

CHESTERTON BOARD OF ZONING APPEALS
AUGUST 27, 2020
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. Town Engineer M. O'Dell and Fire Chief J. Jarka were in attendance. Attorney J. Paulson was present as legal advisor. The pledge of allegiance was recited.

APPROVAL OF MINUTES

Member R. Riley moved approval of the minutes from July 23, 2020 seconded by member F. Owens and passed by unanimous voice vote.

PRELIMINARY HEARINGS

BenLew Enterprises, LLC. Brian Lewandowski and Brandon Bennett requesting for Parcel A: a variance to allow an R-1 residential use in a B-2 Zone. A second variance is requested to allow a reduction of a front yard setback from 25 feet to 16.95 feet, therefore a variance of 8.05 feet. A third variance is requested to reduce a side street setback from 25 feet to 20.62 feet, therefore a variance of 4.38 feet. A fourth variance is requested to reduce a side yard setback from 10 feet to 4.48 feet, therefore a reduction of 5.52 feet. A fifth variance is requested to reduce a side yard setback from 10 feet to 9.06 feet, therefore a variance of 0.94 feet. A sixth variance is requested to increase lot coverage from 40 percent to 42 percent therefore, an increase of 2 percent. A seventh variance is requested to reduce the required lot size from 9500 square feet to 5986.7 square feet therefore, a reduction of 3513.3 square feet. For Parcel B: an eighth variance is requested to allow automobile storage use which is currently being used as an office in a B-2 Zone. A ninth variance is requested to reduce a side yard setback from 8 feet to zero feet therefore, a variance of 8 feet. A tenth variance is requested to reduce a side yard setback from 8 feet to 6.48 feet therefore, a reduction of 1.52 feet. An eleventh variance is requested to reduce a rear yard setback from 10 feet to 0.43 feet therefore, a reduction of 9.57 feet. A twelfth variance is requested to increase lot coverage from 30 percent to 91 percent therefore, an increase of 59 percent. **Petition 20-10 (CONTINUED from May 28,2020, June 25, 2020, July 23, 2020)**

Town Engineer M. O'Dell said Mr. Lewandowski had been in contact with him and he has decided to move in a different direction with the property. He has pulled his petition and has a use that is compatible with the zoning. Additionally, he meet with the Plat Committee and has re-platted the parcel. The petitioner did not submit a written request to withdraw the petition.

Attorney J. Paulson advised the board that they could dismiss the petition, or they could continue the petition and ask for a written request. Additionally, the rules would support the board's action to dismiss the petition.

BOARD OF ZONING APPEALS
AUGUST 27, 2020
PAGE 2

M. O'Dell said he would prefer if the board would just dismiss the petition.

Member J. Carney moved to dismiss the petition seconded by member R. Riley and passed by unanimous voice vote.

Ryan Spain and Scarlet Spain, husband and wife requesting a developmental standard variance to construct an additional attached 2 car garage which will be 18 feet from a side street, where the Ordinance requires a 25-foot side street setback therefore, a variance of 7 feet. **Petition 20-15** Attorney G. Babcock was present as representation for the petitioners. Mr. and Mrs. Spain were not present. Attorney Babcock told the board the petitioners are interested in constructing a 2-car garage attached to a breezeway attached to the existing home. The home is located in the Tamarack subdivision which has its own covenants that does not allow outside storage. There is a platted unimproved dedicated road on the west side of their property which would be considered a side street. The Ordinance requires a 25-foot setback in an R-1 Zone. It was also determined that the petitioners would need an additional variance since the proposed structure would need to be attached to the existing structure by at least 50 percent. He would amend the existing petition to include the second variance request.

Town Engineer M. O'Dell requested an updated survey.

Member R. Riley said he would like to see an HOA letter of approval.

Member R. Riley moved to set this item for public hearing at the September 24, 2020 meeting seconded by member F. Owens and passed by unanimous voice vote.

Neal Storage II, LLC requesting a use variance to allow the establishment of a dog daycare, dog grooming services and dog boutique, where the Table of Uses does not show said uses available in the Town of Chesterton. **Petition 20-16** Attorney G. Babcock was present as representation for the end user of the property. Attorney Babcock told the board Ms. Tonya Fugate is interested in leasing 2,000 square foot space and establishing a dog daycare, grooming and boutique facility. The facility would accommodate 5 to 7 dogs. With hours of operation being 6:00 A.M. until 6:00 P.M. There would be a special turf installed in a fenced area where the dogs could run and play. He mentioned Bark of The Town an existing dog grooming location which has been an asset to the community. There is currently no other dog daycare in town. All the dogs serviced at the location would need to be current with their shots. Appointments would be required. He respectfully requested this item to be set for public hearing at the September 24, 2020 meeting.

Town Engineer M. O'Dell suggested the variance might only run with the specified owner and the number of dogs be clearly defined.

Member R. Riley found this to be a good location for such a business.

