

CHESTERTON BOARD OF ZONING APPEALS
JULY 24, 2014
6:30 P.M.

The meeting was called to order at 6:30 p.m. Present were members S. Niepokoj, T. Browne and President R. Corder. Town Engineer M. O'Dell was in attendance. Attorney J. Paulson was present as legal advisor. Members J. Kowalski and F. Owens were absent. The pledge of allegiance was recited.

APPROVAL OF MINUTES

Member S. Niepokoj moved approval of the minutes from June 26, 2014 seconded by member T. Browne and passed by unanimous voice vote.

PRELIMINARY HEARINGS- NONE

PUBLIC HEARINGS

Elaine A. Bross, Steven Bross, Nancy Bross and Carolyn Parrigan requesting a Use Variance to operate an Open Air Market **Petition 14-04** Rules for conducting a public hearing were read aloud. The secretary verified proof of publication, notification and payment. Attorney Terry Hiestand was present as legal representation for the petitioners. Mrs. Elaine Bross and Eric Bross accompanied him. Attorney Hiestand said they are seeking a Use variance to operate an open air market on a lot owned by the petitioners. It is the adjoining lot next to the former telephone building currently operating as a climate controlled storage building. The Ordinance does not prohibit the operation of the open air market rather the list of approved uses not contemplated by the list included in the Ordinance.

Attorney Hiestand questioned Eric Bross about the property with his responses being enumerated in the Findings of Fact submitted this evening as a part of the Petition 14-04. He commented that the site is a great piece of property that would draw business to that portion of town and prove to be a great asset. He cited markets in the area and gave examples of other businesses that store goods outside their building structures. Space would be leased to participants where they would set up tents and tables for their items and sell them to the public. There would be no adverse affect to businesses in the area as the market would be enclosed behind the fenced area. Patrons to this market would have exposure to restaurants, shopping other services offered near its location.

Mr. Bross went on to tell the board that a drainage easement for underground drainage across the property immediately east between this property and Coffee Creek that would take care of surface water drainage makes the property useless for anything else but the proposed market. He said they had tried to do outdoor storage and other avenues which were not allowed. He said the property carries a heavy tax load of \$3,932.58 and it needs to be utilized to help pay those taxes.

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Attorney Hiestand distributed a copy of the tax statements showing an assessed value of \$243,000.00 on the vacant lot not including the building.

Attorney Hiestand noted the hardships as being that the property is heavily taxed and because of changes in the access of the drainage easement to that property petitioners had to make some significant on site underground improvements.

Mr. Bross said the improvements became necessary to handle surface water runoff so the adjoining building did not flood or become damaged. The drainage structure is located on the center part of the property. They have two on each side drainage manhole covers dry wells that are taking water and that has disrupted the whole piece of the property. He said this is the only avenue to generate income to justify the heavy tax load. He said they need this Use Variance to cover taxes and other obligations. He said the use of this property would comply with performance standards within a B-1 Zone. Products to be sold would not be any different than any others being sold in retail shops in the town. They would prohibit illegal items, hazardous items, guns ammunition, tobacco, livestock, small animals, birds and reptiles.

Attorney Hiestand said they aren't asking for something that's prohibited only something that's just not on the list. He cited Ace Hardware and LanCam are businesses that have buildings and are selling their materials outside. He respectfully requested the board to accept the Findings of Fact and approve the proposed Use.

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

Dennis Byron of Valparaiso and business owner at 219 and 225 S. Calumet, Chesterton was present to express concerns. He said he not to fond of having a large garage sale across the street from his businesses. He commented that this outdoor venue located in the downtown area would be seen by visitors to our town who draw opinions of our town. He expressed concerns about parking in a limited parking area. He questioned if the variance would carry with the property or only apply to the Bross Families ownership of the property.

David Brum of 301 Jefferson Ave., Chesterton and business owner of 324 S. Calumet Rd., Chesterton said he's torn because this could be a nice use of the space if done properly. He said historically there has been some contention in that area concerning parking. He said that patrons to that market would want to park in lots specific to businesses located in that area who need lot availability in order to operate a successful business. He said parking located on site would alleviate concern from surrounding neighbors. To say that this would have no negative impact on surrounding neighbors would be optimistic at best. He questioned if the tents and tables would be taken down at the end of each day. He commented that he would love to see that property be put to a better and higher use other than a fenced off parking lot.

