

## CHESTERTON BOARD OF ZONING APPEALS

JUNE 25, 2020

6:30 P.M.

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

### APPROVAL OF MINUTES

Member R. Riley moved approval of the minutes from May 28, 2020 seconded by member J. Carney and passed by unanimous voice vote.

### PRELIMINARY HEARINGS

**BenLew Enterprises, LLC. Brian Lewandowski and Brandon Bennett** requesting for Parcel A: a variance to allow an R-1 residential use in a B-2 Zone. A second variance is requested to allow a reduction of a front yard setback from 25 feet to 16.95 feet, therefore a variance of 8.05 feet. A third variance is requested to reduce a side street setback from 25 feet to 20.62 feet, therefore a variance of 4.38 feet. A fourth variance is requested to reduce a side yard setback from 10 feet to 4.48 feet, therefore a reduction of 5.52 feet. A fifth variance is requested to reduce a side yard setback from 10 feet to 9.06 feet, therefore a variance of 0.94 feet. A sixth variance is requested to increase lot coverage from 40 percent to 42 percent therefore, an increase of 2 percent. A seventh variance is requested to reduce the required lot size from 9500 square feet to 5986.7 square feet therefore, a reduction of 3513.3 square feet. For Parcel B: an eighth variance is requested to allow automobile storage use which is currently being used as an office in a B-2 Zone. A ninth variance is requested to reduce a side yard setback from 8 feet to zero feet therefore, a variance of 8 feet. A tenth variance is requested to reduce a side yard setback from 8 feet to 6.48 feet therefore, a reduction of 1.52 feet. An eleventh variance is requested to reduce a rear yard setback from 10 feet to 0.43 feet therefore, a reduction of 9.57 feet. A twelfth variance is requested to increase lot coverage from 30 percent to 91 percent therefore, an increase of 59 percent. **Petition 20-10 (CONTINUED from May 28, 2020)** M. O'Dell said he had been in contact with the petitioner. He had submitted a plat for the Plat Committee but there had been no review of it yet. The petitioner had respectfully requested as continuance.

Member R. Riley moved to continue BenLew Enterprises, LLC. Brian Lewandowski and Brandon Bennett, Petition 20-10 until the July 23, 2020 meeting seconded by member J. Carney and passed by unanimous voice vote.

**Lukas Weldon** requesting a Special Exception to convert a portion of an existing building to indoor storage (mini warehouse), where the Ordinance allows for use of said Special Exception, subject to meeting the Ordinance criteria. **Petition 20-11**

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**Lukas Weldon** requesting a Use Variance to allow the establishment of a distillery, where the Table of Uses does not show said use available in the Town of Chesterton. **Petition 20-12**

Attorney G. Babcock was present as legal representation for the petitioner. He was accompanied by Vernon Brown the potential end user of the property. Attorney G. Babcock told the board Mr. Brown of Chesterton Brewing is looking to lease 124 N. 8<sup>th</sup> Street, which is Zoned B-3. The front portion of the building is where the distillery is proposed the back portion of the property would be used as a mini warehouse. A mini warehouse is allowed in a B-3 Zone but, a Special Exception is required to be sure the use meets the six criteria listed in the Findings of Fact. Mr. Brown's idea is to have seasonal storage that he could control. A large garage door located on the northeast corner of the building would allow access. The intent is to have boats, RV's, jet skis and that sort of seasonal storage that would stay put for nearly 6 months without having the renters of the space coming and going limiting access. The parking lot offers ample space for maneuvering large RV's and trailers. He respectfully requested to set this item for public hearing.

Building Commissioner M. O'Dell said there is currently a stop work order on that property but not as a result of anything Mr. Brown had done. There is currently no distillery located in our town. There are several questions being raised regarding a fire safety wall, smoke detection, alarm system. Mr. Brown is working in conjunction with an architect, the fire chief and town staff.

Fire Chief Jarka told the board the large overhead door that is there was not permitted to be put in. The building has a state variance that requires a smoke detection/alarm system. The current owner has ripped out that system. The building is in current violation of fire code. It is a large steel and block constructed building. Any large fire that a vehicle being stored can produce could potentially cause the building to collapse. Visiting the website where the proposed still would be purchased from reveals that everything on that still is explosion proof, the switches and motors although these features are in place it is a hazard to have a still in that building. In its current state, that building gives huge concern for life, safety and property.

President R. Riley asked if the addition of the above-mentioned safety features would help ease those concerns.

Chief Jarka said he would like to see every building with a sprinkler system. "You can dry something out you can't unburn it."

Town Engineer M. O'Dell said he would like to see the business succeed and move forward and those safety features are something that the state required with a less aggressive use. He would request that these issues be resolved before moving forward.

Mr. Vern Brown said he is working with an architect and engineer regarding a firewall and trying to find a fire alarm installer. Because they would be keeping less than 120 gallons of spirit in the area at any given time, they would have a lesser hazard designation. In order to make a safer still

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they purchased a “spirit safe.” When spirit runs off it would go into the safe and that is where the vapors are contained. It would provide an extra step to ensure safety.

