

CHESTERTON ADVISORY BOARD OF ZONING APPEALS
APRIL 28, 2016
6:30 P.M.

The meeting was called to order at 6:30 P.M. Members F. Owens, J. Kowalski and President J. Ackerman were present. Members K. Goldak and T. Kopko were absent. Attorney's J. Paulson and C. Nolan were present as legal advisors. Town Engineer M. O'Dell was in attendance. The pledge of allegiance was recited.

APPROVAL OF MINUTES

Member J. Kowalski moved approval of the minutes from March 24, 2016 seconded by member F. Owens and passed by unanimous voice vote.

PRELIMINARY HEARINGS

Steve Tolton requesting a variance to add cement coverage to the property to build a shed.

Petition 16-04 Mr. Tolton was present. He said he is interested in constructing a shed that is either 10 feet by 10 feet or 10 feet by 12 feet. He was waiting to hear back with quotes he would know the size and placement of the shed before the public hearing.

Attorney J. Paulson clarified for the petitioner that he would need to use the forms for a Developmental Standard Variance known as BZA 9. The variance request should also include the percentage of lot coverage. The petitioner choosing the large shed would result in an increase of lot coverage of 6 percent. She advised the petitioner that a lot of the information needed to complete this variance request might be found on a petition he had a few months back. The petition should also only be in Mr. Tolton's name. Furthermore, property owners within 300 should be coordinated with the property address.

Member J. Kowalski told the petitioner that whatever size shed he decides on the petition need to reflect that percentage of lot coverage.

Member J. Kowalski moved to set this item for public hearing at the May 26, 2016 meeting seconded by member F. Owens and passed by unanimous voice vote.

Sisters of St. Francis Health Services, Inc. requesting a variance to construct a single sided wall mounted sign (24/7 EMERGENCY & URGENT CARE) where Ordinance allows 1 wall mounted sign which has already been used, therefore a variance of 1 additional single sided wall mounted sign. A second variance is requested to construct a single sided wall mounted sign (24/7 EMERGENCY & URGENT CARE) having a gross surface area of 157 square feet where square footage allowed by Ordinance has already been used, therefore a variance of 157 square feet. A third variance is requested to construct a five foot (5) brick wall addition on the West side of the existing building which would cause the total height of the building to be 36 feet where the Ordinance allows a building height of 35 feet, therefore a variance of 1 foot. A fourth variance is requested to construct two (2) single sided wall mounted signs

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(URGENT CARE) where Ordinance allowance for wall mounted signs has already been used therefore, a variance of two (2) single sided wall mounted signs. A fifth variance is requested to construct two (2) single sided wall mounted signs (URGENT CARE) each having a gross surface area of 5.31 square feet for a total of 10.62 square feet, where Ordinance allowance for square footage has already been used, therefore a variance of 10.62 square feet. **Petition 16-05** Attorney G. Babcock was present as representation for the petitioner. He was accompanied by Scott Mundell Director of Business Development for St. Francis Health Services. Attorney G. Babcock told the board the facility was built in 2012 where this board had approved a sign package. Since that time an Urgent Care Facility has been added. The petitioner is looking to advertise themselves as both an emergency care and urgent care facility. Both services are accessed using the same entrance. There is currently signage located on the south side of the building which they have come to understand is ineffective. That signage would be moved to the west wall of the building. He requested an amendment to his petition whereas the five foot wall would be eliminated and the signage would attach to the face of the building. He respectfully requested the board to consider setting this item for public hearing at the May 26, 2016 meeting.

Mr. Scott Mundell of 301 W. Homer St., Michigan City, IN. was present. He spoke to the need to offer clear signage.

Town Engineer M. O'Dell requested a worksheet with the details of the signage request.

Member F. Owens moved to set this item for public hearing at the May 26, 2016 public hearing seconded by member J. Kowalski and passed by unanimous voice vote.

R. Neal Enterprises I LLC, an Indiana Limited Liability Company requesting a variance to permit continued use of an existing two sided freestanding sign (large sign) having a gross square footage of 317.5 square feet, where the Ordinance allows 120 square feet, therefore a variance of 197.5 square feet. A second variance is requested to permit continued use of an existing freestanding sign (large sign) having a height of 21 feet where the Ordinance allows 18 feet, therefore a variance of 3 feet. A third variance is requested to permit continued use of an existing two sided freestanding sign (small sign) where the Ordinance allows 1 freestanding sign which is already in use, therefore a variance of 1 additional freestanding sign. A fourth variance is requested to permit continued use of an existing two sided freestanding sign (small sign) having a gross surface area of 162 square feet where the Ordinance allowance has already been used, therefore a Variance of 162 square feet. **Petition 16-06** Attorney G. Babcock was present as legal representation for the petitioner. He was accompanied by Mr. Richard Neal. Attorney G. Babcock told the board that the sale of this property is complete. The owner is still in the process of clean-up while searching for what commercial activities might go into the site. The ABC license has been acquired as a part of the sale. The petitioner is interested in keeping the two signs that are currently there. He respectfully requested the board to consider setting this item for public hearing at the May 26, 2016 meeting.

