

CHESTERTON BOARD OF ZONING APPEALS
JANUARY 21, 2020
6:30 P.M.

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

ELECTION OF OFFICERS

Member R. Riley nominated member J. Kowalski for president seconded by member J. Ackerman and passed by unanimous voice vote. Member F. Owens nominated member R. Riley for vice president seconded by member J. Carney and passed by unanimous voice vote. Member R. Riley motioned to retain Gail Murawski as secretary seconded by member J. Ackerman and passed by unanimous voice vote.

APPROVAL OF MINUTES

Member R. Riley moved approval of the minutes from December 30, 2019 seconded by member F. Owens and passed by unanimous voice vote.

PRELIMINARY HEARINGS

Mary E. Cahillane requesting a Use Variance to allow residential use (two family) in a business zone where the same is not allowed by the Ordinance. **Petition 20-01**

Mary E. Cahillane requesting a variance to allow a second principal structure on a lot where the Ordinance only allows 1 principal structure on a lot, therefore a variance of 1 additional principal structure. A second variance is requested for remodeling a residential unit (carriage house) in a business zone where the current minimum lot area is 7,062.5 square feet, therefore a variance of 137.5 square feet. A third variance is requested for remodeling a residential unit (carriage house) in a business zone having a width of 56 feet 6 inches, where the Ordinance requires a minimum width of 70 feet, therefore a variance of 13 feet 6 inches. A fourth variance is requested for remodeling a residential unit (carriage house) in a business zone having a front yard setback of 22 feet 10 inches, where the Ordinance requires 30 feet, therefore, a variance of 7 feet 2 inches. A fifth variance is requested for remodeling a residential unit (carriage house) in a business zone with the rear yard setback of 4 inches, where the Ordinance requires 10 feet rear yard setback, therefore a variance of 9 feet 8 inches.

Petition 20-02

It was the general consensus of the board to hear both of the Cahillane petitions together. Attorney G. Babcock was present as legal representation. He told the board the petitioners are interested in remodeling the carriage house so it can be used as a residence. The property is Zoned B-2. It is comprised of five separate lots with three structures. The residence was built in 1910, with a

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commercial structure being added shortly after. The carriage house was added in 1948. Chesterton did not adopt a zoning ordinance until sometime after 1954. The Cahillanes purchased the property in 2019. They received a permit to repair and strengthen the foundation. It was later determined that the carriage house is located in a business zone and remodeling the structure for residential use would necessitate the variances being requested. The house has a tenant living in it. The petitioners would be interested in taking the two southern lots and about six and half feet of the adjacent lot and create the residential section and the remainder would be the commercial section. The carriage house sits 4 inches off the lot line. There is a back exit with four stairs and a small overhang that would be removed. He respectfully requested the board to consider setting this item for public hearing at the February 27, 2020 meeting.

Town Engineer M. O'Dell clarified that the intent is to have two separate lots. The commercial building has its door facing Broadway and does not meet the setback of a business zone. He suggested asking for that variance now. He asked that they also include removing the steps and overhang as a legal condition of the petition. The amended petition would need to be resubmitted by February 10, 2020.

Attorney Babcock commented that there would be a second legal description needed.

Attorney J. Paulson advised Attorney Babcock to keep the commercial portion on the same petition. She said she would work with M. O'Dell to clarify the notes and description for the parcels.

Member F. Owens moved to set this item for public hearing at the February 27, 2020 meeting seconded by member R. Riley and passed by unanimous voice vote.

