



# CICERO / JACKSON TOWNSHIP BOARD OF ZONING APPEALS

## PETITIONERS:

HAND Lakeside Gardens LLC  
FTG Dad's LLC (Dave Duncan)

## BZA MEETING MINUTES

01/17/13

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  
Vice Chairman Stephen Zell  
Bruce Freeman-Secretary  
Dan Strong  
Paul Munoz-C/JT Plan Director  
Kelly Gunn-Recording Secretary  
Aaron Culp-Legal Counsel

**Absent:** Corey Sylvester

### 1. DECLARATION OF QUORUM:

Chairman Art Hall declared a quorum with 4 of 5 members being present.

### 2. APPROVAL OF MINUTES:

Stephen Zell discussed a change that he submitted in reference to a member of the public's last name who spoke at the December meeting. No other corrections were submitted. Stephen Zell made a motion to approve the meeting minutes from December 20th, 2012 as amended. Bruce Freeman seconded the motion. All members present were in favor.

### 3. OLD BUSINESS:

NONE



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## **4. NEW BUSINESS:**

**Docket #: BZA-1212-040-R6**

**Petitioner:** HAND Lakeside Gardens LLC

**Proposed Location:** 301 N. Peru St.

Cicero, IN 46034

**Development Standards Variance: To allow for a reduction in the front yard setback to forty-one (41) feet for the primary structure whereas the current front yard setback is forty-five (45) feet on the south side of the property.**

Chairman Hall explained to the petitioner that he had the option of tabling his items until next month as there are only 4 of 5 board members present. Nate Lichti, the representative from HAND said that he would like to proceed. Paul Munoz discussed the 2 sets of plans that HAND submitted and he explained the differences between the two. Paul Munoz explained that depending on which set of plans the board decided fit the community better, it will make a difference in the number of variances that are needed and actually heard tonight. Paul Munoz asked the board to take a few minutes to look over the two different sets of plans. The board members discussed the plans with the petitioner and Paul Munoz. Dan Strong asked if any of these variances supersede the previously approved variances. Paul Munoz said that they do not. Stephen Zell asked Mr. Lichti what is driving the proposed changes. Mr. Lichti discussed the proposed changes to the setbacks and the improvements and modifications that have been to the interior layout of the apartments. Mr. Lichti discussed his preferred set of plans and explained that they merely added the third variance to give the board an alternative as well as to ensure that the process would not be delayed. Mr. Lichti showed the board a picture of the Pebble Brook project that was recently finished in Noblesville. Chairman Hall asked how many bedrooms are contained within each apartment. Mr. Lichti stated that there are two bedrooms in each unit. Chairman Hall asked if these units are rental units or for purchase. Mr. Lichti stated that they are rental apartments for seniors aged 62 and older. Paul Munoz discussed the fact that the parking lot would be the issue when it comes to fitting within the required setbacks. Dan Strong asked about the square footage of each unit. Mr. Lichti stated that he believed they were approximately 925 square feet. Stephen Zell asked what the proposed square footage was prior to the new layout changes, and Mr. Lichti stated that it was approximately 875. Chairman Hall asked what the square footage requirement would be for this type of residence in an R6 district. Dan Strong read the ordinance which stated that the requirement is at least 950 square feet. Discussion of this topic continued amongst the members of the board. Mr. Lichti corrected himself and stated that the square footage in each unit is actually 960 square feet, so there would be no need for an additional variance for square footage. Dan Strong discussed buffering and asked if any changes were made to those plans. Mr. Lichti stated that no changes were made in that area and he discussed what his organization had committed to in reference to buffering. There were no other comments or questions from the board members.



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Bruce Freeman made a motion to open the Public Hearing. Stephen Zell seconded the motion and all members present were in favor.

