

CHESTERTON BOARD OF ZONING APPEALS
MAY 26, 2022
6:30 P.M.

The meeting was called to order at 6:30 P.M. Present were members F. Owens, J. Ackerman, J. Carney and Vice President R. Riley who chaired the meeting. President J. Kowalski was absent. Town Manager D. Cincoski was in attendance Attorney J. Paulson was present as legal advisor. The pledge of allegiance was recited.

APPROVAL OF MINUTES

Member J. Carney moved approval of the minutes from March 24, 2022 and April 28, 2022 seconded by member J. Ackerman and passed by unanimous voice vote.

PRELIMINARY HEARINGS

Park 49, LLC requesting a Special Exception to vacant property with Council Drive extended on the East, with its South Boundary being the railroad, West boundary being Hwy. 49 and its North boundary being Quality Inn Hotel, Chesterton IN. 46304. A second Special Exception is requested to construct mini-warehouses in a B-3 Zone, where the Ordinance allows the same as a Special Exception. **Petition 22-09** Attorney G. Babcock was present as legal representation for the petitioner. He was accompanied by Ben Laurey a member of Black Drum Capital, LLC. of Porter County. The group has a pending offer to purchase this parcel of property and create mini-warehouse storage units. Mini-warehouses are allowed in a particular zone subject to six criteria to be found in the Findings of Fact submitted as a Special Exception. The property is approximately 12.4 acres. He gestured to a concept site plan. This project would be driven by market demand. The north building which is nearest the motel would be climate controlled and contain 125 units. The units would measure 5 X 5 feet or, 10 X 15 feet. The building closest to SR49 would have 8 vehicle bays and 28 standard units with climate control. The remaining warehouses as the market demands, would number 800 units 10 feet X 20 feet. Mr. Laurey's group has looked at changing storage on the south side closest to the railroad to 15 feet X 50 feet units with 14-foot doors and a 16-foot roofline, to use for RV and boat storage. These would not be climate controlled and would be larger to attract onsite, inside storage. This parcel has been vacant for 38 years. This project would create an increased tax benefit to the town. Surrounding businesses would not be adversely impacted by this project. There would be an emergency access point off of Michael Drive and secure renter access off of Council Drive. There would be a no build strip of land along a proposed detention pond located on the north end of the site. The strip is 30 feet wide and offers emergency fire access to the hotel if it was ever necessary. They have designed stormwater management to accommodate a full future buildout that outlets north to Lot 4. This is a pond between Aldi and the motel which outlets under the road to Snyder's Lake. He respectfully requested to set this item for public hearing at the June 23, 2022 meeting.

Attorney J. Paulson told the petitioner M. O'Dell's concern is regarding the height of the tower design.

BOARD OF ZINING APPEALS

MAY 26, 2022

PAGE 2

Attorney G. Babcock said they would be addressing design requirements once the Special Exception might be granted.

Attorney J. Paulson said if the Special Exception is granted it will not cure any of the variance requirements that may be needed. The Special Exception is only applied to the use, which is mini-warehouses.

Attorney Paulson advised the board to tie development to the drawings presented or ask for a specific number of units for the overall scope of the project.

Member J. Ackerman moved to set this item for public hearing at the June 23, 2022 meeting seconded by member J. Carney and passed by unanimous voice vote.

Scott Brown requesting a variance to build a privacy fence 1 foot 8 inches inside the property ending 20 feet from the side street, as opposed to 25 feet. A second variance is requested to build a privacy fence at a height of 6 feet instead of 4 feet 6 inches. **Petition 22-10** Mr. Brown was present. He told the board they are interested in constructing a 6-foot privacy fence around the property. He called attention to a photo on file noting the large evergreen tree that currently exists that they are working around. He respectfully requested the board to consider setting this item for public hearing at the June 23, 2022 meeting.

Attorney J. Paulson told the board she had gone over this petition with Town Engineer M. O'Dell today. She requested the petition be amended. It would be an amendment to Section 806-A, requesting a 6-foot fence adjacent to a public right of way where the Ordinance allows a fence of 4 feet 6 inches, therefore a variance of 1-foot 6-inches. The first variance request should be removed from the petition as it was not necessary. The amended petition would need to be received by June 6, 2022.

Member F. Owens moved to set this item for public hearing at the June 23, 2022 meeting seconded by member J. Ackerman and passed by unanimous voice vote.

PUBLIC HEARINGS

William and Lisa Burke requesting a variance from the Ordinance to reduce a front yard setback from 25 feet to 15 feet, a reduction of 10 feet. A second variance is requested to reduce a rear yard setback from 25 feet to 6 feet therefore a variance of 19 feet. **Petition 22-06** Rules for conducting a public hearing were read aloud. The secretary verified notification, publication and proof of payment. Mr. and Mrs. Burke were present. Mr. Burke told the board they are looking to tear down the existing structures. It is currently a non-conforming structure with neighboring non-conforming residential homes. When the new home is constructed, they would like to set it at the same front yard setback as the surrounding neighbors.