BOARD OF ZONING APPEALS
AUGUST 27, 2020
PAGE 3

Member J. Carney moved to set this item for public hearing at the September 24, 2020 meeting seconded by member F. Owens and passed by unanimous voice vote.

PUBLIC HEARINGS

Earl and Kathy Clark requesting a Developmental Standard Variance to increase lot coverage from 30 percent to 41 percent (11 percent increase.) A second Developmental Standard Variance is requested to reduce the side yard setback from 8-feet to 3-feet therefore a variance of 5-feet. **Petition 20-14** Members of the board agreed to deviate from the order of the agenda and hear the Clark's petition first. The secretary verified proof of publication notification and payment. Mr. Robert Bartell of Chicago Home Renovators was present as representation for the petitioners. Mr. and Mrs. Clark accompanied him. Mr. Bartell said the original garage was build many years ago and the 20 by 20-foot size prevents the homeowners from utilizing their garage effectively. The current size of the garage prevents them from housing a modern-day size pickup truck.

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

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

Town Engineer M. O'Dell noted that the petitioners yard has a pool and even the current size garage presents a pre-existing lot coverage issues.

Member R. Riley moved to accept the Findings of Fact, grant the variance requests and close the public hearing seconded by member F. Owens and passed by unanimous voice vote.

Lukas Weldon requesting a Special Exception to convert a portion of an existing building to indoor storage (mini warehouse), where the Ordinance allows for a Special Exception, subject to meeting the Ordinance criteria. **Petition 20-11** (Continued from July 23, 2020) Attorney G. Babcock called attention to conditions crafted by Town Engineer M. O'Dell, Fire Chief Jarka, Vern Brown and Attorney J. Paulson. The conditions provided a level of protection and comfort to the town while trying to be fair to the petitioner. He walked members of the board through the conditions of the Special Exception Petition; hereto attached and made a part of these minutes.

Lukas Weldon requesting a Use Variance to allow the establishment of a distillery, where the Table of Uses does not show said use available in the Town of Chesterton. **Petition 20-12** (continued from July 23, 2020) Attorney G. Babcock called attention to conditions crafted by Town Engineer M. O'Dell, Fire Chief Jarka, Vern Brown and Attorney J. Paulson. The conditions provided a level of protection and comfort to the town while trying to be fair to the petitioner. He walked members of the board through the conditions of the Use Variance Petition; hereto attached and made a part of these minutes.

BOARD OF ZONING APPEALS
AUGUST 27, 2020
PAGE 4

There was no one present to speak in support of Petition 20-11 or Petition 20-12.

There was no one present to speak in opposition to Petition 20-11 or Petition 20-12. The public comment portion of the public hearing was declared closed.

Attorney J. Paulson commented that she is generally comfortable with the conditions. She solicited thoughts and or revisions from the board. The vote was left up to members of the board.

Fire Chief Jarka said they had come to a good understanding and he is comfortable with the conditions.

Town Engineer M. O'Dell appreciated the collaborative effort from everyone who had a hand in the crafting the conditions. His trip to an operational distillery and their informative presentation helped move him and Chief Jarka to a clearer visualization and level of comfort.

Member J. Carney thought it was a great location for the distillery/storage facility. The crafted conditions gave him the level of assurance he was looking for.

Member F. Owens asked if any of the other distilleries they contacted or visited had sprinkler systems.

Chief Jarka said most often the distilleries had moved into a former factory or warehouse location that had an existing sprinkler system.

There was some addition conversation surrounding the distillery being operational while under the ownership of Vern Brown. It was clarified that the Use Variance is not limited to Vern Brown giving him the ability to prosper and sell the business. The town would have the safeguard in place to terminate the Use Variance if the distillery operation is closed for 90 consecutive days, except if the closure is mandated by Local, State or Federal requirements. The Use Variance would always have the enforceable conditions attached to it.

President J. Kowalski expressed his satisfaction in the collaborative efforts of all parties involved. He wished Vern Brown success.

Attorney J. Paulson clarified that the board could procedurally grant the variance approvals on both the petitions and sets of Findings of Fact as presented and the agreed upon conditions.

Member R. Riley moved to accept the Findings of Fact for the Special Exception Petition 20-11 and Use Variance Petition 20-12. The motion would further accept the agreed upon conditions of both petitions 20-11 and 20-12 and close the public hearing for both petitions. The motion was seconded by member J. Carney and passed by a unanimous roll call vote of 4 to 0.

**BOARD OF ZONING APPEALS
AUGUST 27, 2020
PAGE 5**

OLD BUSINESS- None

NEW BUSINESS- None

MISCELLANEOUS BUSINESS- None

ADJOURNMENT

There being no further business before the board member R. Riley moved adjournment seconded by member J. Carney and passed by unanimous voice vote. The meeting adjourned at 7:25 P.M.

Respectfully submitted,

Gail A. Murawski, Secretary

Approved:

J. Kowalski, President