

**City of Aurora, Ohio  
Council Subcommittee for the  
Review of BZA Membership  
Meeting Minutes  
February 12, 2018**

The Council Subcommittee for the Review BZA Membership of the City of Aurora, Ohio met in Council Chambers at City Hall on Monday, February 12, 2018 for the purpose of holding a meeting. Committee Chairman John Kudley, Jr. called the meeting to order at 5:30 p.m.

**ROLL CALL**

Present: Kathi Grandillo  
John Kudley, Jr.  
Scott Wolf

Absent: George Horvat

Also Present: Dean DePiero, Law Director  
Denise Januska, Director of Planning, Zoning and Building  
Donna Hawks, Clerk of Council

**Consideration of Minutes**

**MOTION: Approval of the January 22, 2018, meeting minutes**

Ms. Grandillo moved; Mr. Wolf seconded. The motion carried on a unanimous voice vote.

**Input from BZA Members**

Mr. Kudley introduced Ms. Therese Fennell, Chairman of the BZA and member Mr. Jeff Iammarino. He said Ms. Januska explained at the last meeting the function of the BZA and the seven factors the BZA used for basing their decisions. Mr. Kudley explained how the subcommittee came to be and their purpose and that the committee is not out to get anybody nor is this a witch-hunt.

Ms. Fennell said the Board's main concern was that legislation was proposed without anyone talking with the Board first. She said another concern was the appeals process, if the appeals go to Council rather than to court, people will appeal little things and constantly be coming before Council. She said the appeal to court makes the most sense. She said she does not have an opinion either way if a member of Council should be on the Board. She said she does not know what is in the best interest of Council. She said she has been on the board for 12 years and there has never been a member of Council on the Board. She said if there is something Council has a concern about on their agenda they are always happy to have them at their meetings or to reach out. She said the Board felt out of the loop learning about the legislation via the Aurora Advocate.

Mr. Wolf said the concept of the appeals process would have been if somebody wanted to file an appeal they would have to find a member of Council to sponsor that appeal for them. He said it was not going to be a situation where they could say they are going to file an appeal regardless. Mr. Wolf said if it were a unanimous decision of the BZA, Council would not hear an appeal on a unanimous decision. He said for a long time he has had an issue that if a resident had a problem they had to spend money to go to court. He said he understands that folks may be concerned about Council having to hear and make decision about things that are happening in their own Ward. He said the

BZA does the same thing so there is no difference with respect to making a decision. Mr. Wolf said with discussion he had with the Mayor she was willing to add a member of Council instead of an appeals process. He said there was never any legislation finalized or submitted with respect to the appeals process.

Ms. Grandillo said the BZA is doing a good job. She said she did wonder why there is a council member on Planning and not on the BZA and agreed that is something to talk about. She thanked the BZA for coming and commended them on doing a good job.

Mr. Jeff Iammarino, BZA member asked if there were problems with prior decisions that the Board had made that raised the issue in the first place.

Mr. Wolf replied no, this is something that has bothered him long before he got on Council. He said it stems from the appeal process. Mr. Wolf said it may have started with something that happened in his neighborhood when he was younger. He said the only way that person would have been able to be heard after the decision had been made by the BZA was to go to court. He said none of you would have been on the BZA at the time because he was much younger. He said he did not think it was right that they would have to go to court and spend money. He said if someone has an issue and it is a 3-2 vote or a 4-1 vote and there may be something legitimate that comes up that did not get expressed at the meeting there would be another opportunity to be heard without it becoming a costly endeavor. He said it had nothing to do with a particular decision; but the process.

Mr. Iammarino said most of the members have been on the board for a significant period of time. He said the members do take it seriously; they visit the properties and try to get some incite from the homeowner. He said they have the 7 point check list; and they review the staff report that is put out for every meeting. He asked if Mr. Wolf if he is concerned with having a member of Council on the Board about the potential for a conflict of interest when it comes to someone in their district.

Mr. Wolf said for him as an at large person no, for him it is no different than the BZA members and it is no different that Ms. Grandillo being on the Planning Commission. He said what the BZA does as a Board is a decision making process that Council advocates by turning that responsibility over to you. He said for him it would not be a problem at all, for some of the members of Council it might be; for him personally it would not be an issue especially because he is an At Large Council Representative.

Mr. Kudley said he is an At Large Council Representative as well and he feels the exact opposite. He said for him it would be a conflict of interest and he would have a hard time sitting on the BZA and having someone appeal my judgement and send it back to me again and getting a second bite of the apple. He said if that individual upset him at the BZA, I personally would not do it and I could see a member of Council on BZA trying to influence the other members of Council to go against that individual. He said it puts a Council person in a situation that is a conflict of interest.

Mr. Wolf said he would like to clarify if there was an appeals process there would not be a Council member on BZA; it would be one or the other.

Ms. Fennel stated if a resident is turned down they can always come back to the BZA but they would have to change their request. She said it must be a substantial change but she does not know what that entails. She provided an example.

