



CICERO / JACKSON TOWNSHIP BOARD OF ZONING APPEALS

PETITIONERS:

La Cascada
Cicero Capital, LLC
David and Lisa Smith

BZA MEETING MINUTES

07/18/13

7:00 p.m.

Chairman Art Hall called the Cicero/Jackson Township BZA meeting to order at 7:05pm and the members were present or absent as follows:

ROLL CALL

Present: Chairman Art Hall
Vice Chairman Steve Zell
Bruce Freeman-Secretary
Dan Strong
Corey Sylvester
John Culp-Legal Counsel
Kelly Gunn-Recording Secretary

Absent: Paul Munoz-C/JT Plan Director

1. DECLARATION OF QUORUM:

Chairman 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 20th, 2013. Bruce Freeman seconded the motion. All members present were in favor.

3. OLD BUSINESS:

Docket #: BZA-0513-012-NC

Petitioner: Koumbari, LLC (Property Owner), La Cascada/Alex Mejia (Tenant)

Property Address: 400 W. Jackson St.

Cicero, IN 46034

Development Standards Variance: To allow for a variance from the number of parking spots required by 11 parking spots to allow for additional outdoor seating on the patio.



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Alex Mejia, owner and operator of La Cascada came forward and discussed their proposal to have an outdoor seating patio as well as relief on the number of parking spots needed. Chairman Hall explained how parking is calculated. Dan Strong asked about the proposed materials being used for the patio extension. Mr. Mejia said that they planned to build a wood deck and he discussed the proposed dimensions for the outdoor patio. Chairman Hall stated that the board would recommend that the patio be concrete instead of wood to be more aesthetically pleasing and so that it would hold up better over time. Dan Strong asked the petitioner how the outdoor patio would be enclosed. Mr. Mejia stated that the proposed fence around the patio would be 4' instead of 3' tall. Chairman Hall stated that the ordinances allow for a 3' fence enclosure and that the fence be 50% visible. Discussion of this continued.

Bruce Freeman made a motion to open the Public Hearing and Stephen Zell seconded the motion. All members present were in favor and the Public Hearing was opened. Chairman Art Hall read a letter of opposition from Gary Kizer-Sheely into the record. Discussion of working with the owners of the Waterfront property in reference to additional parking took place.

Gregg Boyd- Partner, Cicero Capital, LLC
1616 Nantucket Dr.
Cicero, IN 46034

Mr. Boyd and the Mr. Kizer-Sheely are business partners and Mr. Boyd stated that the letter of opposition was submitted quite some time ago as the proprietors of La Cascada had not contacted them in reference to making an agreement on parking. Mr. Boyd stated that his business was highly in favor of this proposed outdoor seating and would be willing to help La Cascada with the additional parking they might need.

Jim Flutterjohn
1680 Cape Charles Ct.
Cicero, IN 46034

Mr. Flutterjohn asked how the parking for each restaurant and business in the Downtown Commercial and Neighborhood Commercial zoning districts were calculated. Chairman Hall explained how Downtown Commercial parking is calculated and how most of the Downtown restaurants make agreements with the Cicero United Methodist Church to use their parking lot for overflow. Mr. Flutterjohn asked if golf cart parking made a difference in the number of spots needed for parking. Chairman Hall stated that by law, golf carts cannot be considered in the parking but that the board would take them into consideration since Cicero does allow them on local roadways.



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Brett Morrow
420 W. Jackson St.
Cicero, IN 46034

Mr. Morrow stated that he is in favor of the proposed outdoor seating. Mr. Morrow stated that people walk over to La Cascada from One Waterfront Place Condominiums, the Red Bridge boat docks, etc and that the restaurant attracts lots of foot traffic.

Nikki Topmiller-Decatur
20 Bayview Ln.
Cicero, IN 46034

Ms. Topmiller-Decatur stated that she is 100% in favor of the proposed outdoor seating.

Heather Penwell
935 Morse Landing Dr.
Cicero, IN 46034

Mrs. Penwell stated that the proposed outdoor seating is a great idea and that it will be a nice addition to the area.

Kevin Guerra
525 Morse Landing Dr.
Cicero, IN 46034

Mr. Guerra stated that he supports the parking variance request.

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, and the Public Hearing was closed.

