



CICERO / JACKSON TOWNSHIP BOARD OF ZONING APPEALS

PETITIONERS:

Bardsley Enterprises
Mark Kassen
Stanley Widows

BZA MEETING MINUTES

7/19/12
7:00 p.m.

Chairman Art Hall called the Cicero/Jackson Township BZA meeting to order at 7:00pm and the members were present or absent as follows:

ROLL CALL

Present: Chairman Art Hall
Dan Strong-Vice Chairman
Stephen Zell-Secretary
Bruce Freeman
Corey Sylvester
Paul Munoz-C/JT Plan Director
Kelly Gunn-Recording Secretary
John Culp-Legal Counsel

Absent: NONE

1. DECLARATION OF QUORUM:

Chairman Art Hall declared a quorum with 5 of 5 members being present.

2. APPROVAL OF MINUTES:

Stephen Zell made a motion to approve the meeting minutes from June. Dan Strong seconded the motion and Bruce Freeman and Corey Sylvester were in favor. Art Hall abstained from voting as he was absent from last month's meeting.



CICERO / JACKSON TOWNSHIP BOARD OF ZONING APPEALS

3. OLD BUSINESS:

- **Docket #: BZA-0612-027-NC**
Petitioner: Bardsley Enterprises
Proposed Location: 400 W. Jackson St.
Cicero, IN 46034

Land Use Variance:

To allow for a restaurant with alcohol in a Neighborhood Commercial (NC) district whereas the Ordinance states that this is not a permitted use within this district.

Christine Bardsley of Bardsley Enterprises and Christine's Café, (23970 Logan Ct. Cicero, IN 46034) came before the board to discuss her desire to apply for a 3 way (beer, liquor and wine) license through the state of Indiana for table service at her restaurant. Mrs. Bardsley stated that they have no intentions of opening a bar for patrons to come to just to have drinks. Mrs. Bardsley discussed her thought that because their menu is a bit more upscale, that she believes that it is appropriate to provide table service alcoholic beverages as an option to their customers. Chairman Art Hall asked the petitioner to clarify if they were looking to obtain a 2 or 3 way liquor license and Mrs. Bardsley stated that they would like to obtain a 3 way license. Discussion of this topic continued. Stephen Zell asked if this docket needed to be un-tabled as it was tabled at the May BZA meeting and Chairman Art Hall stated yes. Stephen Zell made a motion to un-table the docket and Bruce Freeman seconded the motion. All members present were in favor. Chairman Hall asked if the petitioner's were going to serve alcohol to people who do not order food and the petitioner stated no, that the alcohol would only be served at the table with food orders. Bruce Freeman asked if there will be a drink limit implemented. Ms. Bardsley stated that she would hate to limit her customers in that capacity. Dan Strong asked if the alcohol service would be indoors only and Mrs. Bardsley stated yes. Legal Counsel John Culp stated that written conditions can be implemented that bind the petitioner to these commitments. Mrs. Bardsley stated that she has a petition with over 500 signatures in favor of alcohol. There were no further comments from the board members. Bruce Freeman made the motion to open the Public Hearing and Stephen Zell seconded the motion. Ms. Bardsley submitted the petition to Chairman Art Hall. Chairman Hall read the petition into the minutes.

Robert Guilkey
3077 Stilton Dr.
Cicero, IN 46034

Mr. Guilkey came forward and stated that the Bardsley's are very upstanding people and he believes that if they state they will do something, they will do it. There were no other comments from the public.

Bruce Freeman made a motion to close the Public Hearing and Stephen Zell seconded the motion. All members present were in favor and the Public Hearing was closed.



CICERO / JACKSON TOWNSHIP BOARD OF ZONING APPEALS

Vice Chairman Dan Strong stated that he believes that this variance should be attached to the petitioner only. Chairman Hall stated that he would like to see something stated in the motion that alcohol will be served indoors only. Chairman Hall asked the petitioner who owns property and Ms. Bardsley stated Koumbari, LLC and that she has permission to speak on their behalf. Paul Munoz stated that it was on the record at the last meeting that they have permission from the property owners that the petitioner may speak on their behalf. There were no further questions or comments from the board members or the Plan Director.

