



CICERO / JACKSON TOWNSHIP BZA MEETING

BZA Meeting Minutes

June 20, 2019

7:00 p.m.

Roll Call of Members

Present:

- ☐ Brad Baker
- ☐ Mike Berry
- ☐ Scott Bockoski
- ☐ David Martin
- ☐ Aaron Culp - Legal Counsel
- ☐ Dan Strong-representing Planning Department
- ☐ Terri Strong- Recorder

Absent:

Dennis Schrumpf expected at 7:30
C.J. Taylor absent due to vacation

1. Declaration of Quorum-Chairman Martin declared a quorum stating however, if voting prior to Mr. Schrumpf's arrival three votes would be needed for a motion to pass.
2. Approval of Minutes **Mr. Baker made motion to approve minutes from May 23, 2019 meeting. Mr. Bockoski second. All present in favor.**
3. Public Comment Chairman Martin asked if any comments on any item not on the agenda. Reminder that sign in sheet is to the back if anyone is speaking, please sign in. No public comments.
4. Old Business: **None**
5. New Business
Chairman Martin stated there are several items on the agenda that will not be heard due to not having proper legal notice. The following dockets are all with the same petitioner and will not be heard this evening: BZA-0319-012-R1 Alicia Alexander Kiovisky and Kim and Mike Alexander petitioners, BZA-0319-013-R1, BZA-0319-014-R1, BZA-0319-15-R1, BZA-0319-019-R1 again all the same petitioners will be added to the agenda at the next meeting.

For the record the descriptions of dockets unable to be heard are as follows:

Docket#: BZA-0319-012-R1

Petitioner: Alicia Alexander Kiovisky / Kim and Mike Alexander

Property Address: 8203 E. 249th St. – Proposed North Point Subdivision

A Development Standards Variance application has been submitted concerning Article 3.4 of the Cicero/Jackson Township Zoning Ordinance in order to: Allow the height of a primary structure to be

CICERO / JACKSON TOWNSHIP BZA MEETING

constructed not to exceed forty-three (43) feet. Whereas; Article 3.4 states that the maximum allowed height of a primary structure is thirty-five (35) feet.

Docket#: BZA-0319-013-R1

Petitioner: Alicia Alexander Kiovsky / Kim and Mike Alexander

Property Address: 8203 E. 249th St. – Proposed North Point Subdivision

A Development Standards Variance application has been submitted concerning Article 7.15 C. D-03,1 of the Cicero/Jackson Township Zoning Ordinance in order to: Allow a residential driveway to be gravel. Whereas: Article 7.15 C. D-03,1 state that all driveways shall be concrete, concrete pavers, brick or asphalt.

Docket#: BZA-0319-014-R1

Petitioner: Alicia Alexander Kiovsky / Kim and Mike Alexander

Property Address: 8203 E. 249th St. – Proposed North Point Subdivision

A Development Standards Variance application has been submitted concerning Article 7.5 B. AS-02, 3 of the Cicero/Jackson Township Zoning Ordinance in order to: Allow an accessory structure to be constructed in front of a primary structure. Whereas; Article 7.5 B. AS-02, 3 states that an accessory structure shall only be located to the rear of side of the primary structure.

Docket#: BZA-0319-015-R1

Petitioner: Alicia Alexander Kiovsky / Kim and Mike Alexander

Property Address: 8203 E. 249th St. – Proposed North Point Subdivision

A Development Standards Variance application has been submitted concerning Article 7.5 B. AS-02, 1, b of the Cicero/Jackson Township Zoning Ordinance in order to: allow the square footage an accessory structure to exceed sixty-five (65) percent of the finished floor area of a primary structure. Whereas; Article 7.5 B. AS-01,1, b states that an accessory structure may not exceed sixty-five (65) percent of the finished floor area of the primary structure.

Docket#: BZA-0319-019-R1

Petitioner: Alicia Alexander Kiovsky / Kim and Mike Alexander

Property Address: 8203 E. 249th St. – Proposed North Point Subdivision

A Development Standards Variance application has been submitted concerning Article 3.4 of the Cicero/Jackson Township Zoning Ordinance in order to: Allow an accessory structure to exceed the maximum height of twenty (20) feet.

Member of public questioned what the reason is that it is not being heard. Mr. Strong answered; they did not do proper legal notice to the a joiner. Newspaper was done; however, the adjoining property owners were not notified properly of the dockets. Mr. Culp added that this means legally we cannot hear the dockets 016 will be heard tonight but the rest will not until legal notice is done properly. Member of public questioned asked if any of the Point Lane dockets would be heard this evening. Mr. Strong answered yes, BZA-0319-016-R1 regarding the development standards variance on the 11 lots. Member of the public questioned if why one was legal, and the others are not. Mrs. Kiovsky answered there were too many notices for one page, so they did not post all on the second page.

CICERO / JACKSON TOWNSHIP BZA MEETING

Chairman Martin indicated BZA-0319-016-R1 would be the Docket being heard.

Member of the public brought up an issue with signs in the weeds. Chairman Martin stated there would be time in the public comment to bring up concerns. Members of public expressed concern that all dockets went together and why address one, if can't address all. Chairman Martin explained that they are different.

Mr. Bockoski made motion to move the BZA-0319-016-R1 to the end of the meeting to allow for all dockets to be done timely this evening. Mr. Berry second. Motion passed 2-1 with one abstain.