Chairman Hall asked the petitioner approximately how many employees were working at the establishment on the weekend. Mr. Mejia stated approximately nine employees. Chairman Hall discussed viable options for the employees so that would free up some parking for patrons of the restaurant. Dan Strong asked the petitioner if they have any questions in reference to the permitted height for the fence enclosure. Chairman Hall stated that he was going to look up the ordinance in reference to the front yard fence. The petitioner did not have any questions. Mr. Mejia discussed the number of tables and seats that he would like to have outside. Chairman Hall stated that there is no restriction on the front yard fence and that it is acceptable to be 4' in height. Chairman Hall made a recommendation to the board that they put a one year time frame on this variance proposal so that they can review it and see if anything needs to be adjusted or changed and renewed. There were no further questions from the members of the board.



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Stephen Zell made a motion to approve the docket with the contingencies that the patio be made of concrete instead of wood, as well as on weekends and holidays or high traffic days, that the employees of La Cascada utilize the Town of Cicero parking lots down the street from the establishment, that the patio seating be limited to 48 seats and that there be a one year review of this proposal by the board to review progress. Dan Strong seconded the motion and all members present were in favor.

4. NEW BUSINESS:

Docket #: BZA-0613-014-DC

Petitioner: Cicero Capital LLC

Property Address: 409 W. Jackson St.
Cicero, IN 46034

Development Standards Variance: To allow for the placement of an accessory structure (Portico) in the front yard of the primary structure whereas the ordinance states that the accessory structures shall be placed in the side or rear yard of the primary structure.

Docket #: BZA-0613-015-DC

Petitioner: Cicero Capital LLC

Property Address: 409 W. Jackson St.
Cicero, IN 46034

Development Standards Variance: To allow for a six (6) foot tall privacy wall to be constructed in the front yard of a primary structure whereas the ordinance states that fences and walls in the front of the primary structure are to be no more than three (3) feet in height and no less than 50% open surface area.

Chuck Goldfarb, 2153 Presidents St. Carmel, IN came forward and discussed the proposal for a restaurant at the former Waterfront property. Mr. Goldfarb stated that represents the restaurant group that will be running the establishment. Mr. Goldfarb stated that he and his business partner, Gregg Boyd want this restaurant to be a destination in the Town of Cicero. Mr. Goldfarb stated that the restaurant would add approximately 65 jobs to the Town of Cicero, that the dilapidated boat docks would be redone and he also discussed the proposed plans for the hardscape and interior and exterior of the building. Mr. Goldfarb discussed the history of failed businesses at that location. Mr. Goldfarb stated that the challenge for the new establishment will be during the winter months but that they have fun concepts and ideas to draw patrons even during those months. Mr. Goldfarb stated that this project is fully supported by the Cicero Economic Development Council. Mr. Goldfarb briefly discussed the Community Outreach and information meeting that took place last night and the excellent turnout that they had. Mr. Goldfarb stated that they have a vision for what they want to accomplish but they are willing to compromise to get things approved and get the project going if the board sees fit. Mr. Goldfarb discussed the approximate timeline to complete the project and have the restaurant open. Chairman Hall stated that the town as well as the board would like to see a business in that location that has staying power and that proves to be successful. Chairman Hall asked about the proposed Portico and



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whether the location would be family friendly. Chairman Hall asked if the Portico is actually a bar. Mr. Goldfarb discussed the plans and intent for the Portico area and stated that it would serve food but that it would also be an outdoor bar. Chairman Hall voiced his concerns about their ability to shield the public and families from a “bar” style atmosphere. Chairman Hall discussed the proposal for the outdoor fence area. Discussion continued on this topic.

Chairman Hall gave a brief summary to the public present of what was approved for this location in the past. Dan Strong discussed the fact that the restaurant was approved as well as parking and outdoor seating was also approved in September 2010. Dan Strong asked about the previously unresolved issues from 2010, including the gas line location in relation to the proposed Portico. Gregg Boyd, principle partner of Cicero Capital, LLC discussed the gas line location and the fact that it will not be a hindrance to the project. Mr. Boyd showed the board members the location on the provided diagram. Discussion continued about the options for the gas line. Chairman Hall stated that approval of the docket will be contingent upon an agreement being made between the petitioners’ and the Gas Company in reference to the gas line. Bruce Freeman asked about the fire hydrant on the property and whether it would be accessible to Cicero Fire Department. Mr. Boyd stated that that he has had two meetings in the past with Cicero Fire Chief Steve Peachey three years ago and that he owns the fire hydrant. Mr. Boyd stated that he has no problems giving the Cicero Fire Department 100% access to the hydrant for their use. Chairman Hall asked about the issue that arose three years ago in reference to the property line dispute between Cicero Capital LLC and the Town of Cicero. Mr. Boyd discussed the comprehensive land survey that he had completed and that according to his findings, his company owns that piece of property. Chairman Hall stated that approval would be contingent upon Mr. Boyd working this issue out with the Town of Cicero. Mr. Goldfarb discussed their commitment to working with the Town of Cicero to make this a successful and favorable venture for everyone involved.

