



CICERO / JACKSON TOWNSHIP BZA MEETING

BZA Meeting Minutes

April 19, 2018

7:00 p.m.

Mr. Taylor welcomed everyone and stated the need for a nomination of Chairman Pro tem for the meeting. Dan Strong nominated Steve Zell. Mr. Berry second. All present in favor.

Roll Call of Members

Present:

- ☐ Steve Zell
- ☐ Scott Bockoski
- ☐ Mike Berry
- ☐ Dan Strong
- ☐ Aaron Culp - Legal Counsel
- ☐ C.J. Taylor - C/JT Plan Director
- ☐ Terri Strong- Recorder

Absent:

David Martin

Chairman Pro tem for the evening is Steve Zell.

1. Declaration of Quorum- **Chairman Zell declared a quorum with four members.**
2. Approval of Minutes- **Mr. Strong made motion to table minutes for January 2018 until next meeting. Mr. Berry second. All present in favor.**
3. Public Comment- Chairman Zell asked if any public comment not pertaining to tonight's dockets.
No public comment.
4. Old Business: **None**
5. New Business:

Docket#: BZA-0318-001 -PC

Petitioner: DeLullo's, Jana and Brett Fernung operators, Brett Morrow property owner

Property Address: 230 W. Jackson

Cicero, IN 46034

Special Use Application submitted to the Board.

Chairman Zell welcomed petitioner to front to address project.

Brett Fernung want to add a deck for outdoor seating. Have gone for aesthetic review. Mr. Strong made a point stating Mr. Morrow was in the audience which allows for the petitioner to speak on the project. The front porch and adding the deck would make it seat 40 people, 16 on porch and 24 on deck. Chairman Zell asked for the ordinance on outdoor seating. Mr. Strong stated ordinance states over 20 had to be reviewed by Plan Director for approval. Mr. Taylor stated after construction of the deck, he would be able to make informed decision determine max seating. Mr. Strong asked if building deck exactly what was proposed during aesthetic review. Mr. Fernung stated not sure, possibly smaller, looking at quotes to be able to add items we would like. And if it would change drastically would come back for aesthetic review. Mr. Strong

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questioned positioning of deck, not closer to sidewalk or in line with front of the building. Mr. Fernung stated no, would be very similar and if anything would go further north. Chairman Zell asked about umbrellas and advertising on them. Mr. Fernung stated plain umbrellas. Chairman Zell asked about outdoor lighting. Mr. Fernung stated initial thoughts, like what is on the porch, string lighting. Mr. Strong stated he could go thru what was approved through aesthetic review if that would help the other board members. Chairman Zell agreed that would help. Mr. Strong stated approval was granted to use off-site parking to qualify, special exception included the porch seating, no additional signage, approved umbrellas with no advertising/signage, approved string lighting, tables and chairs to be wood or metal, no plastic. Approved for landscaping for west and south side with Mr. Munoz to review/approve. Assume Mr. Taylor would still have that approval. If staining the deck, would match the existing paint/stain colors on the building, also to have rails for safety on the deck.

Mr. Berry asked if not approved, what kind of difficulty would it cause you. Mr. Fernung stated would lose the 16 seats on the porch and would stunt the growth of the business. Mr. Berry stated as it is, could you expand the building. Mr. Fernung stated possibly to the back but would be a monumental undertaking and this is the economical way to grow for now. Mr. Strong asked if still anticipating a small back deck for cooler expansion. Mr. Fernung stated yes. Chairman Zell stated wasn't that part of the original proposal, Mr. Strong answered yes, with screening to west. Mr. Strong asked if having outside live music. Mr. Fernung answered have discussed if allowed but looking at no loud music, perhaps guitar, small set up. Mr. Strong asked if allowed music, would you have a timeframe. Mr. Fernung answered haven't determined but do close at 9 pm, 9:30 pm in summer. Mr. Strong stated town ordinance goes by decibels, we are concerned about that, more concerned if late at night. Chairman Zell suggested to the board to put a no later than stipulation on the motion for cut-off time. Mr. Strong followed up with question on days. Mr. Fernung stated probably only weekend.

Motion to open public hearing made by Mr. Bockoski. Mr. Berry second. All present in favor.

Chairman Zell asked for public comment.

Chris Sherman (?) 240 W Cass street. Very close to property. I moved in 2009 and enjoy seeing the community grow. Concern with outdoor seating is noise level, and alcohol being served outside, noise level of patrons when alcohol is involved. Can control the music decibels or the window of time but not the people and how they behave. Do not want to stifle business and do enjoy eating there, it is just the addition of the deck and noise concerned with. Mr. Strong asked follow-up question, currently porch is being used so do you hear noise from that currently. Chairman Zell confirmed alcohol is being served on front. Mr. Sherman (?) was showed the position of the planned deck and confirmed his property location.

