

**MINUTES OF THE BOARD OF
ZONING APPEALS PUBLIC MEETING
MARCH 25, 2024**

I. CALL TO ORDER

The Board of Zoning Appeals was called to order at 6:00 P.M. by Chairman Tom Kouros at the Schererville Town Hall, 10 E. Joliet St.

A. Pledge of Allegiance

The Pledge of Allegiance was recited.

B. Roll Call

Roll Call was taken with the following members present: Chairman Tom Kouros, Mr. William Jarvis, and Mr. Michael O'Rourke. Staff present: Town Manager James Gorman, Director of Operations Andrew Hansen, Planning & Building Administrator Denise Sulek, Recording Secretary Megan Schiltz, Attorney Alfredo Estrada, and Councilwoman Robin Arvanitis. Absent were Vice-Chairman Michael Davis and Secretary Rick Calinski. In the audience was Councilman Thomas Schmitt.

C. Approve Minutes of the Board of Zoning Appeals Meeting of February 26, 2024

Mr. Jarvis made a motion to approve which was seconded by Mr. O'Rourke and carried 3-0.

II. PUBLIC ACTION AND PUBLIC HEARINGS

A. B.Z.A. Case #24-2-1 2120 U.S. 41, Suite A – South
(Proposed: Dark Metal Tattoo Studio)

General Location: 2120 U.S. 41, Suite A – South
Scherwood Lake Commercial Center Addition, Parcel A

Petitioner(s): Dark Metal Tattoos – Victor & Melissa Perez

Request: Variance of Use as required by Ordinance No. 1797, Title XVI,
Section 5, Paragraph C, Sub-paragraph (3)

Purpose: To allow the operation of a tattoo studio to be located within the U.S. 41
Commercial Corridor Overlay District.

Mr. Kouros stated that item **B** would be heard first.

Later that evening Mr. Kouros recalled item **A**. Mr. Kouros said that this case was previously heard at the last B.Z.A. meeting on February 26, 2024 and was sent to the Town Council with No Recommendation; and now the Town Council has sent it back to the B.Z.A. Board. Mr. Kouros asked if the petitioners were present. Mr. Gorman stated that they are not. For the record, Attorney Estrada stated that he was just made aware that the Town Council had remanded it back to the B.Z.A. and would like to clarify so that the record is correct. Attorney Estrada went on to say that under Indiana Code 36-7-4-918.6 Section B & C it states the advisory of the Board of Zoning Appeals such as this Board in a county that has a population of more than 400,000 but less than 700,000, the state legislator made a particular section for Lake County Municipalities giving this Board the statutory authority to do three (3) things on this petition. Attorney Estrada said that under Subsection B & C the Board can either make a Favorable, Unfavorable, or No Recommendation to the legislative body that is the Town Council. Attorney Estrada added that under Subsection E it states the Town Council has the authority to grant or deny the petition; there is no statutory authority to remand it back to the Board for further consideration. Attorney Estrada went on to say that the Board has done its duty, heard the evidence and remonstrations from the public, and made a determination under the statute for No Recommendation. Attorney Estrada stated that he would like to also point out that under Subsection E (1) it states that the Town Council has ninety (90) days to make a determination on this petition; it has been thirty (30) days since the No Recommendation was forwarded to the Town Council, so the Town Council has sixty

(60) days to approve or deny. Attorney Estrada then stated the Town Council has ninety (90) days to make a determination on the petition or it gets approved.

Attorney Estrada said that it is in his legal opinion to the Board to resend the previous motion to the Town Council for a No Recommendation, and that the Town Council would then have to perform their statutory duties to approve or deny it; the Town Council did not have the legal authority to remand it back to the Board as it was properly in front of them in February and should not be heard today. Mr. Kouros asked if they would need to make another recommendation. Attorney Estrada replied that he does not believe the Board should do anything, this Recommendation was given to the Town Council with a clock of ninety (90) days to approve or deny; adding it is improperly on the agenda and improperly in front of the Board. Attorney Estrada stated that correspondence can be drafted to the Town Attorney stating as such, and notice can be given to the property owner as well. Mr. Gorman asked Attorney Estrada if he can repeat the Indiana Code number this is under. Attorney Estrada responded 36-7-4-918.6 Subsection B & C as well as Subsection E (1).

