



COMMISSION MEETING MINUTES

Indiana Fire Prevention and Building Safety Commission
Indiana Government Center South
Conference Center Room B
302 W. Washington Street
Indianapolis, Indiana 46204

Wednesday, September 4, 2019

1. Pursuant to IC 22-12-2-6, the Indiana Fire Prevention and Building Safety Commission's regular monthly meeting was opened by Chairman, Robin Nicoson, at 9:01 a.m. on Wednesday, September 4, 2019.

(a) Commissioners present at the Commission meeting:

Michael Corey
Greg Furnish
Joseph Heinsman
David Henson
Todd Hite, representing the Commissioner, Department of Health
James Jordan
Robin Nicoson, Chairman
Scott Pannicke
Michael Popich
Jessica Scheurich, Vice-Chairman

(b) Commissioners not present at the Commission meeting:

Kevin Goeden, representing the Commissioner, Department of Labor

(c) The following departmental staff were present during the meeting:

Kathleen Ash, IDHS Legal Assistant
Douglas Boyle, Director of Fire Prevention and Building Safety Commission
Craig Burgess, State Building Commissioner
Denise Fitzpatrick, IDHS Code Specialist
Phillip Gordon, Deputy Attorney General & Legal Counsel
Justin Guedel, IDHS Deputy General Counsel

James Schmidt, Deputy Attorney General & Legal Counsel
Kevin Troy, IDHS Code Enforcement Assistant Section Chief
Karla Vanblaricum, IDHS Variance Coordinator

2. Director Boyle conducted roll call, and noted that quorum was present.
3. Commission Review and Action on Meeting Minutes from August 6, 2019.

Director Boyle called for any corrections or additions to the Commission's meeting minutes from the Tuesday, August 6, 2019 meeting. Commissioner Popich moved to **table** and Commissioner Scheurich made the second. It was voted on and carried.

4. IDHS/Commission Staff Reports and Updates

- a. Announcement from State Fire Marshal Jim Greeson

State Fire Marshal Greeson addressed the Commission to announce that he is retiring and will be stepping down as Indiana's State Fire Marshal. Marshal Greeson's last day as State Fire Marshal is September 6, 2019. Marshal Greeson thanked the commissioners, State Building Commissioner Burgess, and IDHS staff for their service, and expressed his pleasure in working with the Commission over the last eleven years. Chairman Nicoson and Director Boyle thanked Marshal Greeson for his over 50 years of service to the fire service industry and the state of Indiana.

- b. Director Douglas Boyle – Staff update

Director Boyle stated that Karla Vanblaricum has started her position as the new Variance Coordinator for IDHS. She will also assist with administrative tasks for the Commission. Director Boyle stated that Kathleen Ash has accepted a new position outside of IDHS and thanked her for her assistance with the Commission. Commissioner Jessica Scheurich advised that she is resigning from the Commission after five years of service, as she will soon be moving to start a new job in Chicago, IL. She advised that this will be her last meeting. Director Boyle thanked her for her service. Director Boyle indicated that he was in the process of scheduling the FPBSC meetings for 2020 and would have more information at subsequent meetings.

- c. State Building Commissioner's Report

Craig Burgess, State Building Commissioner, advised the Commission that Interpretation No. CEB-2019-12 – 2009 Indiana Electrical Code, Section 410.36(B) was posted to the Indiana Register on July 3, 2019 and also posted the Commission's meeting materials web page for the Commission's and public's awareness. He also briefly explained the background and rationale behind each of the interpretations.

d. IDHS Variances Report

Director Boyle explained that he did not have time to create a report of the IDHS' actions on variance applications over the course of the previous month. He explained that all of the actions are public-facing and may be looked up on IDHS's website. Director Boyle explained that IDHS staff is meeting on a weekly basis to review and process variance requests.

5. Rulemaking Updates

a. 2018 Elevator Code Committee Update

Commissioner Corey provided the Commission a brief update on the Committee's progress in reviewing ASME A17.1-2016 Appendix L. He believes they are on track to finish reviewing Appendix L at the next meeting, which will be on Tuesday, September 17, 2019, starting at 9:00 a.m. in Conference Center Room 29 of Indiana Government Center South, 302 W. Washington Street, Indianapolis, IN 46204.