Vice Chairman Dan Strong made a motion to approve the variance request with the following commitments: that alcohol not be served outside of the establishment, that there be no carryout alcohol sales or service and that this variance be attached to Bardsley Enterprises as a C corporation. Stephen Zell seconded the motion. Legal Counsel John Culp stated that since this is a C corporation we would want a restriction that this use is strictly assigned to this premises and this operator. Dan Strong amended his motion to include this statement. Stephen Zell seconded the amended motion. All members present voted in favor and the variance request was approved. Ms. Bardsley asked for a copy of the meeting minutes to show the State of Indiana that she obtained approval for her variance so that she can move forward with her 3 way license application. Legal Counsel John Culp explained that the meeting minutes are not official until next month's meeting when they are voted on and approved by the board members, and Paul Munoz stated that he can write a letter of approval that summarizes what took place at the meeting and what the board's decision was.

4. NEW BUSINESS:

- **Docket #: BZA-0612-028-R5**

Petitioner: Mark Kassen

Proposed Location: 870 Washington Ave.

Cicero, IN 46034

Land Use Variance:

To allow for a gun repair/gunsmith home business in an R5 Residential Zoning District.

Mark Kassen came before the board and briefly discussed his proposal to obtain his federal firearms license in order to run a gun repair/Gunsmith business from his home. Mr. Kassen stated that he is currently employed at Gander Mountain as a Gunsmith. Mr. Kassen would like to open a firearm repair business and he needs to be able to have the business in his home so that the guns can be transferred legally. Mr. Kassen stated that there would be no showroom in his home. Mr. Kassen stated that his work will be done at home and then the firearm would be dropped back off to client or they would come and pick it up from his residence. Dan Strong asked if he will have any signage outside of the residence to advertise the business. Mr. Kassen stated that he will not be advertising the business and that he does not want to interfere with the way his home looks like on the outside. Chairman Art Hall asked how the petitioner will secure the guns when he is not working on them. Mr. Kassen stated that he owns an approved firearms safe. Chairman Hall stated that he would like to see Cicero Police Department come out to the residence to check the safe and verify that it meets their requirements. Mr. Kassen stated that Major Jim Hunter of the Cicero Police Department is his



CICERO / JACKSON TOWNSHIP BOARD OF ZONING APPEALS

neighbor and that he can do that. Chairman Hall stated that he would like to see something in writing that it is an approved safe. The petitioner stated that he does not want people to know that he has firearms stored in his home for safety reasons, so he will not be doing any advertising other than word of mouth from other customers. Dan Strong asked the petitioner how the firearms and parts will be delivered to his home. The petitioner stated that he will use either UPS or FedEx. Mr. Kassen stated that he would not be shipping out of state often. Discussion continued on this topic. Mr. Kassen stated that he will adhere to all federal firearms laws as well as local and state laws. Bruce Freeman asked if the petitioner will be test firing the firearms at his home. Mr. Kassen stated that he will not be doing so, and that any test firing will be completed at firing clubs or shooting ranges that he utilizes. Mr. Kassen stated that there will be no function checking that will take place. Stephen Zell asked what will happen with deliveries if Mr. Kassen is not home. Mr. Kassen stated that they (the courier service, UPS or FedEx) will leave parts but does not believe that they will leave firearms because of the liability issue. Mr. Kassen stated that he will look into this but it will be a rare occasion that he will be receiving a firearm in the mail. Art Hall stated that Cicero Police Department will review the entire operation to ensure that nothing is unsafe for community. Paul Munoz stated that within the staff report for Interdepartmental Review, Chief Hildebrand and Major Hunter stated that they had no issues with this business and they believe that the petitioner is offering a quality service. Chairman Hall asked Paul Munoz to review the delivery issue with the Cicero Police Department. There were no other questions or comments. Stephen Zell made a motion to open the Public Hearing and Bruce Freeman seconded the motion. All members present were in favor, and the Public Hearing was opened.

Jay Hoover
10863 Washington Bay
Fishers, IN 46037

Mr. Hoover stated that he has known Mr. Kassen for 10 years and that he owns some of the firearms that Mr. Kassen has repaired and refurbished guns and he does very quality work. Mr. Hoover stated that the petitioner engages in very safe practices in his day to day job at Gander Mountain and is extremely knowledgeable and has state of the art equipment.

