

CHESTERTON BOARD OF ZONING APPEALS
OCTOBER 25, 2018
6:30 P.M.

The meeting was called to order at 6:30 P.M. Present were members J. Kowalski, F. Owens, J. Ackerman, K. Goldak and president R. Riley. Town Engineer M. O'Dell and Town Manager B. Doyle were in attendance. Attorney J. Paulson was present as legal advisor. The pledge of allegiance was recited.

APPROVAL OF MINUTES

Member J. Kowalski moved approval of the minutes from September 27, 2018 seconded by member F. Owens and passed by unanimous voice vote.

It was the general consensus of the board to convene the November meeting on Tuesday November 20, 2018 due to the Thanksgiving holiday.

Member J. Ackerman moved to convene the November meeting on Tuesday November 20, 2018 at 6:30 P.M. seconded by member K. Goldak and passed by unanimous voice vote.

PRELIMINARY HEARINGS

Erik Weiler and Erica Christine Weiler requesting a variance to increase the height of a fence from 4 feet to 6 feet along County Road 50 East. **Petition 18-09** Mr. Weiler said they are looking to increase the height of the fence to provide extra privacy and safety for their children and pets. He respectfully requested that this item be set for public hearing.

Member J. Ackerman moved to set this item for public hearing at the November 20, 2018 meeting seconded by member K. Goldak and passed by unanimous voice vote.

B & B Development, Inc. requesting a Use Variance to allow the establishment of a craft brewery at The Factory, where the table of uses does not show said use available in town. **Petition 18-10** Attorney G. Babcock was present as legal advisor for the petitioner. Mr. Vernon Brown accompanied him. Attorney G. Babcock told the board that Mr. Brown is looking to establish a brewery/restaurant. Although the site is zoned Industrial, in 1998 the BZA granted a variance for a restaurant/dining use at the 1050 Broadway, Suite #36 location. Unfortunately, that use does not include a craft brewery. Soon the town of Chesterton will become home to four brewery's and Mr. Brown is optimistic that Chesterton could become a destination place for enjoying the tastings of craft beers just like Michigan. In addition, the owner of the property has acquired the three-way liquor license that had previously existed in that spot. There is currently ample parking for the site. This would be a veteran owned business. He respectfully requested this item be set for public hearing at the November meeting.

Attorney J. Paulson found the petition to be in order.

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Mr. Brown told the board that they had walked the site with the fire chief and an exact capacity would depend on the size of tables and their configuration.

Member F. Owens moved to set this item for public hearing at the November 20, 2018 meeting seconded by member J. Ackerman and passed by unanimous voice vote.

PUBLIC HEARINGS

Daniel R. Opyt, Sr. and Patricia A. Opyt, husband and wife requesting a variance to construct a monument sign 4 feet from the property line where the Ordinance requires a setback of 10 feet, therefore a variance of 6 feet. **Petition 18-07** The secretary verified proof of publication notification and payment. Attorney G. Babcock was present as legal representation for the petitioner. Mr. Opyt accompanied him. A representative from Great Lakes Signs was also in attendance. The existing sign was built in 1965 for what was the former Rigg's Drive-In. The petitioners are interested in installing a new sign and discovered that a portion of the existing sign hangs into the town right-of-way. The proposed sign would be a monument sign with a dynamic display. The unique configuration of the site necessitates placing the new sign in the same general area. The sign would not impair sightlines or the sidewalk. He respectfully requested the board consider granting the variance request.

Mr. Opyt told the board the current sign is very outdated and is starting to deteriorate. He is interested in modernizing the sign and promoting their food business. He would never use the sign to promote an alcohol special.

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 J. Kowalski moved to close the public hearing, accept the Findings of Fact and grant the variance requested seconded by member K. Goldak and passed by unanimous voice vote.

Lloyd and Aurora Kittredge requesting a variance to have a sign on the outside of the window. at this time the code does not allow. A second variance is requested to have a window sign of 56 square feet goes over the allowed 80 square feet by 34 square feet therefore, a variance of 34 square feet. **Petition 18-08** The secretary verified proof of publication and notification. The petitioner agreed to remit payment for the publication the following day. Mr. Kittredge was present and told the board the sign that is currently on the window is a perforated shade. It provides thermo screening and allows the petitioner to see out while making it difficult for passersby to see in as that is his office. He respectfully requested the board to consider granting the variance request.