Docket#: BZA-0519-024-R3

Petitioner: JJ Burnett

Property Address: 22495 Millcreek Road, Cicero, IN 46034

A Development Standards variance application has been submitted concerning Article 7.21 A. FN-01,3 & 7 of the Cicero/Jackson Township Zoning Ordinance in order to: Allow construction of a six (6) foot tall privacy fence in the front yard in an R3 residential district, Whereas; Article 7.21 A. FN-01,3 & 7 states that fences must not be greater than three (3) feet in height in a front yard. Fences in the front yard shall have no less than fifty (50) percent surface open area

Chairman Martin welcomed petitioner to address the Board about the variance.

JJ Burnett 22495 Millcreek Road, Cicero, IN 46034. Trying to run a privacy fence down south side of property, 58 feet back from center of road to back horse fence. Home sets 200 feet from the road. Live there for three years, left for a year, back at home, neighbors don't get along so building a fence. Did research however not enough, did posts and then CJ informed of variance need. Mr. Berry asked if any other options have been considered, such as trees, lower fence. Mr. Burnett stated the goal is to separate from the neighbors, friends of ex-wife and causing issues. Goal is to stop the interaction. Mr. Berry questioned if the fence is up: Mr. Burnett stated the front fence is not complete materials purchased. Mr. Berry questioned if fence with trees could be done. Mr. Burnett expressed concern that looking for immediately fix. Mr. Bockoski asked if considered a fence 6 ft in back tapering to 3 ft at plane of home. Mr. Burnett stated he had but that didn't fix the issue of visibility while driving to home. Mr. Bockoski discussed the finish of the fence. Discussion ensued on Article components. Mr. Berry questioned he is hearing that doing this to prevent harassment. Mr. Burnett stated that is correct. Mr. Berry stated there was other ways than a fence. Discussion ensued by Mr. Burnett giving examples, as well as expect to stay there forever.

Mr. Bockoski made motion to open public hearing on BZA-0519-024-R3. Mr. Baker second. All present in favor.

Chairman Martin welcomed public to address this docket.

Kyle Wise 22455 N. Millcreek Rd. Neighbor to south, documents handed out. Have no ill feelings with Mr. Burnett and no issue with a fence in accordance to the Development Standards. As the Board has heard, I am the somewhat of a victim here in a divorce I am not involved with. Wife Tracey is friends with his ex-wife. Strongly oppose going against the development standards for this area and fencing. The proposed closed fence will run along the property to the front of my property. Violates on two major fronts. Purchased lot 10 years ago due to the open nature and country feel do not want to live next to a business area, of which the closed fence reminds. Document presented is signed by all residents of Grassmere Estates strongly opposed.

CICERO / JACKSON TOWNSHIP BZA MEETING

Aesthetics of the area, property appeal by retailers. Concerned with safety and sight line, fence will block. Expense of maintaining, adding plants to soften all considerable. Mr. Wise ended with all residents opposed. Mr. Strong stated there is also a letter in the packets.

Mr. Culp expressed concern that the petition was not legal, as the wife is part owner of the home. April 24th appeal to ownership. As part owner/on title she would need to agree and clearly does not by the letter. Discussion on property ownership. Mr. Culp states as of today, she is on the deed. Mr. Burnett stated date is being pushed by her. Mr. Culp stated he would like to see, court order that you are authorized or deed change. Mr. Culp suggested tabling for documents to be presented to show authorization or ownership. Rules were discussed.

Mr. Bockoski made motion to recess public hearing until July 18, 2019 at 7:00 p.m. Mr. Baker second. All present in favor.

Record showing Mr. Schrumpf arrived 7:30 p.m.

Mr. Bockoski made motion to table BZA-0319-24-R3. Mr. Baker second. All present in favor.

Docket#: BZA-0519-028-R3

Petitioner: Matt Corley

Property Address: 0 Millcreek Road, Cicero, IN 46034

A Development Standards variance application has been submitted concerning Article 7.5 B.AS-02,3 of the Cicero/Jackson Township Zoning Ordinance in order to: Allow construction of an accessory building in front of a primary building in an R3 residential district, Whereas; Article 7.5 B.AS-02,3 states that an accessory structure shall only be located to the rear or side of the primary structure.

Chairman Martin welcomed petitioner to the front.

Matt Corley 22261 Millcreek Road, Cicero. Here to request a storage shed on the property, own just under 3 acres, and all that is on the property is a pole barn. Chairman Martin asked if living adjacent to property. Mr. Corley answered no, live about 5 miles away. Mr. Baker asked if operate a business from the property. Mr. Corley no, a manufacturer rep. Mr. Corley stated would be stick built, no foundation can be moved if necessary. Purpose is storage that he doesn't want weathered. Mr. Bockoski questioned how many buildings. Mr. Corley stated two, this building is there didn't realize had to have permit. Mr. Berry asked if electric or water. Mr. Corley stated electricity some time but no water.

Mr. Baker made motion to open public hearing BZA-0519-01-28-R3. Mr. Schrumpf second. All present in favor.

No public comment.

Mr. Schrumpf made motion to close public hearing. Mr. Baker second. All present in favor.

No further comments/questions from Board.

Mr. Bockoski made motion to approve BZA-0519-028-R3. Mr. Schrumpf second.

