

CHESTERTON BOARD OF ZONING APPEALS
NOVEMBER 24, 2015
6:30 P.M.

The meeting was called to order at 6:30 P.M. Present were members F. Owens, J. Ackerman, K. Goldak and J. Kowalski. Attorney C. Parkinson and Attorney C. Nolan were present as legal advisors. Town Engineer M. O'Dell was in attendance. President R. Corder was absent. The pledge of allegiance was recited.

Member K. Goldak moved approval of the minutes from October 22, 2015 seconded by member J. Ackerman and passed by unanimous voice vote.

In the absence of President R. Corder member J. Kowalski moved to have member F. Owens chair the meeting seconded by member K. Goldak and passed by unanimous voice vote. There had been no appointed vice president since former member T. Browne .

PRELIMINARY HEARINGS

Anthony L. Evans requesting a variance to construct an addition to a commercial legal non-conforming structure. **Petition 15-15** Attorney G. Babcock was present as representation for the petitioners. Mr. and Mrs. Evans accompanied him. Attorney Babcock said the petitioners have an established bike shop and have been in business for 24 years. The property was a home and in 1991 Mr. Evans was granted a variance to construct a second principal structure. Now they are interested in adding onto that structure to expand the business. The bike shop itself is about 975 square feet. They are interested in constructing a connection to the back of the house where there would be an office and storage area. There is currently a rental unit located in the front of the residence. The property is Zoned B-1. He respectfully requested the board to consider setting this item for a public hearing in December.

Attorney C. Parkinson had no issue with the petition.

Town Engineer M. O'Dell said he would get with the fire chief and make sure they had no issue. He noted that the petitioner is working with an architect on the plans.

Member K. Goldak asked how close the addition would be to the sidewalk. She wondered if they would be doing any landscaping and would they keep the vending machine that is currently in front of the bike shop.

Attorney G. Babcock said about 2 feet 9 inches.

Mr. Evans said he plans on keeping the vending machine. There was no formal plan for landscaping.

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It was the general consensus of the board the December meeting would convene on Tuesday December 22, 2015. Attorney G. Babcock said he would have a conflict in his schedule. He requested the board to consider holding the meeting at 6:00 P.M. It was the general consensus of the board that they could adjust the meeting time to accommodate Attorney Babcock.

Member J. Ackerman moved to convene the meeting on December 22, 2015 at 6:00 P.M. seconded by member J. Kowalski and passed by unanimous voice vote.

Member J. Kowalski moved to set this item for public hearing on December 22, 2015 at 6:00 P.M. seconded by member J. Kowalski and passed by unanimous voice vote.

William and Mary Scott requesting a variance to install a 6 foot privacy fence. **Petition 15-16**
The petitioners were not present at the meeting.

Attorney C. Parkinson advised the board to continue the preliminary hearing. Some of the paperwork was not in order and there was no site plan.

Town Engineer M. O'Dell said he would contact the Scott's.

Member J. Ackerman moved to continue the preliminary hearing until December 22, 2015 at 6:00 P.M. seconded by member J. Kowalski and passed by unanimous voice vote.

PUBLIC HEARINGS

James D. and Jill B. Pawlicki requesting a variance to increase lot coverage from 30 percent to 39.7 percent an increase of 1,859 square feet or 9.7 percent. **Petition 15-10** Rules for conducting a public hearing were read aloud. The secretary verified proof of publication, notification and payment. Jill Pawlicki was present. She told the board she is requesting the increase in lot coverage to install a concrete driveway that would allow residents to turn their vehicles around in the driveway. She commented that there is high pedestrian traffic in that location and visibility is limited. She said neighbors had a cyclist run into the side of their car.

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. Kowalski verified that there is already a gravel driveway in place.

Town Engineer M. O'Dell said yes a gravel driveway is in place. When the town was working with Miss Pawlicki on the occupancy permit she said she wanted to pave the driveway. He said they are in agreement that the volume of pedestrian traffic utilizing that as access to the main

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multiuse trails are excessive. He agreed that the ability to turn vehicles around in the driveway would be a safer alternative. He explained the configuration of the proposed driveway. He said he has no problem with the variance and neither does the street department. Furthermore he requested that the drawing become a condition of granting the variance. A temporary occupancy permit would be granted without the driveway being paved.