Dan Strong asked about the Portico design and what the setbacks would be in as well as what the proximity to the sidewalk/road and fence will be. Mr. Boyd stated that they have not engaged in site engineering plans yet as they wanted overall BZA approval for the project prior to spending that type of money. Chairman Hall stated that they would need to agree to stay within the ordinance for setbacks or they would have to apply for a future variance to address this. Discussion on this topic continued. Mr. Boyd stated that the fence height can be whatever the Town would like it to be. Discussion of fence height recommendations took place between the board members. Chairman Hall discussed what the current sidewalk ordinance states despite Mr. Boyd’s ownership to the sidewalk. Discussion on this topic continued amongst the petitioner and the members of the board. Dan Strong asked about the placement of the Portico structure in relation to the sidewalk. Mr. Boyd said that 75 feet is the current distance between the existing building to the street’s edge. Mr. Boyd said that there is approximately 20 feet from the street edge to the property line and that there is 2 feet from the sidewalk to the proposed fence location. Mr. Boyd said that the proposed dimensions of the Portico structure are 24’ x 24’. Mr. Boyd discussed the plans for the structure. Chairman Hall entered into the record the diagram that Mr. Boyd provided this evening that outlines the dimensions of the structure as well as measurements to road, sidewalk, etc. There were no other questions from the board members.

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.



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Nicole Topmiller-Decatur
20 Bayview Ln.
Cicero, IN 46034

Mrs. Topmiller-Decatur discussed the petition in favor of this project that contained over 100 signatures of local residents. Mrs. Topmiller-Decatur stated that she and many other citizens of Cicero are completely in favor of this project and that the Town of Cicero “needs” this project.

Gary Green
209 Bayview Dr.
Cicero, IN 46034

Mr. Green asked about the Portico structure and what other purposes the structure would be used for other than the outdoor bar/eating area. Mr. Goldfarb stated that the outdoor eating and drinking area is the sole purpose.

Chairman Art Hall read into record a letter from Jan Unger.

Dave Galt
112 Royal Pine Ln.
Cicero, IN 46034

Mr. Galt stated that in his opinion, it would be foolish for this project not to be approved. Mr. Galt stated that this project could make the Town of Cicero a destination and as a Realtor, this would help property values and the economy of the town.

Amy Hoover
1528 Eastport Dr.
Cicero, IN 46034

Ms. Hoover stated that she supports the development of the property and the proposed restaurant. Ms. Hoover thanked the board members for looking out for the best interests of the community.

Kathy Owens-Burris
80 W. Cass St.
Cicero, IN 46034

Ms. Owens-Burris discussed last night’s public outreach meeting and the great turnout in favor of the project. She stated that she supports this project and believes that it is a great opportunity for the Town of Cicero.



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Mike Berry
1588 Northport Dr.
Cicero, IN 46034

Mr. Berry asked what the name of the proposed restaurant would be. Mr. Goldfarb stated that the name is to be determined as nothing has been finalized yet.

Heather Abel
360 Bayshore Dr.
Cicero, IN 46034

Ms. Abel stated that an outdoor patio or seating area near or on Morse Reservoir would be a very valuable commodity for the Town of Cicero. Ms. Abel has stated that she and others she knows are willing to drive 30 minutes or more just to sit outside and enjoy a meal on the water.

Bob Prater
1265 E. 246th St.
Cicero, IN 46034

Mr. Prater stated that without approval of this project tonight, the property will continue to be an eyesore and that is not what the citizens of this area want.

Tom Warner
1049 Shoreline Dr.
Cicero, IN 46034

Mr. Warner discussed his opinion that the board is too concerned about shielding the public from other patrons' drinking alcoholic beverages. Mr. Warner discussed numerous other restaurants where you must walk by the bar in order to be seated. Mr. Warner discussed his desire to see this project approved.