Mr. Baker-no, Mr. Berry-approve, Mr. Bockoski-approve, Mr. Schrumpf-approve, Mr. Martin-approve. Motion passed 4-1.

Docket#: BZA-0519-025-C4

Petitioner: G.W. Pierce Enterprises, LLC

Property Address: 22275 US 31 North, Cicero, IN 46034



CICERO / JACKSON TOWNSHIP BZA MEETING

A Special Exception Use variance application has been submitted concerning Article 4.15 of the Cicero/Jackson Township Zoning Ordinance in order to: Allow an automobile repair; automobile/truck storage (outdoor) in a C4 Commercial district. Whereas; automobile repair and automobile/truck storage (outdoor) is considered a special exception use.

Chairman Martin welcomed petitioner to address the board.

Andy Wert, with Church, Church, Hittle & Atrium Noblesville, representing Mr. Gary Pierce. Exhibits presented. Here for two petitions and three parcels. 22275 is actual address GIS states 22271. Monitor was used throughout the presentation. Last year Commission approved sub-plat, here for approval for the uses for existing businesses to operate. Mr. Baker asked what variances already apply to this property. Mr. Wert stated variances dealing with subdivision were granted. Mr. Culp was asked to share, he stated that the uses themselves are legal non-conforming he believed. Variances were granted for screening, paving. Mr. Strong stated variances for set-back, and area to not be paved were before PC. Mr. Baker asked about retail and paving to clarify which parcels were being discussed.

Mr. Wert stated they have committed to additional screening between building and US 31. Chairman Martin asked about Auto E, what is this. Mr. Wert answered auto repair, in existence approx. 6 months however prior auto repair business there for 10 years. Discussion ensued on areas for repair and another for sale of autos. Mr. Strong asked if packet included the proposed subdivision plat. This was handed out or found in packets to understand where the lines are. Mr. Baker asked if approved by Planning Commission and purposed of re-plat. Mr. Strong answered yes and for the property to be saleable. Chairman Martin asked for clarification approve the four parcels. Mr. Strong answered issue is once they file the final plat, the businesses have to be legal. Mr. Strong verified with Mr. Pierce that the reason for re-plat was to sale. Mr. Pierce answered yes. Chairman Martin questioned parking in front of business, whether short term in/out customers or for parking long term. Mr. Wert stated all vehicles that are being worked on. Chairman Martin verified the mesh screening is all along the property except for openings. Mr. Wert stated lot 3 had more open areas. Mr. Bockoski verified this particular docket is for auto repair only. Follow up is what is other area being used for. Mr. Wert answered salvage is being used, plan is to consolidate. Chairman Martin stated Auto E does have storage, answer is yes front and back. Mr. Pierce stated they are in auto repair business does not salvage business. Chairman Martin noted picture had 30-40 cars to work on. Mr. Baker asked if way to see what variances were previously approved, concern is granting of non-repair vehicles to be stored. Discussion on options, Mr. Culp stated could be listed as: in addition to previous commitments. Reference to one lot that is not part of this business. Chairman Martin asked Mr. Pierce if he could give time frame for moving the salvage vehicles and give overall view of goal for property. Mr. Pierce stated goal was to get ready to sell property, however, has been a process that has taken longer than expected. Mr. Pierce stated started in 1969 and now perhaps 15-20 cars are left, cars are in the back but there is other debris that has to be dealt with. Mr. Pierce felt next couple years to get cleaned up. IDEM comes by every few months to monitor the progress, the back and all be fenced into screen. Mr. Strong asked address to be added to record.

Mr. Gary Pierce 12116 Sugarcreek Rd. Noblesville. Chairman Martin requested map be placed again on monitor. Discussion on the plat using the monitor.

Chairman Martin asked Mr. Culp if the approval should be tied to the business or the land. Mr. Culp answered since he is looking to sell the business in future, you could attach as long as this business is operating.

Business could transfer from person to person. Mr. Culp stated tying to the land would make it perpetual.



CICERO / JACKSON TOWNSHIP BZA MEETING

Mr. Baker made motion to open public hearing for comment for BZA-0519-025-C4. Mr. Bockoski second. All present in favor.

No public comment.

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

Mr. Bockoski made comment to think about the auto repair, assuming the cars would be removed, and the storage area would be minimal. Mr. Strong stated definitions have major and minor repairs listed. Mr. Pierce stated brakes, transmissions, engine, no collision. Chairman Martin asked if anything could be done about the storage area that would not place in a bind does not want the storage to grow. Mr. Pierce stated time frame of couple of years or limit of number of cars. Chairman Martin proposed storage goes away in three years and area is screened. Mr. Strong verified that major repair would cover both and asked the Board to consider any previous commitments on the property. Mr. Culp suggested that it all be on one document when recorded if there are any other variances it is recorded as one. Chairman Martin stated if recorded would go with the land. This would only be for lot four.

Mr. Bockoski made motion to approve BZA-0519-025-C4 with the following conditions, within 36 months the storage would end, the existing variances would be recorded as one document, the storage area would be fenced in. Mr. Schrumpf second.

Mr. Baker-no, Mr. Berry-approve, Mr. Schrumpf-approve, Mr. Bockoski-approve, Mr. Martin-approve. Motion passed 4-1.