Eric Howard
5734 E. New York St.
Indianapolis, IN

Mr. Hoover Worked at Gander Mountain with Mr. Kassen as the Shipping Manager. Mr. Hoover discussed the shipping policies and procedures at Gander Mountain. He stated that Mr. Kassen has always done quality work and is very conscientious. Mr. Hoover stated that Mr. Kassen was the Regional Gun Smith and had 0 errors last year. They as a team also never lost track of a firearm.



CICERO / JACKSON TOWNSHIP BOARD OF ZONING APPEALS

Jim Hunter
930 Washington Ave.
Cicero, IN 46034

Major Jim Hunter of the Cicero Police Department is also the next door neighbor of Mr. Kassen. He has talked extensively to Mark about what he is proposing to do. Major Hunter stated that he is not concerned about the safety of the public with the operation of this business in the area. Major Hunter also stated that he is not concerned about the petitioner running equipment or machinery late at night or disturbing his neighbors in any way. Major Hunter said that he sees no concerns in reference to traffic. Major Hunter believes that it will be a safe operation. Major Hunter said that his one and only concern was that the petitioner would be test firing weapons on site and after extensive conversations with Mr. Kassen, he is no longer concerned about this and knows that this will not be an issue. Major Hunter has spoken to other neighbors in the area and they are not concerned either. Major Hunter stated that from a Police Department standpoint, the petitioner is following all safety regulations and that his gun safe is completely appropriate and that he himself would actually like to own a similar safe for his personal firearms.

Pat Breach
24860 Mt. Pleasant Rd.
Cicero, IN 46034

Mr. Breach stated that he owns the home 2 doors north of the petitioner and that he didn't know the specific information of the docket, but that now he feels more comfortable with it having heard from Major Hunter and what his opinion of the operation is. Mr. Breach inquired as to whether the home will have an alarm system and be secured as he is concerned with someone stealing firearms from the residence. Mr. Breach also stated that he was concerned about someone shooting a gun on site but now knows that will not be the case. Chairman Art Hall asked if he is satisfied with what he has heard and Mr. Breach stated that he is getting to be more comfortable as his questions for the most part are being answered. There were no further questions or comments from the public.

Bruce Freeman made a motion to close the Public Hearing and Corey Sylvester seconded the motion. All members present were in favor and the Public Hearing was closed.

Chairman Hall asked if Mr. Kassen will be the sole employee of the business and the petitioner answered yes. Chairman Hall stated that if he does expand to include other employees that he will have to come back before board for their approval. Dan Strong asked if the petitioner will have an alarm system on his home and he said that he does not have a problem doing so. Chairman Hall stated that he would like to see him conform to the blanket requirements of the Cicero Police Department. Dan Strong stated that this variance should go with this owner only and not the property. There were no other questions or comments from the board members.

Dan Strong made a motion to approve the docket with the commitments that the variance goes with the petitioner, that there would be no test firing on the property, no signage, as well as no employees and that all



CICERO / JACKSON TOWNSHIP BOARD OF ZONING APPEALS

safety aspects are to be approved by the Cicero Police Department. Bruce Freeman seconded the motion. All members present were in favor.

- **Docket #: BZA-0612-029-R5**
Petitioner: Stanley R. Widows
Proposed Location: 369 E. Jackson St.
Cicero, IN 46034

