



CICERO / JACKSON TOWNSHIP BOARD OF ZONING APPEALS

PETITIONERS:

Doug White - (Mid Indiana Marine)

BZA MEETING MINUTES

10/23/14

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: Art Hall - Chairman
Mark Thomas - Secretary
Bruce Freeman
Dan Strong
John Culp - Legal Counsel
Paul Munoz - C/JT Plan Director
Sally Mangas - Recorder

Absent: Brad Baker - Vice Chairman

1. DECLARATION OF QUORUM:

Chairman Art Hall declared a quorum with 4 of 5 members present. Chairman Hall informed the petitioner that there are only four (4) members present and that it would take three (3) of the four (4) members to vote positive to pass his petition this evening. The petitioner was asked if he would like to table his request for another month to which he remarked that he would like to continue on tonight.

2. APPROVAL OF MINUTES:

Dan Strong made a motion to approve the 07/17/14 meeting minutes. Bruce Freeman seconded the motion. All members present were in favor.

3. OLD BUSINESS:

None

4. NEW BUSINESS:

Docket #: BZA-0914-010-C1

Petitioner: Doug White (Mid Indiana Marine)

Property Address: 7770 E 236th Street

Cicero, IN 46034



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Development Standards Variance: To allow for a privacy fence in the front yard of a business whereas the ordinance states that a fence in the front yard must be no less than 50% open surface area. (Picket Fence/Rail Fence)

Chairman Hall asked for the representative from Mid Indiana Marine to step forward and introduce himself. Steve Scott stated that he was sitting in for Doug White. Chairman Hall asked if he had Mr. White's authority to do his business to which Mr. Scott stated that he did. Chairman Hall asked Mr. Scott to explain what they were wanting to do. Mr. Scott stated that they were wanting to move their privacy fence up to the easement in front of their property to expand the parking lot. Chairman Hall stated that the parking lot is now grass and asked what it would be after they moved the fence up to which Mr. Scott stated that it would be gravel. Chairman Hall asked if that is what the rest of the lot is back there; Mr. Scott stated that it is. Chairman Hall asked if the board members had any comments or questions.

Mr. Strong stated that he had a couple. First if they do approve it they would probably need to allow them to continue the gravel area because they were here before...before the board in regards to that being a gravel parking lot instead of a paved lot. Mr. Strong stated that his other question had him a little bit confused about the distance to which Mr. Munoz stated it is 45'. Chairman Hall asked what that distance was...how far they are going to move the fence to which Mr. Strong and Mr. Munoz stated that it is a setback line. Mr. Strong then asked if they were wanting to take the fence to the setback line to which Mr. Munoz stated that is correct. Mr. Strong clarified that they are not wanting to come up to the road to which Mr. Munoz stated they are not. Mr. Munoz continued by stating that he had spoken with Hamilton County Highway and they are comfortable with the location. Chairman Hall remarked that as stated in the variance written by Mr. Munoz they are to approve a solid/non see through fence, basically they are allowed to have a fence up there but it has to be 50% see through so the variance is for that. Chairman Hall asked if there were any other comments or questions.

Mr. Freeman commented on the overhead shot of the location and asked if they had had any problems with vandalism. He commented that he had driven around there earlier today and it appeared that the back of the property was open. Mr. Scott agreed stating that the back is just a tree line, no fencing; and that they have not had any problems with vandalism. Mr. Freeman asked how long some of the boats had been there; were they seasonal, would the lot be empty by Memorial Day. Mr. Scott stated that it would be empty over the winter for sure but Memorial Day is a busy time of the season for them so the lot would be filled. Chairman Hall stated that he was asking about the storage lot...Mr. Freeman reiterated the storage lot...Chairman Hall asked if people would be storing their boats there during the summer to which Mr. Scott remarked that those would be come and go boats, service boats, work boats. Mr. Scott continued that in the fall they would be put away for storage and doing winterization...it's full now. Mr. Freeman stated they would be there for the winter and Mr. Scott remarked that they would be gone before the snow hits.