Docket#: BZA-0519-026-C4

Petitioner: G.W. Pierce Enterprises, LLC

Property Address: 1715 E. 226th St. Cicero, IN 46034

A special exception use variance application has been submitted concerning Article 4.15 of the Cicero/Jackson Township Zoning Ordinance in order to: Allow an automobile sale and exporting business in a C4 Commercial District. Whereas; an automobile sale and exporting business is considered a special exception use.

Andy Wert, Walker, Church, Church, Hittle and Atrium, Noblesville, IN. Stated next docket also deals with same property, it is lots two and three. Chairman Martin stated will discuss but vote separately. With Mr. Wert are Mr. Gary Pierce and Minda Balcius owner of Rex Auto Parts operating also as InterCargo company operates business to remove wrecked cars from the U.S. These are vehicles brought in various disrepair and vehicles that are deemed totaled by insurance, they are then shipped out as is no parts changed no repairs. Operating off of future lot three and want to expand to lot two. They have been leasing from Pierce for the last nine years and expressed interest in purchasing land. Like last petition have committed to paving area between building and US 31 as well as mesh screen where existing fence line with exception of cut along US 31.

Chairman Martin asked for business operator to state name and address for record.

Minda Balcius 3310 Evenhall Place Carmel IN. Chairman Martin asked if using area for storage, speak to traffic and number of cars dealing with daily, monthly, help us understand the area.

Mr. Balcius stated lot 3 has building and small fenced area in lot 2 used to store cars. Vehicles are acquired thru salvage auctions, non-repairable, market in Europe, Asia, Middle East for these vehicles usually late model and at times luxury vehicles. After purchase bring in preparing for export, loaded in ocean containers,

CICERO / JACKSON TOWNSHIP BZA MEETING

usually 2-4 weeks, we prepare documentation, packed and sent to rail in Avon. Been in business since 2004 this location since 2010, have five other locations most on eastern seaboard, central office is in Carmel. Number of vehicles is approx. 400 at this location, our smallest. Have eight employees at this location. Titling process and export process require a temporary storage area while this takes place. Chairman Martin questioned the 400 number as constant. Mr. Balcius stated expect to grow, in winter due to weather had as many as 700 then able to get caught up and get number lower. As any business owner expect to grow, do not get paid until shipped in best interest to move quickly. Some are shipped in couple days, most 2-3 weeks. Mr. Berry questioned how many in a week come in or go out. Mr. Balcius answered it is easier to look at it as a daily number of 30-40. Mr. Berry questioned what happens to hazardous materials such as gas and oil, anti-freeze. Mr. Balcius do not drain vehicles, do not modify vehicles. Take pictures of vehicles and may remove trash/personal items but do not handle liquids. Chairman Martin asked if leakage is an issue. Mr. Balcius stated minor, vehicles have been moved several times before acquiring, by insurance and auctions so leakage is minimal. Chairman Martin stated where hard surface is needed. Mr. Balcius stated need paved front area where trucks come in and load. Where storage is concerned, more economical to store on crushed limestone. Chairman Martin questioned flow for loading to make more aesthetically pleasing by moving from front gateway to Northern Hamilton County. Mr. Balcius stated goal is to improve the property for employees and customers and traffic. Areas to move less desirable/appealing vehicles are being created. Another find is that as GW Pierce ceases operation, people looking for parts, so the less look like a salvage yard, better for business and for the public. Goal to look less auto related and more transportation area.

Mr. Bockoski made motion to open public hearing for BZA-0519-026-C4. Mr. Baker second. All present in favor.

Doug Orahod 1820 E. 226th St. Heard discussion, are they paving or using stone, drainage is an issue in this area. Would prefer to have stone not asphalt. Chairman Martin stated talking, hasn't been decided. Mr. Orahod gave description of area concerns around water flow/freezing and overall drainage. Another concern is lighting that has been addressed prior, the lower section had problems but now corrected. Concern for signage and hours of operations. Rusty cars don't make noise, no problem with scrap yard. Operation to the north started as scrap/recycling business but noise level, explosions concern. Look forward to the transportation business but concerns for noise and drainage.

Susan Orahod 1820 E. 226th St. why is address for business. Address is for lot 1, doesn't face 226th. Mr. Culp stated Post Office sets address and when this is filed addresses may change currently that is the address that is being used. Lots 2-3 are the ones being discussed.

Mr. Balcius used monitor to discuss the entry and the areas that have been improved over the years to be solid surface or asphalt. Mr. Balcius discussed the current condition and desire to pave to prevent dust and clay dirt from being transferred. Aware of drainage issues and would want to fix to drain properly. Regarding lighting, we have some lights currently installed on building but would look at that to ensure not shining. Do not need lights for working in the dark but mostly for security. Currently not 24 hours however we have tested a third shift option at other locations and has worked well. Years away at this location however would not want to be limited, consideration of traffic on US 31 during day would be a positive.

Chairman Martin asked about when US 31 is closed what plan would be in place, access point would change. Mr. Balcius stated at that point would propose a plan to reposition to build a warehouse. If grow into the property at that point would need warehouse. Access road and new entry mentioned.

Mr. Culp asked if would have signage. Mr. Balcius stated currently a billboard that has GW Pierce logo on it use the same structure, would use that with business name. Mr. Strong stated that billboard is in disrepair,

CICERO / JACKSON TOWNSHIP BZA MEETING

even flapping in the wind. Chairman Martin stated if approved signage and lighting would conditions. Mr. Berry questioned a third shift, no second shift. Mr. Balcius stated the other location it was considered third shift, would only be seasonally needed. Mr. Berry asked how cars are moved around. Mr. Balcius stated a diesel forklift used to load and move around. Size of forklift was discussed. Mr. Berry expressed concern for noise if after hours work was done. Mr. Balcius stated the transportation portion was what would likely be done not moving of vehicles.