BOARD OF ZINING APPEALS
MAY 26, 2022
PAGE 3

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 noted the site plan indicating a rear yard setback could be amended to offer the petitioners more flexibility when the existing garage is demolished and a new garage is constructed in its place. This would be a reduction in the variance. The petitioner would not be required to re-notice.

The petitioners were in agreement. Mr. Burke requested an amendment to the petition. A second variance would request a that the rear yard setback be reduced from 25 feet to 9 feet therefore a variance of 16 feet.

Member F. Owens moved to close the public hearing, accept the Findings of fact as amended by the petitioner and grant the variance request seconded by member J. Carney and passed by unanimous voice vote.

The surveyor for the Burke project was present. After clarification of setbacks, as they relate to overhangs, it was calculated and determined that the amended request would be a request that the rear yard setback be reduced from 25-feet to 8-feet therefore a variance of 17-feet.

Member F. Owens moved to further amend the motion from a 9-foot request to an 8-foot request seconded by member J. Ackerman and passed by unanimous voice vote.

As a point of clarification, the Burke Petition 22-06 variance request would read as follows: 1. A variance to reduce a front setback from 25 feet to 15 feet therefore a variance of 10 feet. 2. A variance to reduce a rear yard setback from 25 feet to 8 feet therefore a variance of 17 feet.

Bennett's Rentals LLC requesting a variance to reduce a rear yard setback from 25 feet to 10 feet therefore a variance of 15 feet. **Petition 22-07** The secretary verified proof of publication notification and payment. Attorney D. Hiestand was present as representation for the petitioner. He told the board the property is located at the corner of 20th Street and Morgan Avenue. The petitioner is looking to construct a duplex on this infill parcel of land, which is pie shaped. The unique shape of the R-2 Zoned parcel necessitates the request for this variance. He called attention of a rendering depicting the proposed duplex. He felt it would complement the surrounding neighborhood with no negative impact. He respectfully requested the board to consider granting the variance request.

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

BOARD OF ZINING APPEALS
MAY 26, 2022
PAGE 4

There was no one present to speak in opposition to the petition. The public comment portion of the public hearing was closed.

Attorney Paulson had no issue with the petition. It would be a board decision.

Member J. Ackerman found this to be an appropriate use of a difficult piece of property.

Member J. Ackerman moved to close the public hearing, accept the Findings of Fact and grant the variance request for Petition 22-07 seconded by member J. Carney and passed by unanimous voice vote.

Gilbert Sanchez and Martha Rios Sanchez requesting a variance to increase lot coverage from 30 percent to 34 percent, therefore a variance of 4 percent. A second variance is requested to reduce a front yard setback from 25 feet to 17 feet, therefore a variance of 8 feet. The existing house has 18.2 feet of a front yard setback. **Petition 22-08**

Attorney J. Paulson noted that at the previous meeting the petitioners had paid a filing fee for two separate petitions. The two variance requests were merged into one petition know as Petition 22-08. She requested the board to consider remitting one of the filing fees paid by the petitioners.

Member J. Carney moved to reimburse the petitioners Sanchez for one filing fee seconded by member J. Ackerman and passed by unanimous voice vote.

The clerk treasurer would contact the petitioners to refund \$50.00.

Attorney J. Paulson commented that prior to the meeting one of the individuals in the audience showed her the notification sent to surroundings neighbors. She commented that it technically does not conform to the board's requirements. Rather than listing the two variances, it describes in detail what the petitioner wants to do. Her opinion was that it does substantially conform to the notice requirement. Under the law, with regard to the notice, "If the petitioner substantially conformed to the notice." In looking at what was noticed and considering rules and law, it was legal opinion that this notice is enough. If anyone had questions or concerns, they could be present at the meeting tonight or have gone to town hall to look at the variance request. It would be a decision by the board if re-noticing would be required.

Member J. Ackerman moved to go forward with the public hearing seconded by member J. Carney and passed by unanimous voice vote.

The secretary verified proof of publication, notification and payment.

BOARD OF ZINING APPEALS

MAY 26, 2022

PAGE 5

Mr. and Mrs. Rios-Sanchez was present. Mr. Sanchez told the board they recently purchased their beautiful old home and would like to preserve its historical beauty. The master bedroom is on the main floor and currently does not allow the door to swing freely. They are interested in expanding the footprint of the master bedroom and bath by 5 feet. There are two additional bedrooms but they are located upstairs. They are interested in keeping their main living area to the downstairs as they age. They respectfully requested the board to consider granting the variances requested.

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. Ackerman said he loved seeing the investment made to preserve and improve the downtown properties.

Member J. Carney moved to close the public hearing, accept the Findings of Fact and grant the variances requested seconded by member F. Owens 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 F. Owens moved adjournment seconded by member J. Carney and passed by unanimous voice vote. The meeting adjourned at 7:20 P.M.

Respectfully submitted,

Gail A. Murawski, Secretary

Approved;

R. Riley, Vice, President