Mr. Freeman stated that his only question as it appears with the fence is that it looks like a junkyard. If gives the image of a junkyard and he knows that the boats have racks but it is his opinion that they



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would be moving this somewhat of a junkyard image closer to the road and that's kind of the entry into the Cicero area and they are trying to beautify that and of course there is the cemetery on the south end and you cannot do anything about the equipment that you are storing there but we're just putting this junk closer to the road. Mr. Freeman further commented that he knows it is not junk but someone coming into town looks over and it appears to be a junkyard image. Mr. Freeman went on reiterating that they do not have any vandalism problems in the back with it not being fenced in and that most of this stuff is gone come summertime, you're going to be roughly 45' off the center of the road and the state is okay with you putting it there...what if we widen 236th Street...you may have to move that fence.

Mr. Strong stated that in fairness to the business located to the west of Mid Indiana Marine is the fence that's next to Talent now a chain link fence; Mr. Scott acknowledged; Mr. Strong remarked that he suggest that they look at extending that solid fence at least to even or a little in front of their building so that when people are coming to their business they are not looking at your exposed area there, where they have a little bit more privacy and it makes it look a little bit nicer from that prospective. Mr. Strong continued that the recommendation is to do the same thing on the other side so that when you drive thru that way you don't have people definitely looking into that area. Mr. Scott acknowledged this as well. Mr. Munoz stated that he believed they were planning on putting a gate in on that one side to which Mr. Scott remarked that he was not sure. Mr. Strong asked Mr. Munoz where the gate would be to which Mr. Munoz stated that if you were looking at it the gate would be to this direction to get into that area but he is not sure if that is the case. Mr. Munoz stated that even if it is a gate they can look at some way to solidify that so it's not a chain link. Mr. Strong remarked that he just had a concern for the neighbor, especially the neighbor who conducts a business as well and then Mr. Freeman's comments of the aesthetics there from driving from the other direction would probably make that look a little nicer.

Chairman Hall asked how far forward the fence is going to be moved, he knows it's going to the 45' marker; Mr. Munoz stated that he could not tell him off the top of his head. Chairman Hall stated that he just wants one option for us...he went on to state that to his eye the fence is always well maintained as well as the grounds around it; so he personally does not have a problem with that. Chairman Hall went on to state that he does think there is a valid point about the sides. There is a possibility that they could say however far forward they move the fence whatever fence they add to the sides must be privacy fence and not a chain link; they are going to have to add some fence to the sides...that is just an option for us to consider. Chairman Hall asked for any other comments or questions.

Mr. Thomas asked if they would still be putting boats in the easement out in front the way they are now. Mr. Scott stated that he could not say, possibly...those are used boats for sale so they might. Mr. Thomas asked Mr. Munoz if it is allowed to put boats in an easement to which Mr. Munoz stated that they cannot put them in the easement because you cannot park or store anything within that area. Mr. Thomas stated that moving it forward they would not be able to put anything there in the easement to which Mr. Scott acknowledged.



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Chairman Hall stated that as a matter of procedure they must hold a public hearing; he will entertain a motion to open a public hearing. Bruce Freeman made a motion to open the public hearing; Mark Thomas seconded the motion. All members present were in favor.