Mr. Schrumpf made motion to close public hearing. Mr. Baker second. All present in favor.

Chairman Martin asked if further questions/comments from Board. Mr. Baker stated he wanted to remind the members that dealt with variances in the past on this area, the neighbor's comments around drainage were concerns then as well. It is a county drain and to his knowledge has not had any improvements. Chairman Martin stated by limiting the asphalt could improve. Mr. Baker stated the section he is interested in paving likely drains to 31 ditches. Chairman Martin questioned storage up front, a lot of vehicles and is it necessary. Mr. Balcius stated that area does not look like that right now, there are no cars. Chairman Martin expressed his concern with the aesthetics by having the parking up front, does that impose a hardship. Mr. Balcius stated goal is to move quick, his concern as well. Mr. Culp stated he felt it was only being encouraged and one way is to require screening. Mr. Culp also stated he had noted make the lighting directional. Mr. Strong stated if they attached preexisting conditions/variances and we would make one document like the previous one. Chairman Martin questioned screening. Discussion on fencing vs landscaping. Mr. Balcius stated after loading the containers, the containers are stored up front, and weight requires them to be on asphalt. Mr. Culp stated can always require sign off from Planning Director. Discussion on conditions and attachment to land or business.

Chairman Martin summarized the conditions being added for approval addressed as follows: Add privacy or landscaping plan to be worked out with Plan Director, Lighting to be directional per ordinances, Paving west of office between office building and 31, any and all pre-existing conditions attached to documents, approval will be attached to Wreck's Auto Parts business.

Motion to approve made by Mr. Baker as stated by chairman. Mr. Bockoski second.

Mr. Berry-approve Mr. Schrumpf-no, Mr. Baker-no, Mr. Bockoski-no, Mr. Martin-approve. 2-3 Motion denied.

Chairman Martin questioned proceeding with next docket. Mr. Culp stated unless the petitioner wished to withdraw petition.

Mr. Pierce stated he would like to withdraw the petition.

Docket#: BZA-0519-027-C4

Petitioner: GWP Enterprises, Inc

Property Address: 22275 US 31 North, Cicero, IN 46034

A special exception use variance application has been submitted concerning Article 4.15 of the Cicero/Jackson Township Zoning Ordinance in order to: Allow an automobile sale and exporting business in a C4 Commercial District. Whereas; an automobile sale and exporting business is considered a special exception use.

Chairman Martin stated Petitioner withdraws BZA-0519-027-C4 from docket. Mr. Gary Pierce petitioner.

CICERO / JACKSON TOWNSHIP BZA MEETING

Docket#: BZA-0319-016-R1

Petitioner: Alicia Alexander Kiovsky / Kim and Mike Alexander

Property Address: 8203 E. 249th St. – Proposed North Point Subdivision

A Development Standards Variance application has been submitted concerning Article 3.4 of the Cicero/Jackson Township Zoning Ordinance in order to: allow eleven (11) lots having only lot frontage on a Private Drive. Whereas; Article 3.4 states that minimum lot frontage is eighty (80) feet on a Public Street with access from said Public Street.

Chairman Martin welcomed petitioner to address the Board.

Alicia Kiovsky 8203 E. 249th St. Arcadia, requesting the access to the lots to be allowed on a private drive instead of public road. All lots meet or exceed the size requirements. It is just a private drive versus a public one. Mr. Baker asked for a map and verified that all lots meet or exceed 45000 sq. ft. Maps were passed out, Mrs. Kiovsky stated yes to lot size. Chairman Martin verified that her home is Lot 5. Mr. Baker verified conforming frontage on the private drive, asked for width of private drive. Mrs. Kiovsky stated area before is 55 feet drive is 24 feet, gravel and verified by Chief Musar and fire equipment. Chairman Martin asked Mrs. Kiovsky to share what was approved and came out of Plan Commission. Mrs. Kiovsky stated once 70% of the occupancy of lots the private drive will be paved. Chairman Martin asked what the proposed timeline is. Mrs. Kiovsky stated she had hoped to before having child, not going to with newborn, so now plan is to break ground in the spring. This is a family compound, and siblings are military and college, so 3-4 years before next home. In meantime property would continue to be farmed as it had for several years.

Monitor was put into use.

Mr. Berry questioned how far back to her property, counting lots, 350. Mr. Baker answered they exceed the 80 so they are 250-280 ft each, they don't have the frontage on a public road. Mrs. Kiovsky stated 1200 to get back to my property, 1600 ft when home is done all lots exceeds Mr. Strong explained that the county classified the road as a private drive or private road, ordinance states have to front a public drive. Mr. Berry questioned if there were private roads in subdivisions. Mr. Strong answered yes there are some. Chairman Martin verified that maintenance is HOA. Mrs. Kiovsky stated yes; it is part of bi laws. Mr. Culp stated part of approval was requirement for HOA to be formed. Mrs. Kiovsky added that there is language as well to prevent them from petitioning in future to have county maintain. Mr. Bockoski asked if not approved tonight what is next course of action. Mrs. Kiovsky answered not sure; dream is for a family compound not a huge subdivision. Probably go back and reapply come up with a different solution. The idea for the road is it is more financially feasible, purchase additional lots as personal finances allow. This plan made it financially easier to accomplish.

