

**CHESTERTON BOARD OF ZONING APPEALS**  
**JULY 25, 2019**  
**6:30 P.M.**

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

**APPROVAL OF MINUTES**

Member K. Goldak moved approval of the minutes from June 27, 2019 seconded by member J. Ackerman and passed by unanimous voice vote.

**PRELIMINARY HEARINGS**

**Prepared Services Contracting, LLC., Pedro A. Azevedo and Ana M. Azevedo Living Trust** requesting a Use Variance for special events center. **Petition 19-12** Attorney T. Kuiper of Austgen, Kuiper, Jasaitis P.C. was present as legal representation for the petitioner. He was accompanied by Derrick Serianni Founder and CEO of Prepared Services. Attorney Kuiper told the board his client is looking to be granted a Use Variance to open a special events center in the Grant Street location. There is currently no permitted use in the Zoning Ordinance for this kind of event center. By permitting this use it would allow them to hold small concerts, host guest speakers and weddings. This event center use would also be contingent upon the state approval from the Indiana Department of Homeland Security's Fire Prevention and Building Security Commission. He solicited questions from the board.

President R. Riley asked if there was a business plan in place. Attorney Kuiper replied no. President Riley told the petitioner he would be looking see a site plan including intended seating, hours of operation, exists and parking. He wondered if they would be required to obtain approval from the state first.

Attorney Kuiper said they needed the approval of this board prior to going to the state. The state needs to know this is an allowable use of the property.

Town Engineer M. O'Dell said a condition needs to be added that the Use can't be stated until the state release and local permits are obtained and all requirements are complete. If the state release or state variance is not approved then the use can not be approved.

President R. Riley said he didn't have a problem with an event center, he was struggling with the broad terms being presented. He commented that all the items this board would like to see are important to the state as well for their approval. The impact on the community is what is most important.

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Attorney J. Paulson said the concern of the Use and approval of the variance could be contingent upon receiving state approval.

Member K. Goldak said this broad representation of event center needs to be defined. She told the petitioner she would like to see examples of the sort of events that would be held.

Attorney Kuiper was in agreement. Part of the difficulty we have is that there is nothing in the Ordinance that describes something like this. He toyed with the idea of defining this as an "assembly." This site could hold upwards of 300 people but that would be a determination of the state.

Member F. Owens thought a banquet center might be a comparative definition for this use.

Member J. Kowalski was in agreement with the other board members. There needs to be a business plan. The use of the space needs to be clearly defined and the board needs to see a site plan. The plan would be a complete layout of what actually is involved. The property is also being used currently by other businesses. It should be defined what the other business needs are as well. He thought this was a great concept.

Town Engineer M. O'Dell commented that the state release may require a sprinkler system to be added to the building.

Attorney J. Paulson requested that Findings of Fact be completed.

It was the general consensus of the board that the amount of work left to be done on this petition was significant. It might be best to continue the preliminary hearing and get with the building department and create a definition for the use of "Special Events."

Member J. Ackerman moved to continue the preliminary hearing until the August 22, 2019 meeting seconded by member K. Goldak and passed by unanimous voice vote.

**Prepared Services Contracting, LLC., Pedro A. Azevedo and Ana M. Azevedo Living Trust** requesting a variance to increase building signage exceeding allowable area.

**Petition 19-13** Attorney T. Kuiper of Austgen, Kuiper, Jasaitis P.C. was present as legal representation for the petitioner. He was accompanied by Derrick Serianni Founder and CEO of Prepared Services. Attorney Kuiper told the board his client is looking to increase the amount of signage for the special events center. The building sits quite a bit off the road from 4<sup>th</sup> Street. He gestured to a depiction of the proposed signage. They would not be asking for signage on the Grant Street side of the building.

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Town Engineer M. O'Dell suggested they pick the side of the building for the signage. They would be allowed 80 square feet of signage since the building is less than 30 feet from the road, possibly 120 square feet if there are multiple tenants. The freestanding sign which is approximately 4 feet by 8 feet that is already on the site is illegal but it's there. This sign is an original sign from when the Pioneer Lumber business was located there. The symbol depicted in the drawing should also be considered as part of the signage square footage.

Attorney J. Paulson told the petitioner that the square footage needed to be defined. The board would like to see any amount over the allowable square footage depicted and calculated.

Member F. Owens commented that the freestanding sign that is currently on the property is an illegal non-conforming sign that has been there since Pioneer Lumber. M. O'Dell was in agreement. That sign needs to be included in the calculations for the variance request.

Member J. Ackerman moved to continue Petition 19-13 seconded by member F. Owens and passed by unanimous voice vote.

## **PUBLIC HEARINGS**

**MNB Development, Corp.** requesting a Use Variance to locate a tattoo parlor in a B-2 Zone where the Ordinance does not show the same as a permitted use. **Petition 19-11** 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. He was accompanied by Nic Bender who would be the end user of the property. The property is owned by the petitioner MNB Development, Corp., Mrs. Busch. The property is located at 1508 South Calumet, Chesterton. There was a previous use variance granted to create the neighboring Fire Flies. The site also houses Tiger Lily Restaurant and a recently opened emporium to accompany the restaurant. Nic is looking to take one of the vacant sites located at the west end of the site and open a tattoo parlor. Mr. Bender has been tattooing for 15 years and is looking to bring his talent to Chesterton. Nic is a Chesterton High School graduate. He has two sons in the Chesterton school system and is looking to be nearer to them. Our Uses in the Zoning Ordinance are outdated and currently there is no designation for tattoo parlor in our table of uses. Attorney Babcock distributed a colored packet depicting the type of work that Nic does.