b. 2018 Indiana Residential Code Committee Update

Justin Guedel, Deputy General Counsel, IDHS, stated that the Commission's moratorium exception request was approved by the State Budget Agency (OMB) on August 27, 2019. Mr. Guedel advised that OMB requested that the rule's stair geometry requirement be removed from the rule due to its fiscal impact. The cost would be \$8,000 because the home would have to be expanded by two feet to account for the larger stair case. The intent is to proceed forward with publishing unless there are any objections from Commission members. Mr. Guedel also advised that LSA has provided non-substantive changes to the rule, and the Attorney General's Office is providing pre-review comments as well. The next step will be to have the proposed rule and notice of public hearing published to the Indiana Register. Mr. Guedel will have more information to provide regarding the rule and the public hearing at the Commission's October 1, 2019 meeting.

c. Commission Action on Final Rule for Indiana Boiler and Pressure Vessel Rules (675 IAC 30) Re-Adoption

Justin Guedel stated that the notice of intent was filed in July and posted on July 10, 2019. No objections or requests to separate were received, so the Commission may move forward with final adoption of the rule. Commissioner Popich moved to **adopt** the proposed final rule readopting Rule 675 IAC 30 as the final rule for Indiana Boiler and Pressure Vessel Rules. Commissioner Scheurich made the second. It was voted on and carried.

6. Commission Action on Third Party Inspection Agency Renewals

a. T.R. Arnold & Associates, Inc.

b. Professional Service Industries, Inc.

Kevin Troy, IDHS Code Enforcement Assistant Section Chief, stated that the State Fire Marshal's Office recommends approval on both renewals. Commissioner Pannicke moved to approve and Commissioner Heinsman made the second. It was voted on and carried.

7. Petitions for Administrative Review

a. Timely

- i. Variance No. 19-08-23(b) – City Way Phase 2 Building D
- ii. IDHS Inspection Report Order Identification Number BU30147-080119 (Civil Penalty) Sunman's Landing, 105 W. Washington Street, Sunman, IN 47041
- iii. Variance No. 19-08-18 – 21 W. Canal Street Condo
- iv. IDHS Inspection Report Order Identification Number BU30410 Sports Lake Campground, 7230 E. 400 S., Marion, IN 46953

Director Boyle stated that all four petitions for administrative review were timely and have been forwarded to the Attorney General's Office for assignment to an ALJ.

b. Determination of Standing

- i. Variance No. 19-08-56 – Patel Brothers

This petition was timely filed by the local building official having jurisdiction, Chris Harris, City of Indianapolis Department of Business and Neighborhood Services. Mr. Harris is appealing IDHS' determination of no variance required (NVR) for this variance request request. Director Boyle advised that the Commission needs to determine if Mr. Harris, as the petitioner, has standing to qualify for administrative review of this determination. Mr. Harris asserted that the City would be aggrieved as the enforcement authority of the code, and the "NVR" determination could create additional issues regarding the code's interpretation. Mr. Harris does not feel that the application is factual, and feels that the IDHS' determination might have been based on bad information. The application did not include pictures of the grill. He believes this decision should be reconsidered by the ALJ, based on this new information. Commissioner Pannicke moved to grant the petition for review, and Commissioner Corey made the second. It was voted on and carried. Commissioner Popich recused himself.

8. Commission Review and Action on Non-Final Orders/Non-Final Orders of Dismissal

- a. Waupaca Foundry, Inc.
Cause No. DHS-1906-FPBSC-006

- b. Journey Senior Living of Valparaiso
Cause No. DHS-1907-FPBSC-007

Director Boyle stated that both of these Non-Final Orders of Dismissal were issued over a month ago, and no objections to the non-final orders were received within the timeframes required by statute under I.C. 4-21.5-3-29(d). Commissioner Scheurich moved to **affirm** the administrative law judges' non-final orders, and Commissioner Popich made the second. It was voted on and carried.

Breaking and reconvening: Chairman Nicoson recessed the Commission at 9:55 a.m. It was called back to order at 10:06 a.m.

9. Variances

- a. Tabled

19-05-03 Hubbard Gardens, Indianapolis

No proponent was available to speak on the variance. Karla Vanblaricum reached out to the applicant, but has not received a response. No additional information is available. Commissioner Scheurich moved to **deny** the variance request based on lack of substance, and Commissioner Heinsman made the second. It was voted on and carried. Commissioner Popich recused himself.

19-05-82 (a)(b)(c) Berry Event Barn, Greencastle

Scott Perez, Arxtheon Consulting, spoke as the proponent. He explained that the owner has made all necessary repairs, including repairing rot and repairing the intermediate level. He sent a letter to Denise Fitzpatrick yesterday stating that the barn meets necessary requirements. Variance (a) pertains to the middle of the floor of the barn; there is a 4 to 6 inch difference in the floor. The main entrance to this space is open the entire time and is wheelchair accessible. State Building Commissioner Burgess noted that even if these variance requests are granted, the applicant might still have to do a Chapter 34 because it would be a change of use. The proponent might need to establish this agricultural building as a Class 1 structure using a variance and then see a CDR/change of use. The proponent may need to amend this application. Commissioner Pannicke moved to **table**, and Commissioner Corey made the second. It was voted on and carried.