Mr. Wolf said the removal of the height requirement for exterior structures was born out of BZA getting them and no one being opposed to them. He said the thought process was if we are not

getting any opposition maybe we should go ahead and change the ordinance. He said that came before Planning and Planning sent it to Council. He said he started having conversations with people in the area of the city that had been most affected and they wanted nothing to do with it at all. He said they did not know about it until it was in the paper that it was something being discussed. He was asked if someone moved in next door to them and wanted to put this monster up he said he told them it would be legal. He said they were adamantly opposed to it. He said no came forward to say they were opposed. He said the decision was sound until he started talking to people in the area that is going to be affected and then he started getting feedback from those folks. He said that is a situation as an elected official he wound up with a very different perspective with respect to decisions that were made or recommended.

Mr. Kudley asked if the majority of the decisions the BZA make support the appeal.

Ms. Fennel said probably the appeal is granted more than it is turned down. She said each case is looked at individually. She said for instance in the Geauga Lake area if they want to improve their property they will need a variance; there is no way around it. She said it is rare when a Geauga Lake one gets turned down.

Mr. DePiero said the staff does a good job when someone brings a proposal in. He said they work with the folks beforehand to try to get them to change their plans or look at other alternatives.

Ms. Fennel said there have been appeals that were approved when half the city came out. She said they followed at the check list and it worked; and they have to approve it. She said there has been some where no one has come out to complain against them. She said they really try to follow the checklist to see what applies.

Mr. Kudley asked if there is much opposition from neighbors. Mr. Iammarino said it depends on what type of variance.

Ms. Fennell said it depends where it is located. She said if it is in the Highlands there is opposition every single time; it does not matter what they are asking for. She said if it is further out in the district they do not hear anything.

Mr. Wolf said he has the utmost respect for the BZA and how they do their job.

Mr. Kudley stated it is a requirement with the Landmark Commission that one of the members has to have a degree in history or architectural. He said there are no background requirements for members of the BZA. He said a chart was put together with data from other cities across Ohio and only a couple have requirements. He said one member must have knowledge in construction, fine arts, engineering, landscape architect or other requirements established by Council. He said another city requires a member to have experience that fits in to the area of decision making they would be making.

Ms. Fennell provided the backgrounds of the members of the BZA.

Mr. Kudley asked if there is ever a conflict with what the staff has put in the reports.

Ms. Fennell stated they are asked not to put a recommendation in their reports as she did not think that is a good idea. She said the members go out to the site and try to ask thoughtful questions. She said the reports are helpful but there is not a recommendation on them.

Mr. Iammarino said the reports are help to give a different perspective to look at it from.

Ms. Fennel stated the Board has gotten better with their criteria. She said in the past if a member voted no, they state the reason for voting no and did not discuss the criteria. She said now information is taken from the applicant and the public comments. She said they then discuss amongst themselves as a Board the criteria and then they vote. She said the reasons for voting yes or no are said before the actual vote. She said if the applicant sees that they have a small Board they might ask for their item to be tabled until there is a full Board.

Mr. Wolf asked about a decision made at a recent meeting of theirs regarding a pool on the side yard and the condition of what the fence had to be. He asked if the Board feels comfortable making those decisions. He said he feels that is something the Board could imply more often and he encouraged them to do.

Ms. Fennell said they are not certain what their ability is on that and they tend to defer to the Law Director and ask if they can add something. She said it would be helpful if they can do that more.

Mr. Wolf said the Board has the ability to set restrictions. He said the Board has a very wide birth. He said it may put the Board in a better circumstance with respect to some of the decisions they make.

Mr. DePiero said in general they are permitted to impose restrictions as a condition of approval. He said he says in general because there may be situations where that is not appropriate.

Ms. Grandillo asked when the Board makes a decision to turn something down is a findings of fact done of why it was turned down.

Ms. Fennel said they have and have not; it depends on what it is. She said in the 11 years she has been on the Board it has been done twice. She said if it is something Council feels they should do they will do it.

Mr. Kudley explained what different communities do. Mr. Kudley said one of the findings in the research that was done is that there is a variety of ways people are appointed to the BZA. He said in most cities applicants have to appeal to the Common Pleas Court. He said there are a few communities that have members of council on the board; some vote and some are just a liaison and a non-voting member. Mr. Kudley said he does not know what direction the committee will go with their recommendation to Council. He assured Ms. Fennel and Mr. Iammarino that no one on the committee or on Council has a problem with the job the BZA is doing.

Mr. DePiero said the research that was done is very good. He said the Charter indicates the Mayor appoints all members of City boards and commission. He said should the recommendation be that Council appoints some of the members a Charter change would need to be made. He said the Charter Commission will meet again next year. He said that piece of it will not be a simple ordinance change.

Mr. Kudley said there will be another meeting and at that time the committee will take all of the information that they ascertained and begin to formulate a recommendation to Council if we have one.

**ADJOURNMENT**

**MOTION: To adjourn**

Mr. Horvat moved; Mr. Wolf seconded. The motion carried on unanimous voice vote.

The meeting was adjourned at 6:04 p.m.

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John Kudley, Jr., Chairman

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Donna Hawks, Clerk of Council