Gary Eaton  
290 N. Broadway St.  
Cicero, IN 46034

Mr. Eaton stated that he has spoken with the owner of Case's Mechanic Shop and that he was concerned about the availability of parking on Flanigan St. after this project is completed. Chairman Hall asked if Case's owned that particular property and Mr. Eaton said he did not think so. Chairman Hall stated that there was no issue to discuss then since it is not his property. Stephen Zell explained to Mr. Eaton that the current plan will not hinder or impede that particular area when it comes to parking.

There were no other questions or 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.

The board stated that they preferred the plans that included the bigger building. Dan Strong asked since the project was approved previously, if the setbacks would be the only changes being made. Chairman Hall stated that all previously approved commitments stand and are expected to be adhered to. Mr. Lichti stated that they are correct and they will be following what was previously approved as well as whatever is ruled on tonight. Stephen Zell asked if the building materials or aesthetics of the project have changed at all. Mr. Lichti stated no. Legal Counsel Aaron Culp stated that the only modifications being made are the changes in setbacks and that the board has the option of stating that all other previously approved variances stand in their motion. Paul Munoz stated that only two of the three variances that are on the agenda will apply now as the board has decided that they like the plans that contain the larger building. Paul Munoz stated that BZA-1212-041-R6 will be withdrawn if the board votes for that particular plan. Dan Strong made a motion to approve BZA-1212-040-R6 with the note that any other variances or previously approved commitments will continue. Stephen Zell seconded the motion and all members present were in favor.

**Docket #: BZA-1212-041-R6**

**Petitioner:** HAND Lakeside Gardens LLC

**Proposed Location:** 301 N. Peru St.

**Cicero, IN 46030**

**Development Standards Variance: To allow for a reduction in the side yard setback to seventeen (17) feet for secondary structures and pavement whereas the current side yard setback is twenty (20) feet on the east side of the property.**

Mr. Lichti stated that he would like to withdraw BZA-1212-041-R6. The board accepted his request.



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**Docket #: BZA-1212-042-R6**

**Petitioner: HAND Lakeside Gardens LLC**

**Proposed Location: 301 N. Peru St.  
Cicero, IN 46030**

**Development Standards Variance: To allow for a reduction in the side yard setback to eleven (11) feet for the primary structure whereas the current side yard setback is twenty (20) feet on the north side of the property.**

Dan Strong asked Paul Munoz about future development north of the HAND project and who would be responsible for buffering. Discussion of this topic continued. There were no further questions from the board members.

Stephen Zell made a motion to open the Public Hearing. Bruce Freeman seconded the motion and all members present were in favor. There were no comments from the members of the public. Stephen Zell made a motion to close the Public Hearing and Bruce Freeman seconded the motion. All members present were in favor and the Public Hearing was closed.

Dan Strong made a motion to approve BZA-1212-042-R6 with the stipulation that all previous commitments and variances are to continue. Bruce Freeman seconded the motion. All members present were in favor. Bruce Freeman asked Mr. Lichti when construction would be starting. Mr. Lichti stated that they would start the project in the spring. Chairman Hall asked when construction would be completed. Mr. Lichti stated that it should be completed by late summer or early September.

**Docket #: BZA-1212-043-C3**

**Petitioner: FTG Dad's LLC (Dave Duncan)**

**Proposed Location: 22179 US 31 N.  
Cicero, IN 46030**

**Land Use Variance: To allow for an automotive sales area (Outdoors), automotive repair-major (enclosed), and automobile/truck storage (Outdoors) to be permitted on the property whereas the ordinance currently does not allow those as permitted uses in a "C3" district.**

Paul Munoz discussed the error made by the Noblesville Daily Times in publishing Mr. Duncan's Legal Notice. Due to this error, Paul Munoz stated that this agenda item needed to be tabled until the February meeting. Paul Munoz stated that since this is becoming a habitual issue with the paper, it is up to the members of the board if they would like to hold a Special Session meeting. Chairman Hall asked Legal Counsel Aaron Culp if the newspaper has some sort of legal obligation or responsibility to the petitioner for these errors. Aaron Culp stated no and discussed this issue further. Chairman Hall asked Paul Munoz what other newspapers can be utilized for the publishing of the Legal Notices. Paul Munoz stated that the petitioner's can choose either the Noblesville Daily Times or the Indianapolis Star, but the Star is considerably more expensive. Discussion of this