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Attorney J. Paulson commented that all the paperwork is in order.

Member F. Owens asked that the petitioner clarify the location of each sign along with the dimensions.

It was clarified that the liquor license was in the name of R. Neal Enterprises.

Member J. Kowalski moved to set this item for public hearing at the May 26, 2016 meeting seconded by member F. Owens and passed by unanimous voice vote.

PUBLIC HEARINGS

B & B Development, Inc. requesting a variance to construct a 2 sided business sign totaling 80 square feet, where the Ordinance allows 120 square feet, a previous variance allocated 110 square feet to 30 business tenants, therefore a variance of 70 square feet. **Petition 16-03** Rules for conducting a public hearing were read aloud. The secretary verified proof of publication, notification and payment. Attorney G. Babcock was present as legal representation for the petitioner. The property owners are Bob Mitchell and Bill Bennett. Mr. Russell Lagneau the manager of Kountry Wild Saloon accompanied him. Attorney Babcock told the board that Mr. Lagneau has been leasing the space since November of 2014. He said patrons have indicated to him that they have driven by and been unable to find the location due to lack of signage. The entrance itself is a bit tucked back into a corner of an "L" shaped property design. The parcel has seen several variances. The tenant is currently interested in larger and more visible signage as well as a reader board to advertise specials. The location offers such things as line dancing and often hosts fund raisers.

Mr. Russell Lagneau of 611 Oswego Rd., Valparaiso, IN. was present. He said they are a 21 and over establishment but they also an extensive menu featuring sandwiches, steaks and prime rib. He said patrons often call unable to find the location. A poorly lighted parking lot and insufficient signage are a huge factor. He said he's interested in bringing people to the west side of town.

Attorney Babcock said they are interested in keeping the reader board lower on the sign for ease of changing as well as safety reasons. The establishment is looking to grow its business. A letter of support was received from Plastic Weld in support of the petition. The old sign variance created a number of possible signs based on the number of tenants. Unfortunately that building is not full. He respectfully requested the board to consider granting the variance request.

There was no one present to speak in support of the petition.

There was no one present to speak in opposition to the petition. The public comment portion of the public hearing was declared closed.

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Member Kowalski said he understands the hardship with being 240 feet from the road. He supported the idea of bringing more business to the west side of town.

Attorney J. Paulson said in conversation with Town Engineer M. O'Dell it was determined that the variance request should actually be a variance of 80 feet and not 70 feet because you can't go back and amend an old variance but you can get an additional variance. The sign hasn't changed only the variance number changes. She asked if the plan was to maintain the 110 square feet with the 3 square foot signs or would they allocate some of that to this sign.

Attorney G. Babcock said yes they are keeping the 110 square feet and requesting the additional 80 square feet on the gantry.

M. O'Dell clarified that the entire complex gets 120 square feet of signage allowed by the Ordinance. Mr. O'Dell said everyone always assumes the freestanding sign gets to be 120 square feet and it's actually the entire complex.

Attorney J. Paulson said the petition could be amended tonight because the request really hasn't changed just the semantics have changed. The additional variance would allow an additional 80 square feet on that same sign.

M. O'Dell clarified the variance is for an additional 5 x 8 feet which is 80 square feet. He didn't see an issue with the 2 x 8 on the east side of the building with their backs facing the vacated 11th street "that's a reasonable sign size." Typically the reader board is not larger than the sign. He found the 3 lines to be excessive. He wanted the reader board to be located higher than they had indicated on the petition. A safety shield is required by OSHA. Passers by would also be tempted to tamper with the sign if the text is lower. It would also restrict the view.

It was the general consensus that the new sign and reader board would be located immediately below the existing sign found on the gantry. The petition would be amended to reflect the changes as discussed. They would reference the picture to be known as Exhibit B. The revised variance request would read: Construct a two sided business sign totaling 80 square feet where the square footage for the site has already been utilized therefore a variance request of 80 square feet. The variance subject to the condition that the sign will be located at the upper portion of the gantry under the existing "Factory" sign, food and drink, retail shops, and offices sign as shown in the picture known as Exhibit B.

Attorney G. Babcock said he would retype the request and get it back to Attorney Paulson for approval.

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Member F. Owens moved to close the public hearing accept the amended Findings of Fact as presented and agreed to by council include the written conditions as shown as Exhibit B and grant the variance request seconded by member J. Kowalski and passed by unanimous roll call vote of 3 to 0.

OLD BUSINESS

Member J. Kowalski commented that included in the Sign Ordinance revision the freestanding sign height restriction was reduced from 21 feet high to 18 feet high.

NEW BUSINESS- None

MISCELLANEOUS BUSINESS- None

ADJOURNMENT

There being no further business before the board member J. Kowalski moved to adjournment seconded by member F. Owens and passed by unanimous voice vote. The meeting adjourned at 7:30 P.M.

Respectfully submitted,

Gail A. Murawski, Secretary

Approved:

J. Ackerman, President