

CHESTERTON BOARD OF ZONING APPEALS

APRIL 23, 2020

6:30 p.m. (Zoom Meeting)

The meeting was called to order at 6:30 P.M. Members present VIA Zoom meeting included F. Owens, J. Ackerman, R. Riley, J. Carney and president J. Kowalski. Town Engineer M. O'Dell was present. Attorney C. Parkinson was present as legal advisor. The pledge of allegiance was recited.

APPROVAL OF MINUTES

Member R. Riley moved approval of the minutes from February 27, 2020 seconded by member J. Carney and passed by a unanimous roll call vote of 5 to 0.

Attorney C. Parkinson gave a brief overview of how the BZA Zoom meeting might be conducted. Members of the board would conduct the preliminary hearings with the notion that the State wide "Stay At Home Order" could be lifted by Governor Eric Holcomb prior to the regularly scheduled May 28, 2020 meeting. He asked president Kowalski to poll the petitioners to see if any might consider postponing their public hearing. He asked board members to come to a consensus for hearing all five petitions if they were set for a public hearing presumably May 28, 2020.

Member R. Riley suggested the board consider hearing the five petitions for public hearing on May 28, 2020 if the meeting could assemble.

Member F. Owens suggested it might not be a matter of holding five public hearings in one evening, it's more a matter of social distancing.

President J. Kowalski suggested a scenario for social distancing. Petitioners would be allowed into the public meeting area in a time slotted position. The public, if attending, would be polled for remonstrators and allowed into the meeting space to speak.

Attorney C. Parkinson cautioned the board in setting five public hearings for one meeting. He reminded petitioners waiting in que that they would need to notify property owners within 300 feet. The notification would require the petitioner to include the time and date of a meeting which is currently uncertain to take place. They are currently working on some minor remodeling meeting the towns requirements.

Town Engineer M. O'Dell clarified that the petitioner would be looking to utilize the property as a single-family residence. He

PRELIMINARY HEARINGS

Benlew Enterprises, LLC. Brian Lewandowski and Brandon Bennett requesting a variance

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to allow for residential use in a B-2 Zone. **Petition 20-03** Brian Lewandowski was present. He thanked the board for hearing his petition. The property is located at 762 South Calment Rd. the former location of Winey Insurance Agency. The home was built in the late 1800's to early 1900's. They are interested in using the property as a residence once again. The neighboring properties include residential as well as some small businesses.

Town Engineer M. O'Dell clarified that the property would be utilized as a single-family residence. This petition is not a zoning change request.

Member R. Riley moved to set this item for public hearing at the May 28, 2020 meeting seconded by member J. Ackerman and passed by a unanimous roll call vote of 5 to 0.

Marcie Stone and William Stone requesting a variance to install a 6-foot height privacy fence along a public right-of-way inside the building line where Town Code only allows a 4.5-foot high fence, therefore an increase height of 1.5 feet. **Petition 20-04** Members of the board reviewed the revised petition submitted by the petitioner. Town Engineer M. O'Dell requested the petitioner to indicate the location of the fence on the site plan.

William Stone was present. He clarified that he would be allowed to install the fence 8-feet from the corner of the house. M. O'Dell clarified that he would install the fence 8-feet from the corner of the house headed north.

There was some additional conversation regarding the placement of the fence. I was determined that the requested site plan would offer the necessary clarity for the board. The petitioner understood he would need to submit a site plan with the fence delineated by May 11, 2020 prior to the public hearing.

Member J. Carney moved to set this item for public hearing at the May 28, 2020 meeting contingent upon receipt of the site plan seconded by member R. Riley and passed by a roll call vote of 5 to 0.

Johnathan E. Hicks and Amber Hensell Hicks, Husband and Wife requesting a variance to allow a second principal structure on a lot where the Ordinance allows 1 principal structure on a lot, therefore an increase of 1 additional principal structure. **Petition 20-05** Attorney G. Babcock was present as representation for the petitioner. He told the board that the Hicks had started the Frontline Foundation which is a substance abuse treatment program. The site has merged with NorthShore Hospital. NorthShore is looking to utilize the main building and their remodeled garage for their operation and treatment facility. They have no need for the modular building that is situated on the properties northwest corner. The modular is 1375 square feet. All three structures are served by the same electrical meter. The petitioners are interested leasing the modular building.