19-06-02 Lowe's Store 0215, Terre Haute – paper filing, incomplete

No proponent was available to speak on the variance. The Commission's staff is still waiting to receive acknowledgments from the local LBO and LFO to complete the paper variance application. This is a typical "A category" variance. Commissioner Popich moved to **table**, and Commissioner Heinsman made the second. It was voted on and carried.

19-08-06 Kokomo Downtown Building, Kokomo
19-08-07 Commerce Center, South Bend
19-08-08 201 S. Main Street, South Bend
19-08-09 Sleep Inn Fort Wayne, Fort Wayne
19-08-11 Target West Lafayette, West Lafayette

No proponents were available to speak on these variances. These variances were incorrectly filed, and did not provide the require owner/applicant contact information and affirmations. The submitters will need to work with the Commission's staff to correct these applications before the Commission may render any determinations. Commissioner Heinsman moved to **table**, and Commissioner Furnish made the second. It was voted on and carried.

19-08-16 (a) White Rock Barn, Ossian

Dennis Bradshaw, Fire Protection and Code Consultants, and Nathan Keller, owner, spoke as the proponents. This variance was tabled last month in order to gather more information about the possibility of installing a septic system. The septic installer informed the proponent that anytime you have infill, it negates the septic system. He suggested placing the system in the parking lot, however the proponent does not own that land; he is only leasing it. The owner of the parking lot owns all of the surrounding land and does not want to sell the land. There was discussion regarding the permanent usage of portable restroom trailers in order to provide proper plumbing fixtures to guests. Another option aside from purchasing land, and consulting a septic installer, would be to dig a back hoe pit. It was suggested that the proponent contact the Department of Health to assist with soil samples. Commissioner Scheurich moved to **table**, and Commissioner Furnish made the second. It was voted on and carried.

b. New

Category C/D/NVR

Self-Representing Applicants/Design Professionals/Non-Consultants outside of Indianapolis metropolitan area:

19-08-88 Private Fire Hydrant Decommission, Fort Wayne

No proponent was available to speak on the variance. Jim Murua, Assistant Chief Fort Wayne Fire Department, stated that he is unopposed to the variance. The city's hydrants are maintained. Commissioner Furnish moved to **approve** and Commissioner Jordan made the second. It was voted on and carried.

Self-Representing Applicants/Design Professionals/Non-Consultants inside of Indianapolis metropolitan area:

19-08-85 IU Health West Vertical Expansion, Avon

The submitter of the variance application contacted Director Boyle in advance of the meeting, and **withdrew** the variance application.

Consultants:

19-08-79 (a)(b) Taff Building Renovation, Rushville

Ed Rensink, RTM Consultants, spoke as the proponent. This project involves the renovation of a downtown building in Rushville. It was built in 1995, but has been vacant for some time. It is type III-B construction. The floors and roof are wood. Proponent wants to convert the second floor into a co-working space. The first floor will be a brewery; it will be A-2/F-2. They are using a Chapter 34 evaluation. Proponent wants to cut a door into the adjacent property. The adjacent property owner is aware and is assisting with the project. There is a three-hour door in the wall, which is not allowed by code. However, similar variances have been granted in the past. The building will be sprinklered. The issue here is that there is separate ownership. Commissioner Furnish moved to **approve Variance (a)** and Commissioner Scheurich made the second. It was voted on and carried. Variance (b) pertains to the scoring of Chapter 34. Proponent is asking for 1.3 points in the first column so that he can receive a passing score. There is a fire alarm system and the building is sprinklered throughout. Commissioner Jordan moved to **approve Variance (b)** and Commissioner Scheurich made the second. It was voted on and carried. Commissioner Heinsman recused himself.

19-08-80 1234 Prospect Street Mixed Use Project, Indianapolis

Ed Rensink, RTM Consultants, and Andrew Saks, Milhaus Properties, LLC, spoke as the proponent. In this project, 55% of the dryer exhausts are less than three feet from the windows. 84% of the exhaust openings are at least two feet from the windows. Openings are approximately 9.5 feet from the windows. There is a staggered pattern floor to floor. The building will be sprinklered throughout. This is a mechanical code issue, not a fire transmission issue. Marge Bovard, City of Indianapolis, stated that her concern is that the proponent knowingly put something in that was incorrect and is now asking for forgiveness. Director Boyle explained that staff deliberated over this for a while, and IDHS' staff would like some guidance from the Commission as to how to handle variance requests of this nature. Mr.

