establish a course of action. Teri thinks that the information from Michelle Zirbes should be provided to Lee Johnson. Michelle is concerned about when the committee meetings take place. Teri suggested a later time on Friday afternoon.

REPORTS

City Engineer – Mark Hallan was absent.

Chairman – John Ingleman had nothing to report.

Council Liaison – Susan Amacher had nothing to report.

Zoning Administrator – Teri Hastings said that there will be a meeting in February. The Commission also needs to find alternates. The people that were suggested declined the opportunity.

PUBLIC FORUM – There was no public forum.

MOTION BY DICK MILES TO ADJOURN THE BOARD OF ADJUSTMENT/PLANNING COMMISSION MEETING OF JANUARY 14, 2013 @ 9:49 AM. TOM DIEMERT SECONDED THE MOTION. MOTION PASSED UNANIMOUSLY.

Transcribed by Patti McDonald
Lake Shore City Clerk