Chairman Hall asked if there was anyone in the audience who would like to comment on this. Jim Steckley stood and introduced himself stating he lives at 15022 Corral Court in Carmel. Mr. Steckley stated that he is a member of MLW LLC, they own the property across the street. He further remarked that someone has to know how far they are moving the fence up to which Chairman Hall stated that they can get that information. Mr. Steckley asked what the purpose is of moving the fence, is it for more storage; Mr. Scott answered to expand the parking lot. Mr. Steckley stated that he does not know what the BZA is looking for because he has the subdivision across the street and he's had a lot of problems with the city and he does not think this is going to add more attraction to folks coming into the City of Cicero. Mr. Steckley continued stating that he does not have an objection to what they have now however he thinks that by moving it closer to the road is going to set a bad precedence for everybody across the street where they can put a privacy fence 45' to the road. Mr. Steckley concluded by stating that he does not think this is a good idea personally. Chairman Hall asked what is directly across the street from the fence, houses? Mr. Steckley stated there are. Chairman Hall stated that he was trying to place the entrance...Mr. Steckley stated Morse Landing West...Mr. Munoz stated that the entry into Morse Landing West is down here. Mr. Freeman stated that there is a single house there just to the west...Mr. Munoz restated that Morse Landing West is down here...Mr. Steckley stated that what he is saying is that anybody who is coming in there is going to see their...Mr. Steckley asked if there was a scale to which Mr. Munoz stated that the scale is right here. Mr. Freeman asked what the average width of a parking lot...8' so you've got about 8 parking spots, so about 50' they're going to bring it up...Mr. Munoz stated the scale was in miles so they're going to be bringing it up to right about here...Mr. Steckley stated not where the red line is to which Mr. Munoz stated no it's clear back to that point there. Mr. Freeman stated do you see the car that's parked there...Mr. Steckley stated that he thinks that the City has to know how many feet they are adding. Mr. Munoz stated that coming this direction he could probably tell him if went back to the office and got on the GIS but we know it's coming up to this point here which is 45' off of the street. Mr. Steckley asked if they were willing to let everyone put a privacy fence all the way down that commercial zoning on the north side of the road with the BZA because once you set a precedence...Mr. Munoz remarked that it is a case by case basis. Mr. Steckley remarked that he understands but you open the precedence for people to ask for the same thing. Chairman Hall stated that he does have the right to put a fence there it's just a question...Mr. Steckley remarked not a privacy fence; he followed this by asking how high it would be to which Mr. Munoz stated 6'. Chairman Hall asked if there were any other questions from the public; not seeing any he stated he would entertain a motion to close the public hearing.

Bruce Freeman made a motion to close the public hearing; Mark Thomas seconded the motion. All members present were in favor.



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Chairman Hall stated that he still had a couple of questions for Mr. Steckley. He asked him if it would make him feel any better if there were landscaping requirements to substantially hide the fence to which Mr. Steckley remarked that he thinks it would add to the aesthetics of coming into the City. Mr. Steckley continued stating that what he would worry about is if they move on to the east right across from the subdivision then you have privacy fences running the next 4 properties to the east off the right away...he doesn't think it would be attractive for the City versus what is currently there. Mr. Steckley stated that he is not against the guy running his business. Chairman Hall remarked that he agrees with him about the privacy fence...he then asked Mr. Munoz if they can have them put landscaping in the easement to which Mr. Munoz replied that you could require them to put landscaping along the front of the fence it just couldn't be too far out. Chairman Hall inquired even though they are up to the easement we can require...Mr. Munoz stated that landscaping is not a hard surface or an accessory structure or anything along that line that cannot be moved or dealt with easily. Mr. Culp asked Mr. Munoz if it would require anything from the State of Indiana to which Mr. Munoz stated it is a County Road so they'd have to discuss it with them. Mr. Steckley stated that if they approve it he is really troubled by how much it is, let's say it's 60' just for a number, if you put wings on it so people coming into and leaving Cicero...if you don't do that everybody is going to see what is parked on the other side of that fence...that's what he's going to do right, put 1 fence? Mr. Munoz stated that no they are going to end up fencing the sides of it because they are not going to just want to block off the front. Mr. Steckley asked how much to which Mr. Munoz responded with probably about 60', off the side is going to be another section of fence. Chairman Hall explained to Mr. Steckley that that is something they will set tonight as to how far back; they had discussed the possibility of the wings going back to the current fence line, going forward and then across, all privacy; we had discussed that but we don't have a motion yet. Chairman Hall asked if they were in agreement to require landscaping even though the fence is on the easement. Mr. Culp responded that if Mr. Munoz feels comfortable...Mr. Munoz stated that he does not see any issue where landscaping is going to be a problem. Chairman Hall stated that that is something that they can consider in addition to the wings is some landscaping to break it up a little. Chairman Hall stated that to him it is an attractive fence and he can understand not wanting this big blank wall across from your house. Mr. Strong asked Mr. Scott that since he is speaking for Mr. White in regards to the amount of time you would need this additional space because in looking at the pictures it appears that there is a lot of room for additional boats in this picture and I understand you want to expand that so the potential of moving this fence back to line up with all the buildings along there would that fit your needs to which Mr. Scott remarked if that is what the board tells them they have to do, however they would like to get as much as they can. Mr. Scott continued stating that they are currently renting space to the east of them off of the neighbor and since they own that land they are trying to use it. Mr. Strong remarked that trying to look at it from everybody's perspective including Mr. Steckley's...Mr. Freeman pointed it out and it would keep everything uniform along that area and still it looks like it would give you quite a bit of space. Mr. Munoz stated that the section in the back, where the grass is at, there has been some discussion of expanding his building to help with his repair operations and storage under roof so there is potential that that area towards the back may be under roof as soon as next year. Mr. Munoz continued that it is discussion only and has not been formalized; there are no plans in place for that yet. Mr. Freeman asked if it was this quadrant to which Mr. Munoz stated that no it is directly behind the building, about