PUBLIC HEARINGS

Horizon Bank, N.A. requesting a variance to construct a freestanding sign at a height of 20 feet 6 inches, where the Ordinance allows a height of 18 feet, therefore a variance of 2 feet 6 inches. A second variance is requested to construct a freestanding sign within 4 feet of the East lot line, where the Ordinance requires placement at no closer than 10 feet from the lot line, therefore a variance of 6 feet. A third variance is requested to construct a two sided freestanding sign having a gross surface area of 208 feet 6 inches, coupled with the existing signage of 33 feet 9 inches for a total proposed square footage on site of 242 feet 3 inches, where the Ordinance allows a gross surface area of 80 square feet, therefore a variance of 162 feet 3 inches square feet. A fourth variance is requested to permit the construction of a freestanding sign for a single occupant building setback less than 30 feet from a public right-of-way, where the Ordinance prohibits said freestanding sign, therefore a variance of 1 freestanding sign. **Petition 19-18** The secretary verified proof of publication, notification and payment. Rules for conducting a public hearing were read aloud. Attorney G. Babcock was present as legal representation for the petitioner. He

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was accompanied by Julie LeBeau, Branch Manager of Horizon Bank, Chesterton, Kent Mishler, Senior Lending Commercial Officer, Horizon Bank, Porter County and Shaun O'Brien of Legacy Sign Group. The Horizon Bank branch is located at the corner of Porter Ave. and Roosevelt and adjacent to the SR49 bypass. The parcel is Zoned B-2. Horizon Bank has been at that location since 2002.

Julie LeBeau of Valparaiso was present to speak. She said as branch manager she usually has anywhere from 3 to 5 employees a mortgage officer and occasionally a visiting commercial lending officer. She said there is often the misconception among customers that all they handle at that location is day to day activity on checking and savings accounts. Making customers and the public aware of the products and services being offered at the location is beneficial to their customers.

Kent Mishler of 1301 Lake Drive, Chesterton was present. He told the board he has been a community banker for 40 years. As a commercial lender he is responsible for growing commercial lending relationships. They retain a vast majority of small business customers here in town. Small businesses are the lifeline of our community. One of the biggest challenges that bankers have today is regarding cybercrime fraud. The bank is constantly having to come up with new products and services to protect against and minimize fraud and cyber fraud.

Attorney G. Babcock called attention to the unique shape of the lot. He gestured to the site plan noting that the front of the building is Roosevelt Street or west side of the building and is 28 feet from edge of building to edge of pavement. This proximity would allow 80 square feet of signage. The Porter Avenue side is 66 feet away from the south boundary. This proximity would allow 120 square feet of signage and only a monument sign. The east side of the building is over 154 feet from the edge of the building to the edge of SR49. The current sign is located on this side with the proposed freestanding sign being just a few feet west. This proximity would allow for a freestanding sign at 18 feet in height. He called attention to the neighboring signs located in the B-2 Zone. The chamber sign at height of 23 feet and 353 sq. feet of signage. The Connors sign at a height of 30 feet and 212 sq. feet of signage. The commonality between these signs and the proposed sign is they all would be located at a land grade below SR49. The dynamic scrolling portion of the sign would be in keeping with the towns requirement that allows 8 seconds between messages. The light emitted from the sign would also be in keeping with the town requirement. He distributed photos depicting the vegetation which they felt also contributes to the need for greater visibility. He gave a brief overview of the proposed square footage and how it relates to the current signage along with the town requirements. Two conditions of the petition would be to remove the existing monument sign. Secondly, the sign would only advertise products the bank would offer from time to time and community events. He respectfully requested the board to consider granting the variances requested.

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

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James Ton of 126 Beverly Dr., Chesterton was present to speak in opposition to the petition. He is the owner of the property located at 324 Roosevelt Street. He noted he was speaking on behalf of his neighbor Dolores Iwan who could not be present. He commented that the only thing he could agree on was that this is a unique situation. He commented that many years ago the Chesterton town limits were at the end of Roosevelt Street. The construction of SR49 some 50 years ago created a small sliver of land which was Zoned B-2, where the bank is located. He felt that the neighboring sites like the veteran's memorial and the cemetery deserve a little more reverence than a commercial strip. Morgan Park residence feel there is enough lighted signage near their homes. Granting these variances will diminish the quality of life in one of the oldest subdivisions in Chesterton.