Saksa explained that this was an honest mistake, and that they are currently working on another project where they are mitigating this issue. Commissioner Pannicke moved to **approve** and Commissioner Scheurich made the second. It was voted on and carried. Commissioners Heinsman and Popich recused themselves.

19-08-81 (a)(b) Katz Sapper & Miller Security Renovation, Indianapolis

Ed Rensink, RTM Consultants, spoke as the proponent. This property is in Hamilton County, but has an Indianapolis address. The Carmel Fire Department was notified. The first variance is a request for a security provision in the elevator lobby space on the 4th and 5th floors. Two means of egress are required. There are a few small offices and a meeting room off of the lobby space. Proponent would like to enhance their security to prevent unauthorized access into their tenant space. Two locations would be equipped with this device. They would be activated with a fire alarm; it would not be open to the public. The building is sprinklered throughout. The stairs to the lobby are accessible at all times. This variance has previously been approved numerous times. Commissioner Pannicke moved to **approve Variance (a)** and Commissioner Henson made the second. It was voted on and carried. Variance (b) is a request to remove a pull station from the elevator lobby on the fifth floor. There are pull stations on the other floors. Commissioner Henson moved to **approve Variance (b)** and Commissioner Pannicke made the second. It was voted on and carried.

19-08-82 Barnes & Thornburg Roof Terrace, Indianapolis

Ed Rensink, RTM Consultants, and Debbie Mitchell, Barnes and Thornburg, spoke as the proponent. This project involves a proposed roof terrace, which will occasionally be used to entertain clients. There will be no enclosed areas. The occupancy load will be a maximum of 200 people. The building was constructed in 1912. There is an old fire escape which is original to the building; it is located on the south side of the building. The owner purchased the building in 1982. Proponent has made a number of improvements, including installation of a sprinkler system throughout (except for a small area of the lobby on the first floor). Current code requires the owner to issue a report for the fire escape; proponent is in the process of submitting it to the fire department. They are certifying the repairs made to the fire escape.

Aside from the fire escape, the other means of egress is the interior egress stair. The building is non-combustible, fire-resistant. There will be no cooking on the roof. It will have elevator access, and an accessible bathroom. Margie Bovard, Indianapolis Fire Department, would like to limit the occupancy load on the rooftop terrace to 49 people, and prohibit the consumption of alcohol on the terrace. She is concerned about having only one exit from the rooftop; especially firefighters having to go up, while people are trying to come down. Mr. Rensink and Ms. Mitchell stated that from the 6th floor to the 16th floor, there are approximately 36 people per floor. 550 people work in the building regularly. There is an auditorium on the 5th floor. There was additional discussion regarding the fire pit, additional protection via the installation of sidewall sprinkler heads at the penthouse level, as well as the

presence of a standpipe connection at the penthouse level. Commissioner Pannicke moved to **approve with the conditions** that: (1) the owner/applicant shall provide notice to the local fire department having jurisdiction (Indianapolis Fire Department) five (5) calendar days in advance of any scheduled event on the rooftop terrace in which fifty (50) or more people will be in attendance; (2) The owner/applicant shall install sidewall sprinkler heads at the west and south elevations of the penthouse; (3) if not already provided and operable, the owner/applicant shall extend the standpipe and install a standpipe connection outlet at the penthouse level; and (4) The owner/applicant shall install a code-compliant exit sign above the emergency egress fire escape located at the south elevation of the building. Commissioner Popich made the second. It was voted on and carried. Commissioner Heinsman recused himself.

19-08-83 (a)(b) Waelz Kiln Facility Project, Muncie

Christina Collester, RTM Consultants, spoke as the proponent. This is a variance to replace the previously granted variance. This is an H-4 occupancy. There is a problem with the way the material is moved and how the exits are maintained. This request is for the travel distance to exceed the 175 foot maximum travel distance requirement. The maximum travel distance in each building is 525 feet, 325 feet and 180 feet. Proponent needs large pieces of equipment to move the materials. These materials are neither flammable nor combustible. The buildings are approximately 38 feet tall. The truck ramps are the primary exits. Commissioner Heinsman moved to **approve variances (a) and (b)**, and Commissioner Pannicke made the second. It was voted on and carried.