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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.

Attorney J. Paulson clarified that the petitioner was asked to submit a list of property owners within 300 feet that was missing at the preliminary hearing. The secretary confirmed that the list had been submitted with the paperwork.

Member K. Goldak commented that they had done a great job with the improvements to the building.

Member K. Goldak moved to close the public hearing, accept the Findings of Fact and grant the variance requested seconded by member J. Kowalski and passed by unanimous voice vote.

OLD BUSINESS- None

NEW BUSINESS

R & A Asset Holding, LLC By Richard Connor Riley Member requesting a variance for the expansion of a non-conforming use as this is a residential use on a B-2 Business. A second variance from Article VI, Section 602 B (p. 53) accessory buildings can only occupy 30 percent of the rear yard. **Petition 18-09** President R. Riley recused himself from the proceedings as he is the petitioner. Vice president K. Goldak would hear the petition.

Attorney J. Paulson explained to the board that the board received a petition from R & A Asset Holdings, LLC this very evening. It was not on the agenda for preliminary hearing and was not filed with the town seventeen days prior to the meeting date. At the very least the petitioner would need relief from the filing period. The rules provide that the board can waive that seventeen-day requirement by unanimous vote of the members present upon showing that an emergency exists. She expressed concern that all petitions be filed with the clerk treasurer's office and that a filing fee be paid when the petition is filed. The petition has not been filed with the clerk's office and no filing fee had been paid.

Mr. Riley said the conversation in determining the variance necessary only occurred earlier today. He would file the petition and pay the necessary fee tomorrow. The emergency is that the weather has presented a hardship and threatens to make construction of the garage impossible if pushed back into the later months.

Member J. Ackerman motioned to waive the seventeen-day filing requirement conditioned upon the petitioner filing the petition with the clerk's office and paying the necessary fee tomorrow seconded by member F. Owens.

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Attorney J. Paulson told the board that the case of an emergency must also be addressed.

Member J. Ackerman amended his motion to include waive the seventeen-day filing requirement in light of the emergency related to the timing of the weather and conditioned upon the petitioner filing the petition with the clerk's office and paying the necessary fee tomorrow seconded by member F. Owens and passed by unanimous roll call vote.

Mr. Riley told the board the need for this variance was discovered when he and his wife decided to build a garage behind their residence on Grant Street. Upon the garage company obtaining permits it was brought to their attention that the parcel would have lot coverage issues. It further evolved that the property is Zoned B-2 and the expansion of a non-conforming property in a B-2 Zoned also requires a Use Variance. He told the board any accessory structure in a B-2 Zone cannot occupy more than 30 percent of the rear yard. The garage would also include a patio with an overhang that would be a six-foot covered section of concrete located on the south of the garage. He thanked the board for their consideration and respectfully requested this item be set for public hearing at the November meeting.

Town Engineer M. O'Dell said he would like to see the variance enumerated. The petitioner is asking for a 42 percent lot coverage therefore they would be asking for an increased lot coverage of 17 percent. There was also conversation about taking off the side 6-inch soffit to avoid a side yard variance. The petitioner would consider this factor once the site plan was reevaluating and amend the petition if necessary. Attorney J. Paulson was in agreement.

There was also conversation about future expansion of the property. Attorney Paulson said they might want to consider amending the variance request for "residential use" so they would not run into this problem in the future. She explained that rather than expand a nonconforming use they would ask for a Use Variance which would allow the property to be used in a residential capacity in a B-2 Zone.

Member J. Kowalski moved to set this item for public hearing at the November 20, 2018 contingent that all the necessary paperwork being submitted by Friday November 2, 2018 seconded by F. Owens and passed by unanimous roll call vote.

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MISCELLANEOUS BUSINESS- None

ADJOURNMENT

There being no further business before the board member J. Ackerman moved adjournment seconded by member J. Kowalski and passed by unanimous voice vote. The meeting adjourned at 7:15 P.M.

Respectfully submitted,

Gail A. Murawski, Secretary

Approved:

K. Goldak, Vice President