Mr. Widows came before the board to discuss his proposal to open an auto detailing business and used car lot. Mr. Widows stated he would like to have approximately 5-10 cars and that he would improve the outside aesthetics of the building drastically. Mr. Widows stated that there would be no mechanic work, as well as no disposal or changing of oil/pollutants. Mr. Widows stated that there would be no drainage changes to the property. It's been empty for about a year. Chairman Hall asked the petitioner if he will do mechanical work where there will be fluid changes and Mr. Widows stated no. Chairman Hall asked if an oil change does occur to allow the car to operate properly, what will he do for proper disposal and Mr. Widows stated that he will follow all rules and regulations. Dan Strong asked what the hours of operation for the business would be. Mr. Widows stated that he anticipates them to be Normal daytime hours, either 8am to 5pm or 9am to 6pm. Chairman Hall asked if the lot be lit and Mr. Widows stated that he will have basic lighting for safety and security purposes. Chairman Hall asked a variance was being heard as opposed to a rezone. Paul Munoz stated that you want to avoid spot re-zoning when possible. Paul Munoz continued to discuss this topic. Stephen Zell asked about the current condition of the property and Mr. Widows stated that they will be cleaning it up and making it more aesthetically pleasing. Chairman Hall asked if the cars will be needing work prior to sale and Mr. Widows stated yes most likely. Chairman Hall stated that no outdoor storage is allowed and that he would like to see a fenced in area to store cars that are not for sale. Dan Strong asked about a dumpster area and if that could be fenced in as well. Mr. Widows stated he is trying to figure out something to do with the dumpster, and that he might build an enclosure or just move the dumpster to another property. Paul Munoz discussed that the dumpster was grandfathered in but since he is currently coming forth for a Land Use Variance, he will have to adhere to all ordinances. Bruce Freeman asked about the speed limits in front of the property and the parking situation for the customers. Discussion continued in reference to this topic.

Bruce Freeman asked about the drainage on the property, and Mr. Widows said that there is a floor drain where the cars would be washed. Mr. Widows stated that he has city utilities. Plan Director Paul Munoz stated that Utilities Director Pat Comer has no issues with him being in the Wellhead Protection area or with his plans to operate this type of business. Discussion about drainage on the property continued. Dan Strong discussed the number of the cars that are desired and what the maximum number would be. Mr. Widows discussed this issue and he believes no more than 12 at any given time. Chairman Hall asked for clarification about the detailing service and Mr. Widows stated that it would be a service provided in addition to the car sales business. Chairman Hall asked whether the petitioner would be detailing boats and he stated that he will be doing that as well. Chairman Hall asked if he will be the sole owner of the business, and he stated that he is only a partial owner now but plans on taking full control of it in the future. Stephen Zell asked about proposed signage and Mr. Widows stated that he will apply for a sign with Paul's office in the future. Dan Strong asked



CICERO / JACKSON TOWNSHIP BOARD OF ZONING APPEALS

whether the petitioner would be the sole employee and Mr. Widows stated that he would have a few employees maximum. There were no other questions or comments from members of the board.

Dan Strong made a motion to open the Public Hearing and Corey Sylvester seconded the motion. All members present were in favor. Plan Director Paul Munoz entered a letter into the record from Debra Wolfe, 390 E. Buckeye St. Cicero, IN 46034. Ms. Wolfe's letter stated her opposition to this docket being approved. Ms. Wolfe stated that she does not want this to be approved as she believes it will lower the property value of her home. There were no further questions or comments from the board members. Bruce Freeman made a motion to close the Public Hearing and Stephen Zell seconded the motion. The Public Hearing was closed.

Stephen Zell discussed what he believes should be included in the motion as written commitments including that the business be attached to Mr. Widows, as well as that there would no fluid change services offered on site with the exception of fluid changes being permitted on the vehicles that are to be sold, that the trash/limbs be cleaned up on the property be cleaned up, that no more than 12 cars be allowed on the property, that a fence be placed on the rear side of the property for cars that are not presentable for sale on a minimum of gravel and that if dumpster is left on property that it be fenced in. Major Jim Hunter discussed the issue of lighting for safety purposes and Chairman Hall stated that the petitioner has to comply with the R5 lighting ordinances. Plan Director Paul Munoz discussed the safety issue and dusk to dawn lighting. Dan Strong asked Mr. Widows if he has a plan for lighting for security and he stated that he is planning on dusk to dawn lighting for security and that he will get with Paul Munoz to adhere to all requirements of the Town. Bruce Freeman asked when the petitioner plans on opening the business and Mr. Widows stated as soon as possible if approved. Legal Counsel John Culp asked about the maximum number of 12 cars and whether that is for sale cars, employees' vehicles or both. Mr. Widows stated that they have adequate parking for employees as well as for cars for sale. Discussion of quantity of vehicles on premises took place. Major Hunter asked how many vehicles can be parked in front and in back and discussion of this took place. Discussion of differentiating between vehicles in storage vs. vehicles for sale took place. Dan Strong asked if the petitioner wants to pave more than what he has now and Mr. Widows stated that he plans to do so. Dan Strong asked if 5 vehicles in storage would be sufficient and Mr. Widows stated yes. Dan Strong asked if the drive to the back storage area will be paved and Mr. Widows stated yes. There were no other questions or comments from the board members.