Tracey Meyer
235 E. Buckeye St.
Cicero, IN 46034

Ms. Meyer stated that the less family friendly option is to allow that property to continue being an eyesore. She and her family support this project.

Sue Baker
831 Lanyard Dr.
Cicero, IN 46034

Ms. Baker stated that she is very impressed with the proposed plans and she supports the project.



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Heather Penwell
935 Morse Landing Dr.
Cicero, IN 46034

Mrs. Penwell stated that she believes that the petitioners' are being more than accommodating to the board and the Town with their willingness to cooperate on certain items to get this approved. Mrs. Penwell stated that she believes it is the job of parents to educate their children about alcohol and not the Town of Cicero's job to shield them from it.

Bill Campbell
620 Lakeview Ln.
Cicero, IN 46034

Mr. Campbell stated that he is not in opposition of the project but it is his belief that there is a huge difference between an outside bar service and an outside bar. He believes that this should be a note of caution. Chairman Hall discussed Indiana State Law that prohibits children from being in the same room as a bar.

Mike McConnell
1340 Lighthouse Point
Cicero, IN 46034

Mr. McConnell stated that he is a member of the Cicero Economical Development Council and that their entire board is 100% in favor of this project. Mr. McConnell stated that if a project like this cannot be approved; there really is no purpose of need for an EDC council.

Tom Flutterjohn
1680 Cape Charles Ct.
Cicero, IN 46034

Mr. Flutterjohn stated that the Town of Cicero desperately needs landmarks to build around and to enhance the reputation of the town. He believes that this would create a great identity and vibrancy on Jackson St.

Paul Vondersaar
1105 Bear Cub Dr.
Cicero, IN 46034

Mr. Vondersaar supports this project but is concerned about the shared number of parking spots between this project and La Cascada. Mr. Vondersaar is also worried about the increased traffic flow and other traffic concerns.



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Chairman Hall said that the parking for the Waterfront property was approved three years ago and if there were more tables included in this new proposal, that another variance or more parking may be necessary.

Steve Dickover
940 Nantucket Dr.
Cicero, IN 46034

Mr. Dickover supports the project.

Brett Morrow
Cicero Market/Flighttax
Cicero, IN 46034

Mr. Morrow stated that this project is paramount for the continued growth of our town. Mr. Morrow discussed the update to the Town of Cicero's Comprehensive Plan and the fact that most of the public input has had to do with the Waterfront property. Mr. Morrow stated that if these variances are not granted, the developer will not move forward with the project.

Steve Decatur
20 Bayview Dr.
Cicero, IN 46034

Mr. Decatur stated that the town needs this project.

Joanna Baker
269 Ironbridge Rd.
Cicero, IN 46034

Ms. Baker stated that it is her opinion that this is a no-brainer for the Town of Cicero to approve this proposal and the outdoor Portico structure.

There were no further questions or comments from the public. Stephen Zell made a motion to close the Public Hearing and Corey Sylvester seconded the motion. All members present were in favor.

Bruce Freeman asked Mr. Boyd if what was seen in the diagrams is going to be the finalized project. Mr. Boyd said that yes for the most part that is what will be seen. Mr. Boyd said that the plans submitted are exactly what will be done. Chairman Hall stated that three years ago, a lot of the public was against their proposed project. Chairman Hall stated that he thinks the new proposal is very reasonable and addresses all previously discussed concerns from three years ago. Dan Strong asked about the landscaping plans for around the fenced in area. Mr. Boyd discussed his plans and that he does not intend to have landscaping between the sidewalk and the fence. Mr. Boyd stated that the fence will be a white PVC/Vinyl, Martha's Vineyard style



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fence. Discussion of the fence placement and materials took place. Chairman Hall stated that he would like to see a more professional rendering of the fence plans than what was provided on the diagrams.

Bruce Freeman made the recommendation that there be a one year review implemented in the motion for this project. Chairman Hall disagreed with this recommendation and the board members discussed it. Bruce Freeman asked about the fence/patio enclosure and the exits that would be accessible if a fire were to occur. Mr. Boyd discussed the layout of the building and Portico and their exit strategy for something like a fire or mandatory evacuation. Discussion on this topic continued. Dan Strong asked about the Portico and whether it would be enclosed during the winter months. Mr. Boyd said that it would be enclosed and shut during those months. There were no other questions or comments from the board members.