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There being no further comment the public comment portion of the public hearing was declared closed.

Attorney Hiestand thought that the open air concept is quickly becoming an emerging trend to this area. The European Market brings people together in a social way. On any given Saturday in the park you'll find kids playing and folks walking their dogs. He said he appreciated neighbors being concerned about their parking since some of their parking is occupied by outside sales items. He commented that neighbor can put up signs reserving parking to their patrons only. He said tents and structures would be taken down at sunset each day. He urged members of the board to grant the proposed Use Variance.

Building Engineer M. O'Dell said the parcel of land is approximately 20,000 square feet of available usage in a B-1 District. He said there have never been any drawings that show that the site is unusable for specified uses in a B-1 Zone. He said there is ample space for use of that property.

Member T. Brown asked for clarification of the submitted tax bills. Attorney Hiestand explained that there is one parking lot and 4 taxed parcels. He said he would like to see more of a business plan with details. Hours of operation an idea of how many spaces would be available for rent/use on any given day. He commented that these things were requested in both prior months.

Attorney Hiestand said you build it and they will come. You don't know who will show up or what they will show up with. One person comes with a trailer, one comes with a table and others come with a tent canopy. It's impossible to predict what this Use is going to attract.

Eric Bross said he has looked at other markets in the area. Vendors will bring tables, canopies, and trailers and are not limited to what they can bring as long as it's not items on the list of excluded and illegal items mentioned earlier and included in this petition. He said he was not sure what hours of operation would be fitting to his clientele. They would see what the demand is. It would change as it goes but they would take down all tables and canopies at the end of the day.

Member S. Niepokoj questioned why the property could not be used for a permitted use.

Eric Bross said they were not allowed to use the drainage easement that they had to go to the adjoining property. They had to install new drains because the parking lot would flood. He said they installed the drains because they had not other options. He said the drains are in a part of the property where you would put a building but their unable to do so because of the underground structures.

Town Engineer M. O'Dell commented that there are 41 permitted uses in a B-1 Zone.

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Member Niepokoj asked if days of operation would be Saturday and Sunday only. He questioned how the site and vendors would be monitored.

Mr. Bross said they would like to have the option to sell during the week. He said the market would give people a purpose to come to Chesterton and spend time and money. He said he would give vendors a copy of the rules and vendors would be responsible for following the rules. He said he would not go through every little item. If he finds an individual not following the rules they would be asked to leave. There would be people on site managing the market operation.

President R. Corder asked petitioners to help make the community and neighbors feel more comfortable and assured by offering more information.

Mr. Bross said they took it upon themselves to make sure that their parking lot had signage restricting parking for non-patrons. The B-1 Zone would allow people to park in the streets. The market would be safe and organized offering vendors both large and small spaces for rent. He did not have a number in mind for rental spaces provided. Patrons would use enter and exit gates it would not be a congested area. It might be configured in a "U" shape for easy viewing. He commented that this is the only viable option to bring in money to pay the taxes.

Member S. Niepokoj asked if petitioners have considered selling the property.

Mr. Bross said they need that property for drainage.

Attorney Hiestand said when the property was sold a drainage easement was retained that would take the water back to the proper tributary. The owner of that property changed/raised the entrance to the catch basin so the water could not get away from this particular site. So this property had to implement a new drainage plan.

Mr. Bross said they have to control that property because his building has to have it so there is no flooding. In the past water pooled up to 6 inches. It was a necessary move to preserve the building that abuts the site.

Member S. Niepokoj moved to continue this item until the August meeting member T. Brown seconded the motion commenting that the board would need more detailed information and a drawing. The motion passed by unanimous voice vote.

Christopher Torres requesting a variance to install a fence that will exceed the height requirement at 6 feet high. **Petition 14-05** The secretary verified proof of publication, notification and payment. Gina Hutman was present as representation for the petitioner. Power of Attorney was submitted. Attorney Paulson commented that the power of

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attorney submitted was not submitted on the town's usual form. She would read through the document presented. She requested that the petitioner turn in a POA submitted on the towns form for the file. She found the submitted POA to be in proper form for this evening's public hearing.

Ms. Hutman said they are interested in increasing the height of their fence from 4.5 feet to 6 feet for safety reasons. She said they have children and two dogs. She said they had spotted a coyote near the woods in the neighborhood.