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where those red boats are sitting. Mr. Freeman remarked that there just seems to be a lot of space that is not being used. Chairman Hall remarked that this is just a snapshot and you never know what it's going to look like the day before and the day after; Mr. Freeman agreed. Chairman Hall asked if there were any other comments or questions.

Mr. Culp stated that since that is in someone else's right away if the County ever decides to expand 236th Street or have a need for that area anything that we'd required may be subject in the future to their jurisdiction. Chairman Hall remarked that if we were to have that fence 10' short of the easement and then have them plant in the 10' area we would be protected...Mr. Culp remarked the property owner too. Chairman Hall remarked the property owner, they would lose 10' but they would be protected as far as what they plant. Mr. Culp agreed but stated that he does not know what the County will do in the future but it is their right away. Chairman Hall remarked that someday it will expand, it may be 20 years but it will expand. Mr. Strong stated that he is looking for a compromise he asked Mr. Munoz if there is no issue with them having 3 boats out there for sale in front of the fence if it's not in the easement to which Mr. Munoz agreed. Mr. Strong stated that if they move their fence back to match up to the buildings then that could potential allow them enough space to continue to do that. Mr. Munoz acknowledged...Mr. Strong remarked that he couldn't say for sure but in looking if this is 60' then that would be about a 20' area there so in trying to think of something that would work for everyone. Mr. Munoz stated that in looking off of the front of the building to the edge of the easement is roughly about 20' so if they were to take it back to the front of their building they really wouldn't even need a variance because it could go right up to the very front of that structure with a privacy fence. Mr. Munoz continued stating that if tonight they do not feel like they want to grant them the easement to go from the front of that building forward, whether it's 5' 10' or up to the edge of the easement then you would pretty much be declining the development standards variance and they would just be allowed to bring it up to the front of the building. Chairman Hall asked if they would not be able put any landscaping requirements on it...Mr. Munoz agreed...Chairman Hall continued...if we deny the variance we can't. Mr. Freeman stated that as Mr. Steckley said if we push them back so there is 10' they can start putting boats out there and then who is going to stop the guy from putting a '55 Chevy and the tax guy puts 4 or 5 cars out there...if you're selling something you need to advertise and get people to come in to see it; I don't think we need to set it out there on the road...again that's the Welcome to Cicero while we've got cars, trucks, buses and now we're looking like a...car lot out on 31...just my opinion.