Member J. Kowalski asked if they felt confident, they could produce all the necessary information if this item was set for public hearing.

Town Staff agreed to be available to meet with Mr. Brown and Attorney Babcock.

Attorney J. Paulson said she had reviewed the petition and found it complete and ready to be set for public hearing if the board so chooses. She clarified that both petitions on this matter would be set for public hearing. All additional information would be submitted by July 6, 2020.

Attorney G. Babcock said he would be amending the petition. He would submit new Findings of Fact.

Member J. Carney moved to set Petition 20-11 and 20-12 for public hearing on July 23, 2020 seconded by member R. Riley and passed by unanimous roll call vote.

**Michael & Melissa Topor** requesting a Developmental Standard Variance for the reduction of a side yard setback from 10 feet to 4 feet therefore a variance of 6 feet. **Petition 20-13** Mr. and Mrs. Topor were present. The six-foot side yard reduction variance they seek is to install an above ground pool.

Town Engineer M. O’Dell said he walked the lot with the petitioner’s and because of other things that the previous owners of the home installed this is the best location for the pool. Additionally, he said the town council had granted their approval as there is a drainage easement in that location as well.

Attorney J. Paulson requested a map of property owners within 300 feet and a list with their mailing addresses for notice. This would be required by July 6, 2020.

Member J. Carney moved to set this item for public hearing at the July 23, 2020 meeting seconded by member R. Riley and passed by unanimous roll call vote.

**Earl & Kathy Clark** requesting a Developmental Standard Variance to increase lot coverage from 30 percent to 41 percent (11 percent increase). **Petition 20-14** Robert Bartell from Chicago Renovators spoke as contractor for the petitioners. He was accompanied by Mr. and Mrs. Clark. He told the board that the current garage is old and in poor condition. The petitioners are looking to increase the size of the garage to accommodate a truck and use the existing footprint of the current garage making it larger.

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Town Engineer M. O'Dell noted the second variance request would reduce the side yard setback from 8-feet to 3-feet therefore a variance of 5-feet.

Attorney J. Paulson clarified that Mr. and Mrs. Clark would need to be present at the public hearing with the contractor or they needed to give him power of attorney. She asked the petitioners to make their Findings of Fact a little more robust prior to the public hearing.

Member R. Riley moved to set this item for public hearing at the July 23, 2020 meeting seconded by member J. Carney and passed by a roll call vote of 3 to 0.

**PUBLIC HEARINGS**

**Peter and Karen St Mary, Husband and Wife** requesting a Development Standard Variance to increase lot coverage from 30 percent, which is allowed by the Ordinance to 32 percent, therefore, an increase of 2 percent. **Petition 20-08** Rules for conducting a public hearing were read aloud. The secretary verified proof of publication, notification and payment. Mr. and Mrs. St Mary were present. Mr. St. Mary told the board they are looking to increase lot coverage to add a 16 by 32 foot covered and enclosed patio to their duplex.

Mr. and Mrs. St. Mary explained to the board that they would be making a significant investment to the property thereby raising surrounding property values. The lot constraints make it impossible to construct the enclosed patio within the ordinance restrictions. Their property backs up to a bird sanctuary and they wanted to take full advantage of that amenity.

Town Engineer M. O'Dell said he had no issue with the petition. The petitioner had included additional lot coverage to potentially install a shed at a later date.

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

Mr. Larry Carr of 1402 Washington St., Chesterton was present along with his daughter. They were looking for clarification regarding the notice they received via certified mail. Once explained, the Carr Family had no issue with the petition. The public comment portion of the public hearing was declared closed.

Attorney J. Paulson assisted the petitioner in crafting findings that supported everything that the St. Mary's had verbalized.

Member R. Riley moved to accept the revised Findings of Fact close the public hearing and grant the variance request seconded by member J. Carney and passed by a unanimous roll call vote of 3 to 0.

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**Ronald J. Zachara and Jordana S. Zachara as Husband and Wife** requesting a Developmental Standard Variance to increase lot coverage from 30 percent allowed by the Ordinance to 36 percent, therefore an increase of 6 percent. **Petition 20-09** The secretary verified proof of publication, notification and payment. Mr. Zachara was present. He told the board they are looking to install an in-ground pool and patio.

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.

Town Engineer M. O'Dell said he had been working with Mr. Zachara and had no issue with the petition.

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

Member R. Riley moved to accept the Findings of Fact, close the public hearing and grant the variance request seconded by member J. Carney and passed by unanimous voice vote.

**OLD BUSINESS- None**

**NEW BUSINESS- None**

**MISCELLANEOUS BUSINESS- None**

**ADJOURNMENT**

There being no further business before the board member R. Riley moved adjournment seconded by member J. Carney and passed by unanimous voice vote. The meeting adjourned at 7:16 P.M.

Respectfully submitted,

Gail A. Murawski, Secretary

Approved;

J. Kowalski, President