Motion and Vote for BZA-0613-014-DC:

Dan Strong made a motion to approve this proposal with the conditions that the gas line issue be resolved with the appropriate utility company as well as that the issue with the property line be resolved with the Town of Cicero. Dan Strong added that an additional gate must be placed in the Portico area for emergency exit. Stephen Zell seconded the motion and all members present were in favor.

Motion and Vote for BZA-0613-015-DC:

Dan Strong made a motion to approve this proposal with the condition that the fence will be gutter height, tapering of 6 ft and 3 ft and that it be no closer than 2' to the sidewalk. Stephen Zell seconded the motion and all members present were in favor.

Chairman Hall adjourned for a five minute recess to allow the public to leave the building if they so chose. The meeting resumed at 8:40pm.

Docket #: BZA-0613-018-R3

Petitioner: David and Lisa Smith

Property Address: 860 Nantucket Dr.

Cicero, IN 46034

Development Standards Variance: To allow for the placement of an accessory structure in the front yard of the primary dwelling whereas the ordinance states that the accessory structure shall only be placed in the side or rear yard of the primary structure.



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Docket #: BZA-0613-019-R3

Petitioner: David and Lisa Smith

**Property Address: 860 Nantucket Dr.
Cicero, IN 46034**

Development Standards Variance: To allow for three (3) accessory structures on a property where as the ordinance states that no more than two (2) accessory structures are allowed on the property.

Cindy Thrasher, (3637 Shelby St. Indianapolis, IN) a representative from Smith Brothers Ultimate Builders who is completing the project came forward to discuss the proposal. Homeowners David and Lisa Smith are also present. Ms. Thrasher discussed the plans for the detached garage and the homeowners' intent to keep their other two existing accessory structures (a single garage and a shed) on the property. Chairman Hall asked if any trees on the property would be removed. Mrs. Smith stated that one tree will be removed. Chairman Hall asked about the construction of the home and whether the detached garage would match and complement the existing home. Mr. Smith stated that the detached garage and the home would be painted the same color. Chairman Hall stated that the board would like the accessory structure to be consistent with the colors and materials of the home. Chairman Hall asked if the homeowners would be willing to brick the one side of the garage that faces the street. Discussion continued on aesthetics of the detached garage. Chairman Hall asked about any landscaping plans for the property and the new structure. Mrs. Smith stated that they would be landscaping around the detached garage and she discussed their plans for that. There were no other questions or comments from the board members.

Stephen Zell made a motion to open the Public Hearing. Corey Sylvester seconded the motion. All members present were in favor and the Public Hearing was opened. There were no comments from the public. Stephen Zell 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.

Dan Strong asked for clarification on the materials of the garage on the side that would be facing the road. The petitioners' and board members continued to discuss the aesthetics of the proposed detached garage.

Motion and Vote on BZA-0613-018-R3:

Stephen Zell made a motion to approve with the conditions that the shutters on the windows facing the street as well as building colors match the primary structure. Stephen Zell also added that the petitioner's add appropriate landscaping that would be approved by the Plan Director, Paul Munoz. Dan Strong seconded the motion and all members present were in favor.

Motion and Vote on BZA-0613-019-R3:

Chairman Hall asked the petitioners' if they definitely want to keep all three structures on the property. Chairman Hall explained that if they removed one structure that it would eliminate the need for one of these



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variances. The petitioner's stated that they would like to have all three structures on their property. Dan Strong made a motion to approve and Bruce Freeman seconded the motion. All members present were in favor.

5. PLAN DIRECTOR'S REPORT

None

6. CHAIRMAN'S REPORT:

NONE

7. LEGAL COUNSEL REPORT:

NONE

8. PUBLIC COMMENT:

Mike Murphy
959 Shoreline Dr.
Cicero, IN 46034

Mr. Murphy thanked the board members for their professionalism and knowledge.

9. BOARD MEMBERS COMMENTS:

NONE

11. NEXT MEETING:

August 22nd, 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 8:50 pm.



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Signatures:

Art Hall-2013 Chairman

Stephen Zell-2013 Vice-Chairman

Bruce Freeman-2013 Secretary

Kelly E. Gunn- Recording Secretary

Date