Chairman Hall stated that he would entertain a motion regarding this variance if someone would like to propose something and we can all negotiate the conditions before we vote on anything if the person making the motion agrees to that. Mr. Strong remarked that he needs clarification; he asked Mr. Freeman if he was looking at bringing the fence back out to the original setback plan...Mr. Freeman remarked that he was not...Mr. Strong continued stating...so that they cannot store boats in front...Mr. Freeman stated that he would not want them there anyway. Mr. Freeman said that if they moved it back level with the front of the building where we have kind of an option...like you and I had talked about...but I don't particularly want them to have boats out front. Chairman Hall asked if we have any jurisdiction over that if the land is theirs; if we leave the land as their land can we stop them from



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putting boats for sale out there...we as a BZA, I don't know what the Town can do and I'm not worried about what the Town can do but us as a BZA...Mr. Munoz and Mr. Culp remarked not as a BZA. Chairman Hall stated so if we have them move their fence back from the easement they can do what they want...Mr. Freeman remarked okay. Mr. Strong stated that he had needed some clarification.

Mr. Strong made a motion to approve docket BZA...Chairman Hall stated that all motions are made in the affirmative, by making a motion to approve a procedure it's the vote which matters not the motion so don't read anything into what's going on here...Mr. Culp remarked except for the vote. Chairman Hall asked Mr. Scott if he still wanted to move forward with 4 people to which Mr. Scott agreed. Mr. Thomas asked Mr. Munoz if they did not approve it this evening they could still move that fence out and be even with front of the building without having to get a variance; Mr. Munoz agreed. Mr. Thomas remarked that they would not have to talk to us to which Mr. Munoz once again agreed. Chairman Hall stated that they would have no control over putting wings on the fence or landscaping, nothing. Mr. Thomas remarked that wings on the fence would not come into play either to which Mr. Munoz remarked that would be at their discretion the board could not require them. Mr. Strong stated that if that were to happen the wings would not be needed then because they would be shielded by the Talent Body Shop building as well as their building would offset the screen. Chairman Hall remarked except for the angle, you'd still see it. Mr. Thomas and Mr. Strong agreed. Mr. Freeman remarked common sense maybe. Mr. Thomas stated that he would think that you would want it aesthetically at least coming through Town or heading west by the facility...Chairman Hall stated that for the entrance into Town you'd want it to look nice and also for protection for the neighbors in that area we have an obligation to protect the neighbors around there.

Dan Strong made a motion to approve docket BZA-0914-010-C1, petitioner is Doug White with Mid Indiana Marine, 7770 E 236th Street Cicero, Development Standards Variance to allow for a privacy fence in the front yard of a business whereas the ordinance states that a fence in the front yard must be no less than 50% open surface area. Would also like to include with that motion the condition that from the front of the fence back to where their existing fence is today that that would also be solid to give the neighbors some screening. Also to suggest that the petitioner understands that if there is ever any future expansion of the County Road in front that they may be asked to move that fence and that would be at the expense of the owner of the property. Chairman Hall added a landscape plan approved by the Plan Director...is that legal to do which Mr. Culp stated it was. Mr. Strong continued by stating that there be landscaping in front of that fence that faces 236th Street and that our Planning Director would have the latitude to work with the petitioner and establish what that landscaping should be. Chairman Hall asked if there were any comments or questions from the board about the 3 conditions. There were none. Bruce Freeman seconded the motion. The vote was called: Mark Thomas-nay, Art Hall-approved, Dan Strong-no, Bruce Freeman-as presented no.

Chairman Hall stated to Mr. Scott that the variance was denied however Mr. Munoz will let you know about everything that you can do, you can still move your fence up. Mr. Scott acknowledged.



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5. PLAN DIRECTOR'S REPORT:

Mr. Munoz stated that he did not have a report at this time. Chairman Hall however did ask about the Waterfront project and if there was a landscaping plan. Mr. Munoz remarked that he did have the landscaping plan. Chairman Hall asked if that wasn't the last piece...Mr. Munoz responded that no they had needed a drainage plan and we've had a lot of discussion on that and we are completely aware as to what they have put it. They are to have a full drawn out plan to us before the C or O is issued. Chairman Hall asked if there was any movement on the property over on Brinton Street by the railroad. Mr. Munoz remarked that there are discussions being had about the property and there is movement in the right direction.