Stephen Zell made a motion to approve the docket with the following written commitments: that the variance be tied to Mr. Widows, that not counting employees there would be 15 vehicles on premises with 12 being on display, and that safety and security lighting be approved by the Cicero Police Department and that the area fenced in for storage of vehicles be a minimum of gravel. Dan Strong seconded the motion. All members present were in favor.



CICERO / JACKSON TOWNSHIP BOARD OF ZONING APPEALS

5. PLAN DIRECTOR'S REPORT

Paul Munoz discussed the first break out meeting on the Comprehensive Plan today with KK Gerhart-Fritz, Art Hall and Dan Strong. Paul Munoz discussed the fact that the Steering Committee is confirmed except for 2 people and that he is hoping to start the process in August. Paul stated that he is looking at ways to get people involved and get as much feedback as possible. He discussed possibly using Survey Monkey in addition to paper copies of the Comp Plan questionnaire. Paul Munoz discussed the purchase of an IPAD for the office for the Comprehensive Plan questionnaire and for other uses. Dan Strong asked about the cost of that and Paul Munoz stated that it was approximately \$599 and discussion of this topic continued.

Paul Munoz discussed the 2013 budget and the fact that it was approved. Paul discussed that there were very minor changes made to the budget. Paul stated that he switched a few line items around but pretty much the budget is the same as last year. Paul discussed that he has put in for a newer vehicle and discussion occurred in reference to that topic.

6. CHAIRMAN'S REPORT:

NONE

7. LEGAL COUNSEL REPORT:

John Culp stated that he liked and agreed with Paul Munoz's decision regarding Mr. Widows coming before the board for a variance rather than a re-zone. John Culp stated that if the board would like him to make a presentation on conflict of interest he can do so for educational purposes. Chairman Hall stated that he believes that is a great idea. John Culp stated that it would take approximately 10 minutes and Art Hall said to schedule it for next month. Discussion continued about this topic. Dan Strong asked for clarification if he should have disclosed that he owns a restaurant as well in the case of Christine's Café and their docket, John Culp stated no because they own 2 different types of restaurants. John Culp stated for the record that Dan Strong did not have a conflict of interest.

John Culp discussed whether detailed house plans are part of the public record and John Culp stated that after researching it, he believes that they should not be given out to 3rd parties without the owners' permission for safety and health reasons. Discussion of this topic continued amongst the members of the board and legal counsel.

8. PUBLIC COMMENT:

NONE

9. BOARD MEMBERS COMMENTS:

Paul Munoz discussed Cliff Carley and how he has put the banner style sign back up on his apartments for rent above Erika's Place. Paul Munoz stated that he has applied for the AROD but has not paid for the fees. Paul Munoz stated that Mr. Carley has been warned previously about putting up this signage without approval of the AROD, and this issue been forwarded to John Culp.



CICERO / JACKSON TOWNSHIP BOARD OF ZONING APPEALS

Paul Munoz discussed the RV violation on Forest Bay Ln. and the fact that it has also been forwarded to John Culp. All other violations have been addressed and taken care of. Paul Munoz discussed his back pain/issues and potential upcoming surgery and what would occur if he were to be out of the office for a few weeks. Discussion continued on this topic.

11. NEXT MEETING:

August 16th, 2012 at 7:00 p.m.

12. ADJOURNMENT:

Dan Strong made the motion to adjourn and Stephen Zell seconded the motion. All members present were in favor and the meeting was adjourned at 8:25pm.

Signatures:

Art Hall-2012 Chairman

Dan Strong 2012 Vice-Chairman

Stephen Zell-2012 Secretary

Kelly E. Gunn- Recording Secretary

Date