Chairman Martin asked if any questions or ready for public hearing.

Mr. Schrupf made motion to open public hearing for BZA-0319-016-R1. Mr. Baker second. All present in favor.

Chairman Martin acknowledged the number of individuals in attendance, and gave housekeeping rules for the public hearing, asking for individuals to focus on items of the docket and minimize repeat comments.

CICERO / JACKSON TOWNSHIP BZA MEETING

Chairman Martin re-read docket for the benefit of the audience.

Madlen Freeman 4 Point Lane, Mrs. Freeman stated letter concerns the docket and paragraph 12.12 calls out that the variance could be approved if following paragraphs are met: 1,2,3. Approval of this variance would violate all three paragraphs. Emphasis on paragraph three and the practical difficulty, and self-imposed hardship portions of the paragraphs. Mrs. Freeman stated the ordinance was in effect in April 17 of 2015 and property purchased September 13 of 2016. Property purchased by senior Alexanders and transferred to Mrs. Kiovisky in 2019. Mrs. Freeman concluded with situation is entirely self-imposed and costs of road, curb etc. would increase costs and reduce financial gain of this property. Mrs. Freeman then read items from the PC meeting relating to this project. Paragraph 2 calls out use and value the adjacent property values, emphasizing the smaller lots on a gravel drive will affect the values. Stated original Point Lane homes average 2.91 acres lots, proposed lots the smallest are 1.11 and 1.12 being most obvious variations. Stated ambience of the area as a concern. Shared home sizes for Point Lane versus the current requirements, concern for neighborhood feel with so many homes on one drive. Shared no other R-1 subdivisions have so many homes on a single gravel drive. Also expressed concern for Mrs. Kiovisky's expertise in building quality homes. Paragraph one calls out concerns for public health. Added concern for additional wells and impact and impact to the property values. Additional concern was dump that had been closed, however concern for lingering impact on ground water. Could pose a health threat to the residents. Continued with potentially impacted properties. Township planning requires signs be posted. Please turn down this Development Standards Variance.

Charlie Bowman, 91 Point Lane, live directly across street from property with proposed subdivision. Mr. Bowman mentioned that 31 was used in last docket as the gateway to Hamilton County. This is the gateway to Point Lane. This subdivision does not reflect what is behind. This was discussed previously, specifically lot sizes. Letter not read but had copies for members. Discussed why he is concerned, lack of 80 ft requirement and the other is the gravel road. Mr. Bowman shared a story about roads in Hamilton County. First road from Zionsville that would be gravel and the first road entering Point Lane. Mr. Bowman continued with Mrs. Kiovisky stating paving with 70% occupancy also stated family compound with five family members. So, when would 70% occupancy occur, a decade or more? Houses that are visible on Point Lane but don't face Point Lane. Discussed at previous meeting the adverse impact anticipated on lots 91 and 81 from drainage. There has been some mediation on north but not where it is currently flooding. Two things most impacted are the road into this is gravel and the 80 ft are not met. Mr. Berry asked to be made familiar with Point Lane, are all the current driveways paved. Mr. Bowman answered no, there are gravel drives. Mr. Bowman stated doesn't strike him as a drive it is a road. Mr. Berry asked if there were common docks for the homes. Mr. Bowman answered yes for the original homes. Mr. Berry asked if the road was paved to get back to it. Mr. Bowman stated there was no drive, it is grass, doesn't think could get a vehicle back there, uses a golf cart. Mr. Bockoski asked if this proposed gravel road were paved, would he feel differently. Mr. Bowman stated yes, still would not like the lack of frontage on Point Lane, but it would be a major concession.

Mr. Strong reminded the Board that this was approved by the County Commissioners to be a gravel drive. They did not circumvent our ordinances, it was approved as a gravel drive because they did not want to maintain it, from what Mr. Strong understands. Mrs. Kiovisky stated she had minutes from that meeting if the members wanted to see. Chairman Martin said sure and handed out.

CICERO / JACKSON TOWNSHIP BZA MEETING

Alice O'Brien 26 Point Lane. Questioned what is difference between private drive and private road, have heard it referred to as both. Mr. Culp answered in this setting being used interchangeably they are the same thing, if driveway it would be different. Mrs. Obrien stated she doesn't understand the difference. Mr. Berry asked Mr. Strong, if it is paved, it doesn't mean the County would maintain it, is that correct. Mr. Strong did not require it to be paved, did not want to maintain it and allowed a gravel drive. Mrs. O'Brien found the area she was referring to reading Article 7.15cd-03,1 states all driveways must be concrete, pavers, or asphalt. Mrs. O'Brien continued with to her a driveway does not go to 11 lots, it goes to a single home. Mr. Baker read minutes that county classifies any two home as a private road. That should answer the original question this is a private road.

Charles Bowman 91 Point Lane questioned the 80 ft. rule for the first house or all homes. Mr. Baker stated the 80-foot rule is the frontage to Point Lane not setbacks. Mr. Strong added there are setbacks in the ordinance for front and side that would be different.