Attorney J. Paulson commented that based on the evidence presented this evening the Findings of Fact could use a little improvement. She suggested the board might consider allowing the petitioner the opportunity to strengthen the written Findings of Fact.

Member T. Brown verified that the increased height and placement of the fence would not obstruct visibility. He asked that the petitioners maintain property on both sides of the fence.

Town Engineer M. O'Dell explained the location stating the fence would not cause any safety factors.

The petitioner agreed that they would and do currently maintain that property which abuts theirs. A fence would not prevent them from maintaining property located on the other side of the fence known as town right of way.

Member T. Brown moved to close the public hearing accept the Findings of Fact and grant the variance request seconded by member S. Niepokoj and passed by unanimous voice vote.

David F. Krieter and Sandra J. Krieter requesting a variance to construct a single family Dwelling having a side street setback of 8 feet where the Ordinance requires a 15 foot Setback, therefore a variance of 7 feet. A second variance is requested to eliminate the requirement to place a sidewalk along Creita Street. **Petition 14-06** The secretary verified proof of publication, notification and payment. Attorney G. Babcock was present as legal advisor. Dave and Sandy Krieter accompanied him. The property is vacant Lot 5, located at the northeast corner of Creita and Washington Streets.

Mr. Krieter said they have recently returned to the area to be near family. In 2013 they purchased a lot. The house they want to build is a 1,450 square feet ranch home very similar to the house next door in the neighborhood. The plans are for a 32 foot wide home and if this variance were not granted it would very much limit the size of home they could build. He respectfully requested the board to consider granting the variance so they could get started on building their home. The home and land would be valued at approximately \$215,000.00.

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Attorney Babcock said that from the petitioner's lot line they would have 15.5 feet before they hit edge of pavement on Creita St. If there is any need to round a curb they would not interfere. The location and surrounding area currently have no sidewalks and offer little opportunity for connectivity. In keeping with what is currently in the neighborhood the request to eliminate sidewalks makes sense. He respectfully requested the board to consider granting the variance requests.

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.

It was the general consensus of the board that the request was in keeping with the surrounding neighborhood.

Member S. Niepokoj moved to close the public hearing accept the Findings of Fact and grant the variance requests seconded by member T. Browne and passed by unanimous roll call vote.

OLD BUSINESS

Member T. Brown expressed his gratitude for the street department installing clear markings on the street near the Boys and Girls Club location.

NEW BUSINESS- None

MISCELLANEOUS BUSINESS- None

ADJOURNMENT

There being no further business before the board member S. Niepokoj moved adjournment seconded by member T. Browne and passed by unanimous voice vote. The meeting adjourned at 8:10 P.M.

Respectfully submitted,

Gail A. Murawski, Secretary

Approved:

R. Corder, President

BZA SUBMITTAL DEADLINES 2014

SUBMITTAL	RE-SUBMITTAL	MEETING
Jan. 6	Jan. 13	Jan. 23
Feb. 10	Feb. 17	Feb. 27
Mar. 10	Mar. 17	Mar. 27
April 7	April 14	April 24
May 5	May 12	May 22
June 9	June 16	June 26
July 7	July 14	July 24
Aug. 11	Aug. 18	Aug. 28
Sept. 8	Sept. 15	Sept. 25
Oct. 6	Oct. 13	Oct. 23
Nov. 10	Nov. 17	Nov. 26 (tentative)
Dec. 8	Dec. 15	Dec. 23 (tentative)

PLAN SUBMITTAL DEADLINES 2014

SUBMITTAL	RE-SUBMITTAL	MEETING
Dec. 30	Jan. 6	Jan. 16
Feb. 3	Feb. 10	Feb. 20
Mar. 3	Mar. 10	Mar. 20
Mar. 31	April 7	April 17
April 28	May 5	May 15
June 2	June 9	June 19
June 30	July 7	July 17
Aug. 4	Aug. 11	Aug. 21
Sept. 2	Sept. 8	Sept. 18
Sept. 29	Oct. 6	Oct. 16
Nov. 3	Nov. 10	Nov. 20
Dec. 1	Dec. 8	Dec. 18

- ** All submittals are due by 10:00 A.M. on the respective submittal due date.
- ** All meetings are held at Town Hall, 726 Broadway @ 6:30 P.M.
- ** Gail Murawski, BZA Secretary 219-929-4535