Finding of Fact number three would be amended to reflect "will result in practical difficulties."

Member K. Goldak moved to close the public hearing, accept the Findings of Fact as amended and grant the variance request with the drawings as submitted made a condition of the variance seconded by member J. Kowalski and passed by unanimous roll call vote.

Wake Robin, Inc. an Indiana Corp. requesting a variance to fabricate garage door slats.

Petition 15-11 The secretary verified proof of publication, notification and payment. Attorney G. Babcock was present as legal advisor. He was accompanied by Mr. Willmington the owner of Express Slats Company Inc. Attorney G. Babcock told the board the company takes steel and turns it into garage door slats. The steel is already rolled painted and stored indoors. The proposed business would be located on Pioneer Trail just east of Strack and Van Til grocery store and north of Rose Brick. The property is Zoned B-3. The family is looking to purchase the property from Wake Robin Inc. and would be relocating their business from South Holland, Illinois.

Mr. Willmington told the board they would be looking to construct a steel building having 6000 square feet workspace and a 2000 square foot office. The building would house machinery similar to that which makes gutters. All the incoming steel is housed indoors. The hours of operation would be from approximately 9:00 a.m. till 6:00 p.m. There would be minimal truck traffic for the purpose of loading and unloading.

Attorney G. Babcock gave a brief summary of the surrounding businesses indicating that the proposed business would have little impact on its neighbors. He concluded by telling the board they would be petitioning the Plan Commission/Platt Committee creating the legal description of the lot. He respectfully requested the board to consider granting the variance request.

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 this area does lend itself quite well to this light type of manufacturing business.

Member J. Ackerman asked about the businesses typical traffic patterns.

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Mr. Willmington said the materials would come in on Conestoga wagon type trucks with a hooped tarp about every three months with about 40,000 pounds of steel. Materials would leave the site usually with common carriers in a box truck about three times per week. Local garage door companies might also do pickups using pick-up trucks. There would not be excessive truck traffic.

Member K. Goldak verified the cul-du-sac would remain for turnaround traffic.

Member J. Ackerman moved to close the public hearing accept the Findings of Fact subject to a legal description from the Platt Committee and grant the variance request seconded by member J. Kowalski and passed by unanimous roll call vote.

Frank Spirson requesting a variance to reduce a side yard setback from 10 feet to 3 feet therefore a reduction of 7 feet to install a patio cover. **Petition 15-13** The secretary verified proof of publication, notification and payment. Mr. Rick Zientara of Trim A Seal was present as representation for the petitioner. Mr. Spirson accompanied him. Mr. Zientara said the homeowner is interested in installing a patio cover. The concrete measures 16 feet by 17 feet with the proposed patio cover measuring 16 feet by 15 feet. The patio cover has a gutter system all around and is made from non rusting materials. The patio cover would be installed 3 feet from the property line.

Mr. Glen Zanorski of 516 Indiana, Chesterton was present to speak in support of the petition. He commented that Mr. Spirson maintains his property impeccably and the canopy would only enhance the home and neighborhood.

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

Town Engineer M. O'Dell said he would like it to be made a condition of the petition that the canopy could not be enclosed.

Member K. Goldak expressed concerns regarding drainage. She wondered if they would bury a drain so it doesn't flow on the neighbor's property.

Mr. Sentara said they would direct the downspouts onto the property owner's property.

Member F. Owens said he would like that to be made a condition of the variance as well as the canopy being kept to an open style and not enclosed.

Member J. Kowalski moved to closed the public hearing accept the Findings of Fact and include the conditions that the structure/patio cover is to remain open and that the drainage should be

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directed onto Mr. Person's property seconded by member J. Ackerman and passed by unanimous roll call vote.

