

Pursuant to Executive Orders 20-04 and 20-08 issued by Governor Eric Holcomb in response to the COVID-19 pandemic, the BZA held a Public Hearing on July 27, 2020 by way of a conference call using GoToMeeting. The adjacent property owners were mailed a notice of the meeting with instructions on how to participate using GoToMeeting. An agenda was posted at the door and a link to the agenda was on the City of Berne website homepage. The legal notice was published on July 15, 2020 in the Berne Witness.

**Members Present using GoToMeeting**

Jerry Burke Present  
Dave Burson Present  
Brent Lehman Present

John Kaeser Present  
Linda Steury Present (at City Hall)  
Tom Stuber Present

**Staff Present**

Director, Shannon Smitley at City Hall  
Board Attorney Dave Baumgartner using GoToMeeting

**Present from the City of Berne using GoToMeeting**

Gregg Sprunger, Mayor

Kurt Dailey, Work Force Manager

**Guests Present at City Hall:** From the First Missionary Church: Mike Wilson Director of Creative Arts, Bob Sprunger and Jason Lehman.

**Others Present Using GoToMeeting:** From the Berne Witness, Clint Anderson and from WPGW/WZBD, Rob Weaver.

Linda Steury called the meeting to order and verified a quorum.

**Public Hearing: Variance Request BZA 2020-4** filed by the First Missionary Church of Berne for their property located at 950 S US 27 Berne IN 46711. The petitioner will be asking for a Variance for an electronic changeable message sign to be installed on said property.

Linda reviewed the Variance request made by First Missionary Church with the Board. Shannon reported that he and City Attorney Baumgartner have been working closely with Display Craft, Portland Indiana, who will be doing the design and installation of the electronic sign, about the sign and the City of Berne signage ordinance. Shannon added that while this is not the first electronic sign the BZA has considered, it is the first for the newest members of the board. Unlike the sign that the First Mennonite Church received approval for, the sign being considered tonight is larger and will have less movement since it can accommodate a full message without scrolling. Shannon also reported to the board that he drove to Portland to see the electronic sign Display Craft designed for the Jay County Hospital and is about the same size of sign being considered tonight. Shannon said that it is a well done state of the art sign.

In reviewing the electronic sign, Mike Wilson stated that the church is wanting to replace their old sign which can only be updated manually using individual lettering. The size of the new structure will be 12 feet in length, 7 feet in overall height and the message center will be 4X7 feet in size. The existing sign is 13 feet 3 inches in length and 12 feet in overall height. Mr. Wilson said that the new sign will be used for graphic displays and will not have as much movement as other electronic signs currently in use in Berne. Jason Lehman will be doing the

stonework to frame the new sign. For services, the church would like to use between 8-10 slides which would change every 15 seconds, and also use the sign for messages of encouragement like seasonal greetings or inspirational messages. Mike stated that any signage will be done tastefully and will follow any guidelines the BZA wishes to impose because the sign is state of the art and they can be as flexible as is needed to meet the board's approval. The church intends to use 3 or 4 different messages a week and the sign could also be used to promote local events.

City Attorney Dave Baumgartner reviewed the signage ordinance with the board. Dave stated that before the council past the signage ordinance, Berne could not regulate portable electronic signs or signs on wheels that were in use as well as highly animated fixed electronic signage. With the passage of the ordinance, the BZA can now hear a request for an electronic sign and place any restrictions on the use of the sign to insure that there is not a safety issue using certain colors and that the signs are done in a tasteful manner with a controlled amount of movement.

Jerry Burke asked about the color of signage the First Missionary Church plans to display, adding that lights that are similar to emergency vehicle lights, like red and blue, were not allowed for other electronic signage in past BZA hearings, including the sign at the First Mennonite Church.

Discussion was held on the colors that will be allowed other than the red and blue emergency vehicle light colors. The church noted that the red color they are planning to use is more like a maroon and will not be animated, but will only be used as the background with messages being in white or gray as an example and will not have highly animated messages with graphics that show fireworks or have a neon light type of movement.

