

# Zoning Board of Appeals

## Regular Meeting Minutes

Monday, January 23, 2017  
7:00 p.m., Council Chambers



City of South Haven

### 1. Call to Order by Lewis at 7:00 p.m.

### 2. Roll Call

Present: Bob McAlear, Steve Runkle, Judi Stimson, Lisa Bettis-Cooper (alt.), Dennis Lewis  
Absent: Dave Miller, Tom Stegeman, Jodi Carlson, Scott Boyd

### 3. Approval of Agenda

Motion by Stimson, second by McAlear to approve the January 23, 2017 Regular Meeting Agenda as presented.

All in favor. Motion carried.

### 4. Approval of Minutes – October 31, 2016

Motion by Stimson, second by McAlear to approve the October 31, 2016 Regular Meeting Minutes as written.

All in favor. Motion carried.

### 5. Interested Citizens in the Audience Will be Heard on Items Not on the Agenda

None at this time.

### 6. New Business – Zoning Ordinance Interpretation

**The ZBA is asked to determine an interpretation of Zoning Ordinance Section 1714. Fences and Landscaping Structures, Subsection (2).**

Anderson noted this is a request for an interpretation of the ordinance; Section 603 (5) of the Michigan Zoning Enabling Act of 2006, as amended, gives local Zoning Boards of Appeal (ZBA) the authority to hear and decide questions of interpretation related to the zoning ordinance. Essentially, once the ZBA makes an interpretation of a section of the ordinance, that interpretation will apply to all future readings of the ordinance unless a court decides

otherwise. In most cases the planning commission will respond by drafting an ordinance amendment clarifying the language to support the ZBA interpretation.

This time, Anderson noted, the interpretation is about fences. The section of the ordinance in question for this request is **SECTION 1714. FENCES AND LANDSCAPING STRUCTURES**. Subsection (2) of that section reads:

*Fences, walls, or obscuring walls shall not contain barbed wire, electric current or charge of electricity, glass, spikes, or other sharp protruding objects.*

*Notwithstanding the foregoing provision, security fences six (6) feet high or more may include up to eighteen (18) inches of barbed wire in an industrial area, surrounding a public utility, or around a police facility. Such barbed wire shall slant inward towards property, or be straight up. Security fences with barbed wire in any other location or surrounding any other use require a special use permit by the Planning Commission.*

Lewis asked who is bringing this request for interpretation to which Anderson responded that the city always brings an interpretation unless there is an aggrieved citizen.

Anderson explained the situation which led up to this request.

McAlear stated that the comma speaks loudly; each of those is an individual entity that should be considered independently and applied independently. If the commas were not there it would be even more confusing.

Lewis noted that he showed it to many people; everyone he spoke to felt it referred to three separate areas. In fact, Lewis stated, his brother Jeff went to the expert at Entergy that does the Nuclear Regulatory Commission writings and he also interpreted it as three conditions.

Bettis-Cooper said grammatically, or even in programming logic, there is support for being interpreted as three separate entities. The word “surrounding” is technically a gerund, not an adjective or a verb, so grammatically it supports it being interpreted as three separate conditions.

Runkle agrees that the commas make the case for him. The commas being there make this refer to three separate entities.

Motion by Stimson that the ZBA determines that the commas in Zoning Ordinance Section 1714, Fences and Landscaping Structures, Subsection (2) represent “or” so the industrial area is separate from the other two conditions and that barbed wire fences shall be allowed in three separate situations. Second by Runkle.

A roll call vote was taken:

Ayes: McAlear, Runkle, Stimson, Bettis-Cooper, Lewis  
Nays: None

Motion carried.

**7. Other Business – Approve meeting calendar for 2017**

Motion by McAlear, second by Runkle to approve the ZBA Meeting Calendar for 2017 as presented.

All in favor. Motion carried.

**8. Commissioner Comments**

Lewis: I will be sorry to see Linda leave us.

There were no other comments.

**8. Adjourn**

Motion by Stimson, second by Runkle to adjourn at 7:12 p.m.

All in favor. Motion carried.

RESPECTFULLY SUBMITTED,

Marsha Ransom  
Recording Secretary