

BOARD OF ZONING APPEALS
MEETING MINUTES
August 10, 2021

Jim Lisher: Okay call the meeting of the Shelbyville Board of Zoning Appeals, August 10, 2021 to order....(inaudible)....probably should do roll call.

Adam Rude: Miss Terrell - here, Mr. Cassidy - here, Mr. Lisher - here.

Lisher: Here today...(inaudible).....matter over to the director.

Rude: Appreciate that, Mr. Lisher and I'll try to keep it brief this evening. It's been a few months since we've actually met in a regular meeting, so I thought we might dust off some old training. If nothing else, get everyone together and now that we've got a few teachers on the board, it's probably a good chance to try to refresh our memory and then teach you guys a little bit. So before we jump into that though, I do want to touch on, I think both of you were at the joint or the meeting, that special meeting a few a little while ago. So mostly just for you, Nicole. But I'm gonna run through all these points just so we're all on the same page. At that meeting, we did adopt rules for virtual meetings so we can have virtual and hybrid meetings. Generally speaking and correct me if I misspeak, so what the statute says is at least 50% of the board has to be physically present. So for us, that's three members have to be physically present and then the other members can vote or can participate electronically. If you are participating electronically, if you are a board member or a member of the public or a petitioner, you have to tell me in writing, an email at least 24 hours in advance just so the records can show that and so we can get the system set up for you to participate virtually. As a board member, you can only participate in up to 50% of the meetings in a year virtually and you can only participate in 2 consecutive meetings virtually. The third meeting, you would have to come back physically before you could participate virtually again. Let's see make sure.....there are exemptions to that. So there's exemptions. You don't have to give me 24 hour notice and you can do more than 50% in a year or more than 2 consecutively if you're absence is due to military service, illness, death of a relative or an emergency involving actual or threatened injury to persons or property. So if any of that happens, let us know and we can get you set up and you're exempt from all those other requirements. We do need to know because we have to keep a giant log of all the members and when they're virtual, when they're physical, if there's an emergency and that.

Doug Cassidy: Did Jenny say when she was explaining that at first that that is this is only good when we're in a pandemic or a national or state is that.....

Rude: No, so those are the rules in normal times when there's no emergency declared.

Cassidy: Okay.

Rude: If the governor or the mayor declares a state of emergency and they enact something, if

they cite this statute, then the rules change because the entire board can be virtual. It does not count towards your two consecutive. It does not count towards your 50% in a year. So in a state of emergency, whether it be the mayor declaring that or the governor which we are technically still in a state of emergency through the governor's office, the entire board can be virtual. Everyone can meet more than two times in a row and more than 50% of your annual meetings can be virtual.

Andrea Terrell: So Adam, would that be like for instance let's just say like when winter comes if we have a meeting like tonight and the roads are bad and it was you know like it was declared you know emergency, does count under the same or is that different?

Rude: It could. The mayor has an ability to declare a state of emergency too so if he declares one, then it would trigger our emergency rules. It would trigger all of the city's emergency rules but that would be one of them. So a snow, flood, tornado, those, it's normally natural disasters. I think he declared a state of emergency at some point last year for some of this COVID stuff so that would've counted to but the governor beat him to it. So, yeah.

Terrell: Okay.

Lisher: Adam, on that resolution, I know Doug signed it. I signed it but I don't know of if.....(inaudible)....or I've not received a copy of it. So I think it'd be helpful if all the board members had a copy of the final.....

Rude: I'll get you a copy of that then, yes. I'll get something emailed out and I can hand you one before you leave tonight then Jim. And we did everyone that was there signed it, but we did adopt a resolution, all the legalese that addresses those same items. On the petitioner's side of things, so the petitioners that come before you, they can participate virtually but a member of someone has to be here physically so if their attorney wants to be here and then all their engineers wanna be virtual or vice versa, somebody has to be here in front of the board. The rest of their team can be virtual. Again, accept in a declared state of emergency, then everyone can be virtual just like the board can be completely virtual. On a similar note, the public - when we send out public notices now, we don't have the language finalized with Jenny yet but there will be information and instructions. Members of the public that want to participate virtually, they'll have to do it in the Zoom setting. We're not gonna be reading Facebook comments and we're not gonna be reading the Zoom chat. They will be given the same two minute time frame during the public hearing portion that someone in this room would be given. They have to notify us 24 hours in advance that they wanna be added to the list.

