

CHESTERTON BOARD OF ZONING APPEALS
FEBRUARY 25, 2021
6:30 P.M.

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

APPROVAL OF MINUTES

Member moved R. Riley moved approval of the minutes from January 28, 2021 seconded by member J. Carney and passed by unanimous voice vote.

PRELIMINARY HEARINGS

Mark Markovich, Mark I Construction requesting a variance to increase lot coverage from 30 percent to 40 percent therefore a variance of 10 percent. A second variance is requested to reduce a side yard setback from 8 feet to 7 feet, therefore a variance of 1 foot. **Petition 20-21** No new information was submitted by the petitioner. The petitioner was not in attendance.

Town Engineer M. M. O'Dell said he thought the petitioner might still be out of town. It was the general consensus of staff and the board to continue the preliminary hearing.

Michael S. Marmolejo and Michelle L. Marmolejo requesting a variance to allow a six-foot privacy fence adjacent to Burlwood Dr. The privacy fence will be located approximately 15 feet off the property line (adjacent to the existing sidewalk). This location will allow an unobstructed view from the corner of Burlwood Dr. and Pepperbush Ave. to the corner of Burlwood Dr. and Larchwood Ave. The variance request is to reduce the setback from 25 feet to 15 feet, therefore a variance of 10 feet. **Petition 21-01**

Mr. and Mrs. Marmolejo were present. Mr. Marmolejo told the board he wants to install a 6-foot privacy fence adjacent to Burlwood Dr. He hoped the 6-foot fence would help quite their three dogs that bark at passersby and disrupt the neighbors. He did not think the 6-foot fence would obstruct any of the sightlines.

Town Engineer M. O'Dell requested the petitioner to submit a site plan with fresh measurements and pictures.

Mr. Marmolejo told the board he would be out of town when the March meeting was scheduled.

Attorney J. Paulson advised the board that they could sent the petition for a public hearing at the April 22, 2021 meeting or Mr. Marmolejo could appoint representation to attend the March meeting in their absence.

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Mr. and Mrs. Marmolejo agreed they would most likely not begin construction of the fence before April. They requested the board to set the public hearing for the April meet rather than March.

Member F. Owens moved to set this item for public hearing at the April 22, 2021 meeting seconded by member R. Riley and passed by unanimous voice vote.

PUBLIC HEARINGS- None

OLD BUSINESS- None

NEW BUSINESS- Review suggested changes to clarify language contained in the Chesterton Board of Zoning Appeals petition process. Attorney J. Paulson commented that often times petitioners are not fully understanding the requirements and order by which they are asked to complete a petition. At the urging of the board, she was requested to take a look at the BZA petition and craft language that might better clarify the two-part requirements of the petitioner prior to a preliminary hearing and subsequently prior to a public hearing once the board has taken action. In reviewing the current petitioner packet, she suggested updating and expanding the petitioner checklist and putting it up front in the documentation. Additionally, after comparison with other town BZA documentation, she added a statement that requires the petitioner signature as their oath that what they are submitting to the BZA is true and accurate. If it was found that the information presented by the petitioner was not true or accurate there would be cause to revoke a variance.

It was the general consensus of the board that the inclusion of this statement is a good idea.

Attorney Paulson requested that any additional suggestions or clarification whether from the board or town staff be submitted to her promptly so she could finalize a draft for the board's approval. There was some additional conversation questioning if it would be more efficient to have the building commissioner sit down with petitioners prior to filling out their variance requests and appearing before the board.

President J. Kowalski understood how some petitioners find the BZA packet of documentation confusing and at times very frustrating. He didn't want petitioners with simple variance requests to feel that the process requires the hire of an attorney. He did however think that petitioners with more complicated variance requests might be better served with representation.

Town Engineer M. O'Dell said he did not want to be put in a position to fill in the necessary information and in many cases calculations which are required for clarity sake. He told the board that he did not mind helping but also did not want to be put in a position of blame for any short comings or oversights by a petitioner.

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It was the general consensus of the board that complicated petitions may require an attorney. It was their hope that the newly crafted language would help clarify the BZA variance request process. Additionally, it was understood that often times following a preliminary hearing Town Engineer M. O'Dell invited petitioners to reach out to him for a bit of help and clarity.

President J. Kowalski thought it a good idea to keep with the practice of the petitioner completing the documentation to the best of their ability submitting their petition in a timely manner and attend the preliminary hearing ready to state their case.

Member R. Riley suggested providing examples of simple variance requests and language that might support their request in the forms of Findings of Fact.

Member R. Riley suggested revisiting this item again next month.

MISCELLANEOUS BUSINESS- None

ADJOURNMENT

There being no further business before the board member F. Owens moved adjournment seconded by member J. Carney and passed by unanimous voice vote the meeting adjourned at 7:40 P.M.

Respectfully submitted,

Gail A. Murawski, Secretary

Approved:

J. Kowalski, President