Brian Scott 7911 E. 249th St. Lot 1 on the corner of Point Lane and 249th Street. Questioned that the PC approved as a major subdivision. Mr. Strong answered correct. Mr. Scott as a major subdivision is required to have a public street, and what is before you (members) are whether to allow on a private road. The other item tabled is whether gravel or not. If you approve concern is setting precedence for allowing access from a private road for any other development that would meet ordinances. Other concern is that there has not been a drainage plan, and this has not been approved. Mr. Culp stated that is to be presented before final plat and this is primary. This Board looks to the County Surveyor to approve/sign off for the drainage. Final plat would not be approved until all signed off as approved, surveyor, Board of Health, etc. Mr. Scott questioned if that had happened. Mr. Culp explained no; variances are sought first before continuing with steps in process. Mr. Scott stated the first two lots are one acre which open up to Point Lane, if approved could add two/three more homes with driveways on Point Lane. This reinforces the previous concerns for property values, public safety. Concern for the number of septic and wells in a small area. Referred to Article 121282 expressing the adverse manner the subdivision would impact the neighborhood.

Jim Williams 38 Point Lane coming back to comments by Mrs. Freeman, septic systems/water is required in R-1 zoning to hook up to municipal utilities. Questioned are things cherry picked that have to be followed. Mr. Culp stated the municipal utilities is required in city limits of Cicero, so it does not apply. Concern expressed for 12 lots when a family of five. Expressed concern for the 30 acres and adding more homes. Further comments on project. Mr. Baker and Chairman Martin requested the public to stay on point of the variance.

Chris Huyck speaking for mother at 35 Point Lane, just opposed to any subdivision that does not have paved road and where lot sizes are less than three acres. She was third builder in the area 43 years ago, and not opposed to subdivision but should look like rest of area. Expressed concern for drainage, sewer and winter maintenance of the area, who would maintain. Presented letter from Mother. Mr. Berry asked if lot sizes were bigger and fewer of them. Mr. Huyck stated she would not be opposed if three acres and if paved drive, needs to be in line with the current subdivision. Mr. Berry stated could current subdivision be annexed into the current HOA. Mrs. Kiovsy stated would have a different need and adjacent homes are not in the association. There is not a HOA.

Doug Barvey 34 Point Lane, curious as to why if a family farm, why not go to 249th for access and increase size of lots. Most people in the room would not have issues.

Alice O'Brien has concern with safety, where the road comes out, there is a rise that opens to Point Lane. Concern expressed for 12 mailboxes, trash cans, small children and dogs and if come upon the rise and the items blocking the view.

CICERO / JACKSON TOWNSHIP BZA MEETING

Terri Kershner, 8 Point Lane, agrees with items stated, and it is a gateway to the community. A subdivision within a subdivision that doesn't meet the requirements in the neighborhood is a concern for property values.

Lamar Reinhart, 6 Point Lane, previously submitted a letter please review, one comment to add, the Zoning ordinances were put into place for a reason and think they should be followed. One question is how many other major subdivisions were approved with a gravel drive in the Township. Mrs. Kiovisky has the information. (she is looking for) Mr. Reinhart like only need 4-5 homes don't need 12 lots, also asked if could be entered from 249th. Also asked if goes to Zoning Board or done after tonight. Mr. Culp stated if approved, will come back next month for the items tabled tonight, after approval will go to the Plan Commission for final plat after approvals for drainage and all are received. All that has to happen before any moving or building anything. Mr. Reinhart stated the County Commissioners approved a gravel drive; can you make further restrictions on what they approved. Mr. Culp stated the County Commissioners are only involved in this because it exits onto a county road. They waived their requirements however; our requirements are completely under our control. Mr. Reinhart stated then don't feel we should worry about their decision. Chairman Martin stated in response to your question, her research found that there are 9 subdivisions, 114 lots that have gravel drives. Mrs. Kiovisky added all private drives that don't meet county standards and in northern part Hamilton County. Mr. Reinhart asked, accessed thru common drive. Mrs. Kiovisky stated giving access to as many as 4-24 homes from one common drive. Mr. Culp read all areas that were provided. List attached to docket. Mr. Reinhart asked how long ago. Mr. Culp stated wanted to provide the list that was given. Mr. Reinhart stated if done in 50's and 60's 70's should be taken into consideration.

Chairman Martin had to remind the public only one speaker at a time.

Chris Huyck how many of those names are adjacent to existing subdivision. Chairman Martin stated the list has been given, he does not know.

Brian Scott stated list is irrelevant to him, how many in Cicero/Jackson Township is the concern. Talking about our township ordinances not someone else's. Mr. Strong stated it is relevant because this was approved by County Commissioners not approved by Cicero/Jackson Township. Mr. Scott proceeded to state what is before you today is variance to our ordinances not the county. Mr. Scott passed out a document with overlays showing the proposed lots and how would well and septic fit.

Paul Gibson 5 Point Lane, photos shared with concern with communication of the project, signs shown. Concern for safety with buses/children. Drainage of the area is pathetic, passed around photos showing flooding areas, require a large drain to the proposed retention pond. Mr. Berry asked when photos of water were taken. Mr. Gibson responded with today but could have been 6 weeks ago or 8 weeks ago, standing water often. Mr. Berry stated asking due to the large amount of rain received.

Charlie Bowman, response to Mr. Berry that is a creek, six years ago it did dry up, was in a drought but now hear as if it is a babbling brook.