Chairman Zell asked if any other public. No one came forward.

Mr. Berry made motion to close public hearing. Mr. Bockoski second. All present in favor.

Chairman Zell asked if other board comments. Mr. Strong verified alcohol would be served on deck. Mr. Strong stated board should probably further discuss the music concerns. Chairman Zell agreed, Friday and Saturday evenings otherwise vague on type and time. Mr. Fernung commented a parking lot and/or privacy fence on back of property could assist with noise. Mr. Strong as far as parking on back, would have to be paved or possibly gravel. Board commented, not trying to hinder business. Mr. Culp asked if musician would be on the patio. Mr. Fernung stated on the deck, in early stages of deck design so not sure where. Mr. Berry stated amplification from the back corner to the street would help with noise to residential area. Mr. Strong asked when anticipated deck to be complete. Mr. Fernung answered. Mr. Strong stated then you would not have music until next year. Chairman Zell stated having a time frame determined is helpful to the board making decisions. Mr. Strong suggested a past process was to have a review time for the music as part of the

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approval to see if complaints from neighbors or police, then they come back for a final decision. Mr. Taylor stated one point of clarification, this will be seasonal seating as well as weather permitting. The special exception variances have an inactive for three months permit reverts to previous. Mr. Taylor requested that this be noted as allowable as seasonal seating to avoid issues over winter etc. Mr. Bockoski asked if closing at 9:00, what time would you want/expect the band to be pack up. Mr. Fernung stated 8:30 and Mr. Morrow added being careful to put hard restrictions due to holidays etc. and suggested a Memorial Day to Labor Day time frame. Chairman Zell expressed their concern and perhaps 10 pm should be considered. Mr. Strong made point of summer and school days. Mr. Berry also expressed their concern with darkness later and such. Mr. Strong stated if business warranted, they could then decide to stay open later, always have option to modify the timing of bands if hours would change and process was positive. Mr. Berry referred to the holidays and having options. Discussion ensued. Mr. Strong continued discussion with the recap of options discussed.

Mr. Strong made motion to approve BZA-0318-001-DC with the following contingencies: 1. Outdoor seating be allowed. 2. Music from Memorial Day to Labor Day on Friday and Saturday until 10 pm with deck open for an hour after. 3. National holidays music allowed until 11 pm with hour for closing of deck. 4. Variance issued as seasonal use to prevent the three-month unused rule being applied. 4. September 2019 review for music and deck use. Motion second by Mr. Berry.

Mr. Strong-yes, Mr. Bockoski-yes, Mr. Berry-yes, Mr. Zell-yes. Motion approved.

Mr. Strong reminded Mr. Fernung that Mr. Taylor would have the conditions in writing if he could get with him to complete the file.

6. Plan Director's Report: Mr. Taylor enclosed in your packet is report. I will be happy to address any questions or concerns you may have. Mr. Berry asked why the lack of increase. Mr. Taylor stated weather and already seeing it turn. As well as lack of building lots. M/I Homes utility agreement approved so, should see breaking ground soon. Hired an administrative assistant with minutes for both PC and BZA on website. Moving long-term storage soon to 331, all will be on one level. Met with property owner today that would want to develop approx. 160 acres. Expect to see more action. Admin. Asst working on streamlining website. Code violations are followed up on as well.

7. Chairman's Report: Chairman Zell no report thanks you to everyone for assistance tonight.

8. Legal Counsel's Report: Mr. Culp as mentioned M/I Homes approval, now working on voluntary annexation which could take four months to complete. Permit to be filed by July 1, so by end of year complete. Chairman Zell questioned cause of any delays. Mr. Culp stated no, evidence of information gathering to stay on track. Mr. Bockoski asked how many owners are involved. Mr. Culp answered three owners possibly a fourth that would be advantageous to join in but not part of the M/I Homes parcel.

9. Board Member Comments: Mr. Strong stated still need to elect officers, perhaps when Mr. Martin is here. Chairman Zell asked if any word on replacing the position vacated by Mr. Warner. Mr. Strong a couple of options, but it is a Town appointment and Mr. Zell can not continue to be on both. Mr. Bockoski also thanked Mr. Zell for stepping up tonight, greatly appreciated.

10. Next Planned BZA Meeting: May 17, 2018 at 7:00 p.m.



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11. Adjournment: Motion made by Mr. Bockoski to adjourn. Mr. Berry second. All present in favor.

Signatures:

David Martin
David Martin 2018 Chairman

David Martin
David Martin - 2018 Secretary

70 N Byron Street
Cicero, IN 46034