

CHESTERTON BOARD OF ZONING APPEALS
MAY 25, 2017
6:30 P.M.

The meeting was called to order at 6:30 P.M. Present were members F. Owens, J. Kowalski, R. Riley and President J. Ackerman. Town Engineer M. O'Dell was in attendance. Attorneys J. Paulson and C. Nolan were present as legal advisors. Member K. Goldak was absent. The pledge of allegiance was recited

APPROVAL OF MINUTES

Member F. Owens moved approval of the minutes from April 27, 2017 seconded by member J. Kowalski and passed by unanimous voice vote.

PRELIMINARY HEARINGS

Pierre Lauzon and Kristine L. Lauzon, husband and wife requesting a variance to construct an in-ground pool with concrete deck whose impervious surface will cause the lot coverage to be 36.8 percent (766 square feet) where the Ordinance allows lot coverage of 30 percent therefore, a variance of 6.8 percent. **Petition 17-04** Attorney Babcock was present as representation for the petitioners. The Lauzon Family accompanied him. He told the board the Lauzon's have lived in Abercrombie Woods since 2007 and are interested in installing a pool. The covenants in that subdivision only allow for inground pools. From a safety perspective, the yard is surrounded on three sides by a fence. Drainage will not be altered and a shared French Drain system would continue to carry water from theirs and neighboring homes. He respectfully requested the board to consider setting this item for public hearing.

Mr. R. Riley moved to set this item for public hearing at the June 22, 2017 meeting seconded by member J. Kowalski and passed by unanimous voice vote.

William Bennett requesting a Special Exception to operate a physical adventure game where players solve puzzles, using hints and clues, to "escape" the room. **Petition 17-05** Mr. Robert Ring was present as representative for the petition. The file would contain POA documentation. Mr. Ring told the board they would like to use Suite 3 for an "Escape Room." He explained that there are clues and hints and activities you follow to free yourself from the locked room in an allotted time. He compared it to the movie "National Treasure" starring Nicholas Cage. There would be video surveillance that monitors the room and the activities.

Attorney J. Paulson clarified that the paperwork filled out was for a Special Exception and this variance request is actually a request for a Use Variance. The amended petition would require the Findings of Fact be completed that coincide with the variance request.

Town Engineer M. O'Dell said Mr. Ring would need to provide more information about the layout of the room. He requested information as it would relate to safety of patron's panic buttons, exits and other safety features.

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Member F. Owens suggested that the doors in the room would need to swing out and not in.

The petitioner was advised that the amended petition and additional information would need to be received on June 5, 2017.

Member R. Riley moved to set this item for public hearing at the June 22, 2017 meeting seconded by member F. Owens and passed by unanimous voice vote.

PUBLIC HEARINGS

Jason T. Robinson Jason Robinson requesting a front yard setback reduction from 25 feet to 15 feet, a variance of 10 feet. A second variance is requested to increase lot coverage to 37.8 percent, a variance of 7.8 percent. A third variance is requested to allow an accessory structure to be 1 foot from the side property line. **Petition 17-02** Rules for conducting a public hearing were read aloud. The secretary verified proof of publication, notification and payment. Mr. Robinson distributed a revised site plan. He told the board the only thing that had changed from the previous plan was that the septic tank had been moved onto the property rather than the easement. He was interested in constructing a duplex and an accessory structure that tenants could rent additionally to store any unsightly or additional belongings. He respectfully requested the board to consider granting the variance requests.

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

Mr. John Orlich of 112 Hillstrom, Chesterton was present. He said he wasn't opposed to the petitioner building on the lot but he had concerns with the site plan and the need to reduce the front yard setback. He commented that the house to the north of this property actually meets the setback requirements. Mr. Robinson had said he wanted the duplex to match the existing houses. He expressed concerns about the accessory structures. He understood each resident of the duplex would have an attached garage. It was clarified that residents would pay an additional rental fee to use of the accessory structure. Mr. Orlich wondered if the tenants don't rent the accessory structure would it sit vacant or would Mr. Robinson rent it to outside parties.

Mr. Robinson said he understood those concerns and the structure would be used only for rental by tenants and not commercial rental. He said he moved the duplex up closer to the road to keep away from the slope of the land.

There being no further persons wishing to speak the public comment portion of the public hearing was declared closed.

Town Engineer M. O'Dell said he would like to see the accessory structure used for tenants only with no future storage. He proposed adding that as a condition.

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Member R. Riley clarified that use of the structure would be in the lease agreement and tenants had the option to opt out.

Mr. Robinson said he would like to keep the units and outside area free of clutter and offer this an option.

Member J. Kowalski said the tenants have garages an additional fee for a rental space seems excessive. He asked, why would you want to pay property taxes on a structure that may not even be utilized. He commented that the petitioner had no practical difficulty.