Steve Holt 3 Point Lane, unique perspective on County Commissioner set on Board for 24 years. One of the subdivisions on list and felt it should not have been approved as drainage was an issue and not buildable lots. Stated many on the list dealt with over time as people would complain about gravel roads, in that there are no gravel roads in Hamilton County. Does not think there is any subdivision on the list that would be advantageous to the neighborhood. Reviewing feels the Board would be doing to Point Lane what was done to these neighborhoods. Also, if approved, anyone with 40 acres could state I can't afford to pave roads and let me have a gravel drive. This would be a nightmare for Jackson Township. Discussed mailboxes and trashcans and not way they have operated in the neighborhood. Mr. Berry asked what it would take to the county to approve then take over. Mr. Holt stated would not happen, not fair to all the citizens. Mr. Berry

CICERO / JACKSON TOWNSHIP BZA MEETING

gave example of his situation with mailboxes and trashcans where pick up is at each driveway. Mr. Holt referenced the children with buses, and if five families and 14 lots, there is a profit motive.

Alice O'Brien clarification that there are four homes on Point Lane on a gravel drive, that all trash cans are at the end of the drive, trash does not go down the gravel drive.

Terri Kershner how many lots are there. Mr. Baker stated 11. Mrs. Kiovsky stated the confusion is the original four lots do not go away they are part of the total.

Lamar Reinhart the potential private drive, is there a turnaround. Mrs. Kiovsky stated there will be a turnaround on her lot. Mr. Reinhart building started on lot 5, so when would that be built to specs. Mrs. Kiovsky answered at the time of the first building built to what was agreed upon.

Doug Barvey 34 Point Lane if the family decided not to build after approval then they could just sell to anyone is that correct. Chairman Martin stated yes.

Charlie Bowman 91 Point Lane. Is this setting precedence that if I wanted to take my 6 acres and build 4 more homes on it could I go thru this process and be approved. Mr. Culp stated you would have to go thru the process; however, this does not set a precedence, each piece of real estate is unique, property would be looked at all the details and decision made on that real estate.

Mr. Berry asked clarification, stated was one lane serving four homes, Mrs. O'Brien yes lot less dense, and not upon the street. Clarification 2.8 acres.

Mr. Baker made motion to close public hearing. Mr. Schrumpf second. All present in favor.

Chairman Martin asked Mrs. Kiovsky to approach if she wanted to address the comments from earlier.

Mrs. Kiovsky stated have deviated from the points of the variance, address those or just the variance. Chairman Martin stated if wanted to address any comments that were made, now is the time or don't have to comment on any. Mrs. Kiovsky stated Republic will come down the private drive gravel or no. Property values, requirements that are in place for these homes to be built are more stringent than original homes in Point Lane. They are legal non-conforming and would not meet current ordinances. Homes to be built would not lower property values: 23 other gravel drive homes on Point Lane. Drainage is an ongoing issue, doing everything that the HC Drainage will require, and it will all be done at the same time. Exiting on 249th was kicked around, the Highway Dept. was not crazy about because there is not a large area to access for traffic. Board of Health has looked at everything, and no issues, tried to have that all covered before coming before this board.

Mr. Berry asked if homes were to be larger than current homes. Mrs. Kiovsky answered according to accessors office; 11 current homes would meet the current building requirements if records are correct. Chairman Martin asked if covenants are available. Mrs. Kiovsky stated submitted to Plan Commission. Chairman Martin stated, not to do with tonight's variance, a lot of discussion at PC meeting about paved drive, 70% or time frame. Was the time frame a hardship? Mrs. Kiovsky stated yes, not a company looking to build homes, may be five years before second home is built. This is a lot of infrastructure, overkill, for the amount of traffic and the time frame of development. Mr. Berry asked what hardship to have done at five homes. Chairman Martin stated approved by Plan Commission at 70% which equates to 7 homes. Mr. Berry expressed his thoughts of currently one drive with four homes in the neighborhood, going to five would make sense. Mrs. Kiovsky stated preferred the Plan Commission decision.



CICERO / JACKSON TOWNSHIP BZA MEETING

Chairman Martin asked if further questions. Mr. Strong reminded of the Docket number. Discussion. Mr. Berry asked if had to vote on this docket tonight. Mr. Baker stated advertised. Mr. Culp stated heard everything, will help petitioner to move forward whatever the outcome.

Mr. Bockoski made motion to approve BZA-0319-016-R1 as presented. Mr. Schrumpf second.

Mr. Schrumpf-no, Mr. Martin-yes, Mr. Bockoski-no, Mr. Berry-no, Mr. Baker-no. Motion fails.

Mr. Culp stated other items will remain on the agenda unless informed by Mrs. Kiovsky. Appreciate letting us know so we can inform.

Chairman Martin asked for order to continue meeting.

6. Plan Director's Report: Mr. Strong stated Mr. Taylor's report enclosed in your packets. Income in May is due to school, same as last year, projects helping.

7. Chairman's Report: Thank you for attending.

8. Legal Counsel's Report: No report. Training session will be added to docket when agenda has only a couple of items.

9. Board Member Comments: Further discussion on training.

10. Next Planned BZA Meeting: **July 18, 2019**

11. Adjournment: **Mr. Baker made motion to adjourn. Mr. Schrumpf second. All present in favor.**

Chairman: Dave Martin
Secretary: Dennis B. Schrupf
Date: 8-22-19

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