19-08-84 (a)(b) Riley Children's Health Sports Legend Experience – Event Tent

Christina Collester, RTM Consultants, spoke as the proponent. This is a temporary tent that is located at the sports facility outside of the Children's Museum. There are multiple openings with Velcro windows; it is mostly open with no walls. It meets all elements of the fire code except for the presence of the adjacent building, which is currently being used for storage. The tent will be used for events tied to the sports pavilion; people will eat there, but there will be no open flames aside from Sternos. The tent will be up for nine months out of the year; from March to the end of November. The tent is regularly inspected and maintained by the company that set it up. Proponent received a zoning variance from the City. Proponent is utilizing a temporary structure because of the cost savings, as they are a non-profit organization. This tent is safer than other temporary tents, as it is designed to shed snow, not accumulate it. Commissioner Scheurich moved to **approve variances (a) and (b) with the condition** that these variances are effective until November 20, 2020. Commissioner Popich made the second. It was voted on and carried. Commissioner Pannicke recused himself.

19-08-86 Possibilities Northeast, Fort Wayne

Ed Rensink, RTM Consultants, and Jake Stein, Director of Possibilities Northeast, spoke as the proponent. This is a request to not comply with a change of occupancy. Proponent was cited by the

Fort Wayne Fire Department. This facility is a pediatric outpatient clinic, specializing in applied behavior therapy for autism. Proponent is proposing installation of a fire alarm system throughout the tenant space, which is 3,385 square feet. It is slab on grade and has two exits, directly to the exterior: specifically to a parking lot and a grassy area. The travel distance is 68 feet. There is egress lighting and signage as provided by code. There is a minimum of 1:1 staff ratio. A certified registered behavioral technician will not leave a patient's side the entire day he or she is there. Proponent asserted that there have been two previous approvals of virtually identical variance: 18-06-71 and 18-04-20, both of which were approved with the installation of a fire alarm system.

Jim Murua, Fort Wayne Fire Department, is not refuting that this is an I-4 occupancy. He is concerned about the self-preservation of the children utilizing this facility, as well as the safety of the employees. He believes this is an I-4 because the clients range in age from two to six years old, and are there all day. He feels as though this is custodial care, whereas the proponent does not. Proponent asserted that this is a small area, and that the student: staff ratio is much better than that of a day care, for instance. Commissioner Pannicke moved to **approve with the conditions** that (1) the owner/applicant is required to install local smoke detection (hard-wired or ten-year lifespan battery) in the tenant space; (2) the owner/applicant is required to install a manual fire alarm system throughout the tenant space, as provided in the variance application; and (3) The owner/applicant is required to install a code-compliant sprinkler system in the tenant space by December 31, 2022 (12/31/2022). Commissioner Corey made the second. It was voted on and carried.

19-08-87 The Emporium – King's Café, Cambridge City

Ed Rensink, RTM Consultants, spoke as the proponent. This is a request to not provide a Type I hood in a café that serves soups and sandwiches. There is a 36 inch electrical range. Occasionally the proponent will brown hamburger, broil bacon and make Paninis. There will be no frying. The locals cited the proponent. This restaurant was previously an ice cream shop. It is a three-story, historic structure. There is a two-hour rated floor ceiling assembly above the first floor café. Proponent is interested in developing the rest of the building. There is a separate air-handling unit. Proponent is offering stove top fire suppression; one is generally recommended for every two burners. The issue here is cost. It would be at least \$40,000 to install a Type I hood. There was discussion on the shelf-life of the stove top fire stop sensor. Most of the cooking of the meat occurs on their prep day, when the restaurant is generally closed, and thus unoccupied by customers. Commissioner Heinsman moved to **approve** with the condition that the owner/applicant shall replace the StoveTop FireStop fire suppression canisters every five (5) years. Commissioner Corey made the second. It was voted on and carried. Commissioner Pannicke recused himself.

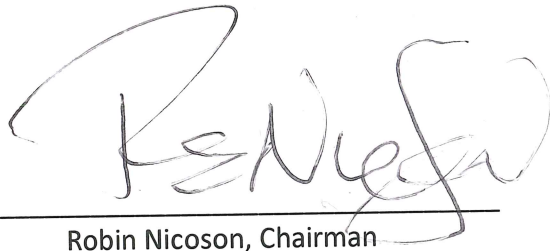
10. Comments and Closing Remarks

Chairman Nicoson thanked everyone for coming, and thanked Commissioner Scheurich for her service.

11. Adjournment

Chairman Nicoson adjourned the meeting at 12:34 p.m.

APPROVED: _____



Robin Nicoson, Chairman