Member R. Riley said he would prefer to see a third rental unit rather than that large accessory structure. He said, "Get rid of the garage and put up a 3 plex."

Member F. Owens suggested focusing on a condition that would limit the storage for renters only.

M. O'Dell said that structure is really large. He would be in compliance with the lot coverage if the garage was not constructed.

Mr. Robinson said he is allowing some of his lot coverage to be eaten up by the neighbor whose shed is on his lot.

President J. Ackerman asked why the petitioner would opt for such a large freestanding garage and not just a shed.

Mr. Robinson said he wanted each tenant to have an overhead garage door.

Member Kowalski commented that there is no hardship. The petitioner could easily include a shed for storage.

Attorney J. Paulson said each variance request could be considered separately because each request has its own set of Findings of Fact. She told the board that if they are going to deny any of the variance requests the board would need to adopt their own Findings of Fact. The petition would need to be continued to draft Findings of their own. If the petitioner was not interested in delaying the petition he could always withdraw the request for the lot coverage variance. The board would either act on all the variances or continue all of them.

Members explained that he would still have the option to build an accessory structure but just not that large or requiring a lot coverage variance.

After additional conversation and consideration, the petitioner decided to pull the variance for lot coverage and not delay the construction of the duplex.

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It was the general consensus of the board that some language be adopted so the only accessory structure constructed 1 foot from the property line be the shed that already exists.

Mr. Robinson still had the option to negotiate the existing shed with his neighbor. He could still make a decision to leave the shed or ask the neighbor to move it.

The board and attorney gave no legal advice as to how the petitioner would handle the decision of the existing shed with his neighbor.

Member J. Kowalski commented that the petitioner had started installing footings for a garage that the board had not even yet approved. There was currently a Stop Work Order on the site.

Attorney Paulson clarified that the petitioner requested to withdraw the variance for lot coverage. She proposed the condition; This variance shall apply only to the shed existing on the property as of the date of the variance. The board was in agreement.

Member R. Riley moved to close the public hearing, accept the Findings of Fact for the two variance requests and grant the two variance requests. The motion was seconded by member F. Owens and passed by a roll call vote of 3 to 1. Member J. Kowalski voted no.

John and Susan Essany John and Susan Essany requesting to construct a garage addition with the front of the garage extending past the front of the house. A second variance is requested to reduce a setback from rear of garage addition to 10 feet to easement. **Petition 17-03** G. Murawski, Secretary told members of the board a paid receipt for publication of the notice was not received from the petitioner. Attorney Paulson clarified that the rules do state that a paid receipt be presented from the petitioner. Furthermore, the Findings of Fact were incomplete.

Mr. Essany said he was unaware that the notification was made by the secretary. He expressed his displeasure with having to notify persons other than those within 300 feet of his property.

Attorney J. Paulson advised the board that they could open the public hearing with a contingent that a paid receipt be presented to the Building Department before a building permit is issued. Furthermore, it would be a board decision to proceed without the Findings being completed. They could allow the petitioner to draft and complete the conditions tonight.

Member F. Owens suggested that the single Find of Fact Number 3 that was complete could also be applied to Find of Fact Number 1 and 2 as well.

Member J. Kowalski commented that there was no one present to speak in opposition to the petition. He hated to see the petitioner have to come back again. The board would not write Findings for the petitioner.

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Mr. Essany requested that the Finding for item Number 3 be applied to Finding Number 1 and 2.

He explained that the chosen location for the garage is the only logical placement. He continued, the septic system exists to one side of the house, on the other side of the house the garage would encroach on the neighbor's property and there's not enough space to construct the garage in the back of the house. He respectfully requested the board to grant 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.

Member M. O'Dell clarified that Mr. Essany was not asking for an additional driveway. He requested this become a condition of the petition.

Mr. Essany said he would not add another driveway having access from the road. The garage would be for personal use only and not rented.

Attorney suggested the following language for the two conditions; The Petitioner shall pay all costs of publication prior to the issuance of a building permit. 2. No additional driveway cuts shall be permitted on the property.

Member J. Kowalski moved to close the public hearing, accept the Findings of Fact and grant the variance request seconded by member R. Riley and passed by a unanimous roll call vote of 4 to 0.

OLD BUSINESS- None

NEW BUSINESS- None

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MISCELLANEOUS BUSINESS

Town Engineer M. O'Dell informed the board that Lamar Sign Company would be replacing the tri-wave sign located at Indian Boundary and South Calumet Road. It would be replaced with a dynamic digital board. They would keep within the parameters of the existing sign. The town would have one panel devoted to the dynamic sign.

ADJOURNMENT

There being no further business before the board member R. Riley moved adjournment, seconded by member F. Owens and passed by unanimous voice vote. The meeting adjourned at 7:45 P.M.

Respectfully submitted,

Gail A. Murawski, Secretary

Approved:

J. Ackerman, President