Kim Goldak of 1069 N. 100 East, Chesterton was present to speak in opposition to the petition. She commented that as a past board member she has always felt it important to seek a win, win compromise. Chesterton needs businesses and businesses need Chesterton. Horizon Bank has a monument sign that is perfectly visible from SR49. She said she could understand wanting a taller sign but why isn't the 18-foot maximum height requirement not good enough. A freestanding sign isn't even permitted on the site. When is it just too much? When does it stop? We need to start restricting these exaggerated needs. She urged the board to keep SR49 the gateway to the Dunes uncluttered and simple.

Constance Johnson of 303 Bowser Ave, Chesterton was present to speak in opposition to the petition. She commented that 26 years ago the residence of Morgan Park where faced by the same issue. A realty company was interested in installing lighted signage that was disallowed. Rules pertaining to signage are in place to provide order and consistency. If we make exceptions, we could regret it. We do not need this residential area to have lighted signs. She urged the board to disallow the request.

Mrs. Kroft of 108 Wilson Street, Chesterton was present to speak in opposition to the petition. As a resident of Morgan Park, she travels the surrounding intersections frequently throughout the day. As people are coming down SR49 headed south that intersection heads right into a stoplight. Often time people do not stop soon enough and go right past the changing light. A sign that attracts the attention of drivers will be more of a hazard making the intersection even more dangerous.

With no other persons wishing to speak, the public comment portion of the public hearing was declared closed.

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Attorney Babcock reminded the board that in a B-2 Zone dynamic signs are permitted at a height of 18 feet but the grade differential is what dictates the height request. He did not see how the lighted sign would interfere with the location of the veteran's memorial since it is screened by the EMS building. If you are not a customer of that bank certain activities are not allowed. This is a normal restriction place by most banks. He was hoping the sign would encourage you to become a customer. The sign would be placed facing north and south and not shine towards the residential area. He felt the sign would not contribute to any additional hazard at that particular location. It would not contribute to any visual obstruction. This bank is a good neighbor. This sign serves a legitimate purpose for their growth and development.

Member J. Ackerman commented that practical difficulty is one of the elements needed to grant a variance. There has to be some practical difficulty with the use of property created. Opening some new accounts or increasing sales is not a practical difficulty in the use of the property. There is a sign already there and the bank is operating.

Member F. Owens said by comparison of surrounding banks, he finds most of them having monument signs. They have an existing sign which he feels is quite visible. The removal of the grasses could be beneficial.

Member J. Carney stated that he has no problem with the proposed sign. He commented that the bank has operated successfully in that location.

Member R. Riley asked for some additional clarification regarding the proposed freestanding sign. He commented when you look at what's there, what's proposed and what's currently allowed there seems to be no compromise.

President J. Kowalski commented that unlike the other banks located in town, this bank is located along SR49. In the past signs along SR49 have been granted sign height variances. The most common reasoning being the change in grade along that stretch of highway. He commented that the lighted square footage of the sign is not that excessive. Years ago, when Horizon Bank was granted variances at that location, the board considered more intrusive uses of that property that neighbors Morgan Park residences. A quite bank with a drive-up and some signage was a far lesser use of property than other uses in a B-2 Zone. He felt that advertising is important for a business to thrive. He commented that the petitioner might want to consider keeping the height to 18 feet.

Member F. Owens commented that a big selling point for the chamber to install the neighboring sign which included variances was the reasoning that other businesses could utilize it for business purposes and advertising.

President R. Riley felt that their would be little effect to the neighboring area.

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Member F. Owens commented he has no problem seeing that sign at 10 feet.

President J. Kowalski said the board could vote this evening or move to continue the petition and draft findings.

Attorney J. Paulson clarified that by state law, when you make final decision you are required to adopt Findings of Fact. She advised members of the board, that if the board based on evidence is inclined to deny the variance request, they continue the public hearing.

Member J. Carney commented that he doesn't have a problem with the sign or the height of the sign. Furthermore, he felt it would not hurt the neighborhood. His only objection was in defending the decision of practical difficulty.

Member R. Riley moved to close the public hearing accept the Findings of Fact and grant the variances requested seconded by member F. Owens and passed by a roll call vote of 3 to 2. Members F. Owens and J. Ackerman voted no. Members R. Riley, J. Carney and J. Kowalski voted yes.