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Attorney Babcock told the board he would be submitting a revised finding eliminating uses that would not be compatible in that setting. These conditions would run with the land. He would strengthen language in the findings. Furthermore, he would be requesting two additional variances. One, with regard to an existing shed and another regarding a setback. He was confident he could submit all the necessary items in a timely manner. He respectfully requested the Hicks Petition be set for public hearing.

Members of the board and Attorney Parkinson had no issue with the attorney's request.

Member J. Ackerman moved to set this item along with additional requests for public hearing at the May 28, 2020 meeting seconded by member J. Carney and passed by a unanimous roll call vote of 5 to 0.

Barbara L. Homme requesting a variance to enclose an existing 16-foot by 12-foot deck which will increase the lot coverage to 34 percent, where the Ordinance allows lot coverage of 30 percent, therefore a variance of 4 percent of lot coverage. **Petition 20-06** Attorney G. Babcock was present as representation for the petitioner. The property is located at 109 Westchester Ave., Chesterton. The property was built in 2015. The lots were platted in 1908 and are approximately 6000 square feet. The home currently has a back porch the petitioner would like to convert into a three-season room. He noted that the lot offers ample open space for drainage. He respectfully requested this item be set for public hearing.

Town Engineer M. O'Dell indicated that the footings currently installed would provide ample support for the proposed three-season room.

Member R. Riley moved to set this item for public hearing seconded by member J. Ackerman and passed by a unanimous roll call of 5 to 0.

John Deal requesting a variance to increase the height of an accessory structure to 17.5 feet instead of 16 feet. A second variance is requested to allow accessory structure to be erected in the front yard. **Petition 20-07** Mr. Deal was present. He told the board the increase in height is necessitated by the desire to erect a structure that would house an RV. The structure will be situated on a 34-acre parcel. The proposed structure would sit 440 feet back from the road behind a tree line. The proposed location avoids a pond around the back of the house and also delineated wetlands. He said most of the neighboring homes would not have a view of the structure.

President J. Kowalski asked for clarification regarding the POA from Steiner Homes.

Mr. Deal told the board the property is owner Steiner Homes. When they complete the primary structure in a few months he would own the property. He wanted to get the proposed structure erected while construction is still taking place.

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Attorney C. Parkinson requested Mr. Deal to submit an amended petition identifying Steiner Homes as the petitioner and also submit the deed.

Town Engineer M. O'Dell requested that the petitioner amend the petition to request a variance to increase the height of the structure by 1.5 feet from what is allowed by the Ordinance. He commented that the rear yard is over 821 feet from the rear property line. The property to the north is a commercial complex and not a residence.

Member R. Riley asked if the petitioner had any intent for the remaining acreage. He expressed concerns for future development of the property and how it might adversely affect future development having an accessory structure in the front yard.

Mr. Deal told the board he plans on utilizing the property recreationally and they plan on living there. They are interested in getting a boat for the pond.

Member R. Riley commented if he was assured that the 34 acres would remain intact, he would have no issues. If the property was developed to the south that structure would infringe on another development.

Mr. Deal said that the south end of that parcel is wetlands. He commented that it is not his plan to sell any of the property but if in the future things change, he could see the front 300 feet of the parcel being desirable.

Members of the board understood that if any portion of the property was sold for development it would need to come before the Chesterton Plan Commission or Plat Committee for plat approval.

Attorney C. Parkinson advised the petitioner to submit two sets of Findings of Fact, one for each variance request. The board could potentially grant one request and deny another.

The petitioner confirmed he understood the request.

Member J. Ackerman moved to set this item for public hearing contingent upon receipt of the deed and an amended petition seconded by member R. Riley and passed by a unanimous roll call vote of 5 to 0.

Attorney C. Parkinson commented that the town and this board would be in communication with petitioners regarding moving forward with the public hearings. He suggested holding off on notification and publications.

Attention to Details requesting a variance to put up a 32 square foot sign on the west side of the building. **Petition 20-08 (Withdrawn)**

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PUBLIC HEARINGS- None

OLD BUSINESS- None

NEW BUSINESS- None

MISCELLANEOUS BUSINESS- None

ADJOURNMENT

There being no further business before the board member J. Carney moved adjournment seconded by member R. Riley and passed by a unanimous roll call vote of 5 to 0. The meeting adjourned at 7:33.

Respectfully submitted,

Gail A. Murawski, Secretary

Approved;

J. Kowalski, President