6. CHAIRMAN'S REPORT:

None

7. LEGAL COUNSEL REPORT:

Mr. Culp stated that the proposed agreement with Jackson Township has been submitted to the Township Trustee and her Board and is being reviewed by them.

8. PUBLIC COMMENT:

Mr. Steckley stated that since he is up here he would like to open some discussion with the City since they are still holding \$218,000.00 of his money. He would like to open some discussions about what he can do since the economy is better. He's had 2 people inquire about his situation and he does not know how to proceed because we are holding this money and he has asked for it back and was told we will not give it back...he is assuming...water and sewer bill got paid for in cash is still there but he needs some guidance on what the City would like to see happen with the 50 acres that was in the Woodlands and maybe, I'm directing this to Mr. Culp, maybe somehow we can open a line of communication with the City and see what I can do with the property since I've had a couple of inquiries from people that might be interested. Mr. Steckley asked who Steve Decatur, the realtor guy, was and if he is part of the EDC because he has contacted him to. Mr. Munoz responded that Mr. Decatur is part of the EDC. Mr. Culp stated that the way he left it was that he had sent Mr. Steckley's attorney, Christine Altman, a response back and since that time he has attempted to call her 4-5 times, he left messages and never heard back from her. Mr. Steckley stated that he would make sure that Mrs. Altman contacted Mr. Culp. Mr. Culp continued by stating that he enjoys speaking with Mr. Steckley but since he is represented by legal counsel he ethically has to get her permission to speak directly with Mr. Steckley. Mr. Steckley stated that he had come up here for the fence thing but he would like to open up communication with the City to see what he can do with the property and where he is at. Mr. Steckley reiterated that he would have Mrs. Altman call Mr. Culp and maybe with the City and some of the people on the board, he knows Mr. Hall is on the board, that we can see how the current mix of powers in the City...whether they want development or not because for a long time they did not want development. Mr. Culp suggested that Mr. Munoz and the Town Council...Mr. Steckley asked who the President of the Town Council was to which Mr. Munoz stated Schruppf and Mr. Culp responded Dennis Schruppf. Mr. Steckley asked who the new president was going to be to which Mr. Culp remarked that he did not know, their elections are either in December or January and there will be a new council person coming on board. Mr. Culp continued to state that Jerry Cook did not run for re-election and his term expires at the end of this year...Mr. Munoz stated that Chad Amos...Mr. Culp remarked that Chad Amos will be the new council person and that



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next year 3 council persons are up for re-election. Mr. Steckley stated that he will have Mrs. Altman contact Mr. Culp and he will contact Mr. Munoz. Mr. Steckley reiterated that he would like to open a line of communication with the City if that is possible and he knows that this is not BZA business but since he is here he thought he would at least try to communicate. Mr. Culp again stated that if Mrs. Altman gives him permission to speak with Mr. Steckley he would be more than happy to. Chairman Hall asked if there was any further public comment to which there was none.

9. BOARD MEMBERS COMMENTS:

None

10. NEXT MEETING:

November 20th, 2014 at 7:00 p.m.

11. ADJOURNMENT:

Mark Thomas made a motion to adjourn and Bruce Freeman seconded the motion. All members present were in favor. The meeting was adjourned at 7:35 pm.

Signature on Official Documents!

Art Hall, 2014 C/JT BZA - Chairman

Brad Baker, 2014 C/JT BZA - Vice Chairman

Mark Thomas, 2014 C/JT BZA - Secretary

Sally Mangas, C/JT BZA - Recorder

Date: _____

Location:
Cicero Town Hall
70 N Byron Street
Cicero, IN 46034