Dave Burson asked that if approved tonight, does the BZA have any recourse if the sign is not used as approved. Dave Baumgartner advised the board that when considering the request in the Finding of the Facts, the board should consider that any restrictions imposed should allow the church the ability to utilize their sign, but also be specific enough that if not followed, the church can be asked to follow the guidelines and restrictions as approved by the BZA. Baumgartner also advised the board that they consider requesting that the church submit a set of user instructions based on the Finding of the Facts that can be passed to another programmer at the church. That way the rules/restrictions that need to be followed will be passed on to the new person. Dave added that in not doing this in the past, there have been issues with a new person not knowing the restrictions that have to be followed.

Further discussion was held on the type of restrictions the BZA may consider and further clarification the emergency vehicle colors that cannot be used.

### **Comments from the Public** None

After hearing all those wishing to be heard, Linda called for the reading of the Finding of the Facts .

The Board of Zoning Appeals of Berne, Indiana finds that:

1. Approval **will not** be injurious to the public health, safety, morals, and general welfare of the community because: ***Restrictions will be met that will keep public safety in mind.***

2. The use and value of the area adjacent to the property included in the Variance **will not** be affected in a substantially adverse manner because: ***The Church will create a written policy to insure the signage will be used in a safe manner and that it is tastefully done.***
3. The need for the Variance **does** arise from some condition peculiar to the property involved: ***The City of Berne Signage Ordinance does not allow for an electronic sign.***
4. The applicant **did** establish that the strict application of the terms of the Zoning Ordinance constitute an unnecessary hardship if applied to the property for which the Variance Request is sought because: ***The First Missionary Church could not have the electronic signage otherwise.***
5. The petitioner **has** established that approval **does not** interfere substantially with the comprehensive plan of the City of Berne because: ***The First Missionary Church will have a written policy in place as to the operation of the signage and the restrictions placed by the BZA on the usage of the signage.***
6. If granted, the board prescribes the following conditions:
  - ***The First Missionary Church will submit a written policy based on this hearing to the City of Berne Planning Director by August 31, 2020. The policy is to be kept on file at the church and at the City of Berne.***
  - ***Message, pictures, or intensity of the lights does not change more frequently than every 5 minutes.***
  - ***No animation, scrolling, flashing or any presentation depicting movement.***
  - ***No use of emergency vehicle colors of red or blue.***

(DECISION)

Therefore, on a motion by Jerry Burke and a second by Dave Burson, the decision of the Board of Zoning Appeals unanimously approved the Variance Use request of BZA 2020-4 with the restrictions stated in the Finding of the Facts. **Adopted this the 27<sup>th</sup> day of July 2020 by the following roll call vote 6 yeas -0 nays**

BERNE BOARD OF ZONING APPEALS

*Jerry Burke aye*

*Linda Steury aye*

*Tom Stuber aye*

*Dave Burson aye*

*John Kaeser aye*

*Brent Lehman Aye*

After the Finding of the Facts, the First Missionary Church confirmed with the board that they can now move ahead with ordering the sign with the restrictions as presented, and a written policy of use from the First Missionary Church will be submitted to Building and Planning

Director Shannon Smitley by August 31, 2020. The policy will be kept on file at the church and in their file at city hall. Shannon also asked Mike Wilson to forward him a copy of the signs that they brought with them tonight so the BZA members can be emailed a copy for their records.

## **REGULAR MEETING**

**Approval of Minutes.** Jon Kaiser made a motion to approve the minutes of July 13, 2020 and Brent Lehman made the second. The minutes were unanimously approved by the following Roll Call vote:

Jerry Burke	Aye	Tom Stuber	Aye
Dave Burson	Aye	Linda Steury	Aye
John Kaeser	Aye	Brent Lehman	Aye

**Old Business-** None

**New Business-** Shannon reported to the board that he has a request for a hearing for Monday, August 10, 2020 from the owners of the old Palmer House who will be asking for a new sidewalk along Fulton Street in order to meet ADA requirements.

**Closing of Meeting.** On a motion by Brent Lehman and a second by Dave Burson the meeting was adjourned on a vote of 6-0

Respectfully Submitted,

BZA Secretary Dave Burson