Eric Robinson w/ Robinson Rentals, LLC and Chuck Bagilla requesting a variance to increase lot coverage for a corner lot from the town code of 40 percent to a proposed 58 percent coverage therefore, an increase of 18 percent. A second variance is requested to reduce a side yard setback to from town code of 8 feet to 7 feet therefore a reduction of 1 foot. A third variance is requested to reduce the front yard setback from 25 feet to 14 feet 4 inches therefore a reduction of 10 feet 8 inches. **Petition 19-20** There was a moment of clarification between the secretary and petitioner regarding notification of all property owners within 300 feet. Upon further investigation the secretary verified proof of publication, notification and payment. Mr. Eric Robinson was present. He told the board he is interested in constructing a town home which he plans on residing in. He would like to include an attached garage off the back alley which necessitates the lot coverage request. The side yard reduction is necessitated by the product design. The home would be aligned with the neighboring homes along Morgan Avenue therefore requiring a reduction in the front yard setback. The former home on the site was non-conforming. He found this proposal to be an improvement to the neighborhood. He respectfully requested the board to consider granting the variances requested.

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

Jeffery Lambert of 221 W. Morgan Ave., Chesterton was present to speak in opposition to the petition. He commented that the 300 block of Morgan Ave. is currently occupied by 3 private residences. Two of the homes in that location are historical homes. They do not meet town standards. The third home does abide by town standards. Given the size of the corner lot, he did not understand the need for the increase in lot coverage. He did agree that the teardown of the previous home was an improvement.

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He felt that the addition of a townhome verses a private residence would devalue the surrounding property.

Johnetta Braunm of 222 W. Morgan Ave., Chesterton was present to speak in opposition to the petition. She commented, "By building a bigger unit, people moving to the neighborhood whom we are not wanting will move in and destroy our heritage and destroy our homes value. I just want the small community."

The public comment portion of the public hearing was declared closed.

Mr. Robinson commented that he is not asking for a Use Variance the property is Zoned R-2. He noted that much of the surrounding area is comprised of multi-family residences. This is not out of the ordinary for the area. He said he has taken great time and care in the planning of the townhome since it would be his residence. The lot coverage request will enable the petitioner to incorporate a rear entry garage thereby keeping cars off of Morgan Ave. He respectfully requested the board to grant the variance requests.

Member F. Owens asked what the value of the home would be. He commented that it is a large home but also an expensive home for the area. The fact that it would be owner occupied is a plus.

Mr. Robinson said he based his design of the townhome on one that exists in Valparaiso and it sold for \$475,000.00. Each unit would be approximately 2000 square feet not including basement square footage.

Member J. Carney was in agreement with member Owens. He thought it a nice addition to the area.

Mr. Robinson shared the rendering of the townhome to the neighbors present this evening.

President J. Kowalski commented that the zoning allowed for the townhome. He found it to be a significant investment in the neighborhood. Someone else could come along and build a much less attractive multi-family residence given the zoning.

Member F. Owens moved to close the public hearing, accept the Findings of Fact and grant the variance requests seconded by member J. Ackerman and passed by unanimous roll call vote.

OLD BUSINESS

The secretary asked for the boards input on document retention in her private residence. Secretary G. Murawski told the board she had been storing copies of minutes and agendas in her home for the past 20 years for both the BZA and Chesterton Advisory Plan Commission. The clerk

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treasurer's office does have the exact same copies on file. Her documentation is secondary. She questioned where the copies might be taken.

Attorney J. Paulson suggested the documentation be taken to the clerk treasurer's office. It's a question of the town having hard copies or scanned copies.

NEW BUSINESS- None

MISCELLANEOUS BUSINESS- None

ADJOURNMENT

There being no further business before the board member F. Owens moved adjournment seconded by member J. Kowalski and passed by unanimous voice vote. The meeting adjourned at 8:19 P.M.

Respectfully submitted,

Gail A. Murawski, Secretary

Approved;

J. Kowalski, President