B. B.Z.A. Case #24-3-2 636 E. Joliet St. – Justin Mora

General Location: 636 E. Joliet St. – Farmer’s 2nd Lake Addition, Lot 2

Petitioner(s): Justin Mora

Request: Variance of Use as required by Ordinance No. 1797, Title V, Section 2

Purpose: To allow eight (8) hen chickens to be raised and kept on-site in an (R-2) Residential Zoning District and Joliet St. Overlay District

Mr. Kouros asked if Proofs of Publication were in order. Attorney Estrada stated they were. Mr. Justin Mora stated that he has provided a letter of disclosure to the Board outlining that his request is due to a medical ailment with dietary restrictions. Mr. Jarvis said in the picture shown there is a chicken coop and asked if it is already there. Mr. Mora stated that it was. Mr. O’Rourke asked if the chickens were currently there and if so, how many were present. Mr. Mora replied there are eight (8) hen chickens already in the coop. Mr. O’Rourke asked what size lot he had. Mr. Mora stated that he has a quarter acre lot. Mr. O’Rourke then stated that in the letter provided to the Board, it mentions that the neighbors were aware and were fine with the chickens. Mr. Mora said that his home is surrounded by fifteen (15) acres of land which has two (2) homes on it that Mr. Farmer owns, who also has no problem with the chickens; adding that he had spoken with him previously not knowing that there was an Ordinance. Mr. Kouros asked if he would keep the chickens at eight (8), or does he plan to expand in the future. Mr. Mora responded that his intention is to keep it at eight (8). Mr. Kouros then opened the matter to the floor. Mrs. Margaret Ason from 646 Julie Drive stated that she wanted to make sure there will not be any roosters, that the chickens remain in the coop and not free ranged, and that it would stay at eight (8); adding that other than those concerns she had no objection. Mr. Mora stated that there would not be any roosters, only hens, so there will not be any chicks; the chickens will remain in the coop at all times so there will not be any free ranged. There being no further comments from the floor the matter returned to the Board.

Mr. Jarvis asked how long he has had the chickens. Mr. Mora stated that he has had them since August of 2023. Mr. Kouros asked if the chickens were monitored and if the Health Department comes out and checks on the chickens. Mr. Mora stated that of course he monitors them so they stay healthy. Mr. Kouros stated that he has a huge concern in the safety of food, and has an issue if it does not get monitored by the Health Department. Mr. Kouros asked if there were any additional comments, or course of action. Mr. O’Rourke made a motion for a Favorable Recommendation to the Town Council. No second. Mr. Kouros stated that with lack of a second, the motion died. Mr. Jarvis made a motion for an Unfavorable Recommendation due to the fact that it goes against the Comprehensive Plan, as well as, the health, safety, and welfare of the Town of Schererville. Mr. O’Rourke seconded the motion. The motion carried 2-1, with Mr. O’Rourke objecting. Attorney Estrada stated that this motion does not carry due to there only being three (3) members present; and in order for it to carry, the approval must be unanimous. Therefore, the motion does not carry. Mr. Jarvis asked Mr. O’Rourke if his motion was to say no or did he mean to say yes. Mr. O’Rourke replied that he is not in agreement with the motion of an Unfavorable Recommendation. Mr. Kouros asked if the motion would then need to be a No Recommendation. Attorney Estrada stated that a proper motion under statute would be a No Recommendation.

Mr. O'Rourke made a motion for a No Recommendation to the Town Council. Mr. Jarvis asked if he could make a motion to table this case for thirty (30) days in order to do some research. Attorney Estrada stated that he could make a motion as long as Mr. O'Rourke's motion was withdrawn so that they could do some research and that there would be more members present on the Board. Mr. Kouros said the motion dies for lack of a second. Mr. Jarvis made a motion to table this case to the next B.Z.A. meeting in thirty (30) days. Mr. O'Rourke seconded and the motion carried 3-0.

III. COMMISSION BUSINESS:

There was none.

IV. ADJOURNMENT

There being no further business, the meeting was adjourned at 6:20 P.M.

Respectfully Submitted:



Rick Calinski, Secretary