Indian Boundary Property Group, LLC. requesting a variance to on Lot 1, allow each tenant one wall mounted sign of 132 square feet and 159 square feet, and a monument sign of 240 sq. ft. totaling 531 sq. ft. Each tenant has 80 feet of frontage. Each wall-mounted sign would be installed on a different elevation. Total variance sought in an increase of sign area by 361 sq. feet. A second variance is requested wherein the base monument sign is 3 feet and the overall height is 15 feet 4 inches. The definition allows a base no higher than 6 feet. **Petition 15-12** Member F. Owens verified proof of publication, notification and payment. The secretary informed members of the board that there is an issue with the legal notice.

Attorney C. Parkinson said the petitioner's submitted along with the petition a list of property owners within 300 feet along with a map. One particular property owner did not receive notice of the public hearing. Petitioners had turned in a special report from a title company which indicates that this property owner is not within 300 feet. Attorney Parkinson said he could not determine from the special information report from the title company if it is in fact ok this property owner did not receive notice. He commented that he is hesitant to move forward with the public hearing.

Attorney Gary Bower said the initial list turned in with the petition was intended to be as inclusive as possible. A Fidelity Title Report certifies who is within 300 feet. The report includes tax reports which did not include this one particular property owner. The mailings went out to all owners indicated with the exception of this one parcel. He concluded by saying the title report demonstrates that all property owners within 300 feet had been noticed.

Attorney C. Parkinson said the GIS Map would give a list of owners within 300 feet. The title company has insured for their purposes a list of owners which do not include this particular parcel. He said it looks as though the parcel would be the Kentucky Fried Chicken parcel owned by Carlisle.

Town Engineer M. O'Dell commented that the Nabhan property is most likely not 300 feet across the front.

Member J. Kowalski concurred that the Nabhan property is not that wide. He said if the board approves the variances and the owner finds out he was not notified well that makes everything null and void. To proceed would put this board in a very bad spot.

It was the general consensus of the board that to proceed with the public hearing would be at high risk to the petitioner.

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Attorney C. Parkinson said he has noting in the petition that references the subject property. He was unable to determine from the petitioners map if the subject parcel should or should not be entitled to notice. The list provided by the petitioners did not give notice to someone on their list.

Town Engineer M. O'Dell said the Nabhan property is irregular shaped.

Member F. Owens commented that signage is important to all businesses and all these people on the petitioners list have a right to be noticed.

Mr. George Hanus Vice President for Indian Boundary Property Group, LLC said that based upon what he was hearing he would like to respectfully request a continuance. He understood the entire process would be jeopardized if they moved forward with the public hearing tonight.

There was some conversation of a special meeting.

Attorney C. Parkinson said the notice would need to be republished and property owners re-noticed. The soonest date would require at least 14 days. He asked that all property owners be re-noticed.

In the end they decided that the December 22, 2015 meeting date would be fine.

Member J. Kowalski advised the petitioners to include Findings of Fact for each variance request. Four sets of Findings of Fact would be to the petitioner's advantage. The way the current petition is presented it would be an all or nothing deal.

Member J. Kowalski moved to continue the public hearing until December 22, 2015 at 6:00 p.m. seconded by member J. Ackerman and passed by unanimous voice vote.

Indian Boundary Property Group, L.L.C. requesting a variance on Lot 2, to allow each tenant two wall-mounted signs of 52.5 square feet each, and a monument sign of 240 square feet totaling 450 sq. ft. The total variance sought is an increase of 280 sq. feet of the sign area. A second variance is requested wherein the base of monument sign is 3 feet and the overall height is 15 feet 4 inches. The definition allows a base no higher than 6 feet. **Petition 15-14** See above request for continuance.

OLD BUSINESS

Member J. Kowalski moved to elect member F. Owens as vice president seconded by member K. Goldak and passed by unanimous voice vote

NEW BUSINESS- None

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MISCELLANEOUS BUSINESS

December meeting date (See above, December 22, 2015 to convene at 6:00 P.M.)

ADJOURNMENT

There being no further business before the board member J. Kowalski moved adjournment seconded by member K. Goldak and passed by unanimous voice vote. The meeting adjourned at 7:55 p.m.

Respectfully submitted,

Gail A. Murawski, Secretary

Approved;

R. Corder, President