Nicholas Bender of 2132 Westchester Ave., Chesterton was present. He told the board he has a lifelong connection to this town and is looking to bring his talents here and give back to the community. He gave a brief overview of the many cities he has work in over the past 15 years. He noted how much clientele has changed over the years. Some of his clients would include business professionals, athletes, public officials, musicians and performers. He also has a loyal following of women between the ages of 20 to 40 years old. His clients usually meet with him for a consultation to discuss design. He told the board, "It's my job to guide clients to quality, long lasting applications to be proud of." Hours of operation would be Tuesday through Saturday from

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2:00 P.M. until 8:00 P.M. with extended hours if necessary but not typical. His standard rate is \$150.00 to \$250.00 per hour. The tattoo industry is a 1.5-billion-dollar industry. There are currently 21,000 tattoo parlors in the United States. The state board of health regulates the conditions in the parlor similar to those of a dental office. Records of every client that utilizes his service are kept on file. Everybody there takes a blood born pathogen test yearly. The local health department does unannounced onsite inspections several times a year.

Attorney Babcock told the board that 38 percent of Americans ages 18-29 have at least one or more tattoos. Nic has a graphic design background and also specializes in cover-ups. The Field Museum in Chicago did an exhibition in modern tattooing. He distributed a copy of a letter of recommendation from the curator of Valparaiso University, Brauer Museum of Art. The letter called attention to the artistry and professionalism of Nic Bender. The owner of this property is interested in having Nic as a tenant. There is ample parking for the business. Years ago, when the Ordinance was created the use many not have had the same level of acceptance as it has today. People today are comfortable with the fact that individuals have tattoos. He felt that a quality business as presented would do well in our town. He respectfully requested the board to accept the Findings of Fact and grant the Use Variance request.

Gregg Hertzlieb of 908 E. 19<sup>th</sup> St., LaPorte, IN. was present to speak in support of the petition. Mr. Hertzlieb told the board he is a former resident of Chesterton where he resided for 24 years. He was Nic Bender's former high school teacher and is currently the Director/Curator of the Brauer Museum of Art, Valparaiso University. He spoke of Nic's diligence, conscientious nature and attention to detail which has enabled him to rise to a respected place in his field. A copy of his letter of recommendation is contained in the petition file.

Deanne Nanojlovic of 1904 Catkin Circle., Chesterton, IN. was present to speak in opposition to the petition. She felt that a tattoo parlor is not the image the town of Chesterton wants to project. She believed in keeping our town quaint and old fashioned. She did not see this business contributing to our tax base. She did not like the idea of a tattoo parlor being located near a children's play area. She said she see lots of young adults who are not financially stable spending money on tattoos.

Attorney G. Babcock called attention to the data that client's range in age from 18 to 50 years of age. Those age ranges equate to growth in our community. The owner of the property has a comfort level with allowing Nicholas Bender to conduct business from that space.

Member K. Goldak said she was in agreement that some individuals can not afford the price of a tattoo, however it is not our place to spend other people's money. She felt there is a desire for that type of business in our community. She felt that as long as Nic adheres to the state regulations and furthermore adheres to his conviction to not "tat" young adults under the age of 18 even with parental consent his business would be upstanding.

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Member J. Kowalski echoed member Goldak's statement. He was also in agreement that the Ordinance was outdated.

Member F. Owens felt that many years ago there may have been a stigma surrounding tattoos. But times have changed.

Member J. Ackerman was in agreement with other members of the board.

Town Engineer M. O'Dell clarified that the Use Variance is at this facility only. He understood that the county does inspect. He would like to see them obtain an occupancy certificate and the site have a building and fire inspection before opening. He suggested that the building department receive a copy of any county health inspections.

Attorney J. Paulson was in agreement. She suggested that any inspection reports be provided to the building department within 10 or 14 days of receipt.

Town Engineer M. O'Dell said they can do a building and fire inspection at any time and request to see any and all certifications. The board was in agreement.

Member J. Kowalski suggested that any and all certifications be posted on the wall in their establishment.

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

**OLD BUSINESS- None**

**NEW BUSINESS**

**Discussion of accessory structures.**

Member K. Goldak suggested that when petitioners bring in a site plan, they be requested to bring in their full scope of work.

Member F. Owens said you can approve a variance one day and the next day homeowners can decide to build something additionally. We can't stop that. It's a hard line to regulate.

Member Kowalski said that changes to the Ordinance may help to regulate things.

In other matters of business, Attorney J. Paulson said she would follow up on signage issues near Wise Guys.

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**MISCELLANEOUS BUSINESS- None**

**ADJOURNMENT**

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

Respectfully submitted,

Gail A. Murawski, Secretary

Approved:

R. Riley, President