(?): Inaudible comment.

Rude: And then we can set it up. I think I see Allan just joined us. So the same way that Allan just joined us tonight, they'll be able to join us virtually. Because they're joining us in that setting, we can limit their ability to I guess interrupt the meeting and participate to just the public hearing portion when we unmute them to speak. So and to that point, there's also a provision

that let's see, so the director may refuse electronic participation due to technological limitations or former abuse of electronic participation to any member of the public in their sole discretion. We had a discussion. Mostly the plan commission had the discussion that if we get a big controversial project, we don't really want 400 people trying to sign up for virtual meetings. We'll relocate that meeting to a bigger venue and we'll deal with it in that capacity instead of trying to sort through the logistics of a hundred people there and a hundred people physical. The two boards gave me the discretion to just shut that off and say no, we're not gonna have any virtual comments.

Lisher:(inaudible)...I've asked Jenny (?) the Zoom meeting in their two minutes....(inaudible)...highly improper, just mute the person?

Rude: I would imagine. I'll ask the question but.....

Lisher: If it occurred....(inaudible)....

Rude: Uh huh.

Cassidy: But don't you have that option if they're meeting.....

Rude: So technically, yes technically.....

Lisher: I could see a controversial subject come up.

Cassidy: Yeah.

Rude: Yeah.

Lisher:(inaudible)...start using all kinds of....

Rude: Spouting off and yeah. Technically we do have the capabilities.

Lisher: Inaudible comment.

Rude: Yeah so from that standpoint, we can shut them off. I'll ask her legally if we can shut them off 'cause I know in not in your guys' meetings, but in plan commission meetings I can think of one meeting in particular at the high school, Mike Evans, the president of that board, had to ask the AV people to shut off the person's microphone. They were going over their two minutes. They were yelling and screaming. So he asked them to shut off the microphone. I don't know if that was legal or not but it's happened before and I could see it, yeah. The other piece to that point, anyone that participates virtually and this is in statute, they have to be able to be seen and heard. So if you do choose to be virtual for whatever reason, just remember you're gonna have to have your webcam on. So just plan in advance if you need to make your background look nicer or whatever. But everyone, including the public, will have to be seen and

heard when they participate so the board will have to see who they're talking to and hear them simultaneously and they'll have to, we have it all set up in here but they'll have to be able to see the board that's present. So.....okay, let's do this. And that's all the comments I have on that. On our end, we're gonna be keeping records of attendance to make sure we're in compliance there. We'll be, instead of a ballot vote, we'll have to do a roll call, a verbal roll call votes if anyone's virtual. So small changes procedurally at those meetings. I see Allan's (?) there.

Cassidy: Why don't we just do that anyway? Why do you have to have a ballot when you just read 'em out anyway?

Rude: I don't know. I don't why we have to do a roll call 'cause that was my question to Jenny. We do a ballot vote anyways but she....

Cassidy: Why do you have to do a ballot vote then? If everybody's here, why don't you just say Ms. Terrell, Mr. Lisher, Mr. you know.....?

Rude: We could.

Lisher: Have to (?) the record.....(inaudible)....vote was taken. The problem with a spoken vote is it's not (?). But it's not (?).

Cassidy: Okay.

Rude: Yeah well and some boards do roll call votes. Some do just unanimous votes. I don't know when or why we started. I would imagine we probably got sued at some point and there wasn't a clear record and a ballot vote is a much clearer record when we get sued than anything else but that's just my wild guess.

Cassidy: I was just curious.

Rude: Okay, let's hop into this.....

Board proceeds with training. End of formal meeting.