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topic continued. Chairman Hall asked Paul Munoz to send a letter to the Noblesville Daily Times in reference to the numerous errors that they have made in reference to publishing Legal Notices for the petitioners'. Paul Munoz discussed the large staff turnover rate that the Noblesville Daily Times seems to have. Paul Munoz also discussed the fact that there is no longer a local office in Noblesville for petitioner's to go to with questions or problems. Discussion of this topic continued.

Chairman Hall asked the board members when they think this item should be tabled until. Discussion of potential Special Session dates occurred amongst the members of the board and Paul Munoz. January 31<sup>st</sup>, 2013 was chosen as a possible date to hold a Special Session. Dan Strong stated that this is not the first time that the board has had to hold a Special Session due to an error that the newspaper has made. Paul Munoz suggested that the board members make a motion to table this item until the January 31<sup>st</sup>, 2013 Special Session that way the petitioner does not have to re-notify his ad joiners. Aaron Culp stated that the Notice of Public Hearing sign will need to be changed to reflect the new meeting date and placed back on the property. Stephen Zell made a motion to table the agenda item until a Special Session on January 31<sup>st</sup>, 2013 at 7pm at this same location. Bruce Freeman seconded the motion and all members present were in favor.

## **5. PLAN DIRECTOR'S REPORT**

Planning Director Paul Munoz discussed the recent Comprehensive Plan Focus Group meetings. Paul Munoz stated that the turnout was great and much higher than expected. Paul discussed some of the feedback and ideas that were gathered from these meetings. Chairman Hall stated that the Focus Group sessions that he attended were well organized and ran very smoothly.

Paul Munoz stated that he does not have a Year End report for 2012 prepared yet. Paul discussed the problems that Mary Goins is having with balancing one of the Town's accounts, so he does not have the revenue information until that is cleared up. Discussion of this topic continued.

Paul Munoz stated that a pre-construction meeting has been scheduled with the Contractors from the CVS project and town officials for next Friday, January 25<sup>th</sup>, 2013. Paul Munoz stated that the contractors will be starting the Demo work on Monday and actual construction will be starting at the beginning of February. Chairman Hall asked when CVS intends to be in the new building. Paul Munoz stated that he has spoken to current employees who state that the plan is to be moved into the new building by either June or July of 2013.

Stephen Zell asked what some of the major complaints were during the Comprehensive Plan Focus Group meetings. Paul Munoz stated that in almost every Focus Group session, the Waterfront property was discussed. Paul Munoz stated that many members of the community who attended the sessions stated that they support the idea of the town taking some sort of action on the property or its owners. Discussion of this topic continued amongst the members of the board and the Planning Director. Discussion continued on this topic.

## **6. CHAIRMAN'S REPORT:**

NONE



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**7. LEGAL COUNSEL REPORT:**

NONE

**8. PUBLIC COMMENT:**

NONE

**9. BOARD MEMBERS COMMENTS:**

NONE

**11. NEXT MEETING:**

January 31<sup>st</sup>, 2013 at 7:00 p.m.

**12. ADJOURNMENT:**

Bruce Freeman made the motion to adjourn and Stephen Zell seconded the motion. All members present were in favor and the meeting was adjourned at 7:50 pm.

Signatures:

\_\_\_\_\_  
Art Hall-2013 Chairman

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Stephen Zell-2013 Vice-Chairman

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Bruce Freeman-2013 Secretary

\_\_\_\_\_  
Kelly E. Gunn- Recording Secretary

\_\_\_\_\_  
Date