**BZA Meeting Minutes**

**August 22, 2019**

**7:00 p.m.**

**Roll Call of Members**

Present:

* Brad Baker
* Mike Berry
* Scott Bockoski
* David Martin
* Dennis Schrumpf
* Aaron Culp - Legal Counsel
* C.J. Taylor - C/JT Plan Director
* Terri Strong- Recorder
1. Declaration of Quorum- Chairman Martin declared a quorum with all members present.
2. Approval of **Minutes Mr. Bockoski made motion to approve minutes from June 20 , 2019 meeting. Second by Mr. Baker. All present in favor.**

 3. Public Comment: Chairman Martin welcomed anyone from Public to address Board with items not on the agenda. No public comment.

1. Old Business:

**Docket#: BZA-0519-024-R3 (Tabled June 20, 2019) (Petitioner request for this to remain tabled)**

 **Petitioner: JJ Burnett**

 **Property Address: 22495 Mill Creek Rd. 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 that 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.**

Mr. Taylor stated he had been formally contacted by Mr. Burnett asking for matter to remain tabled until October 2019. Reason for request was legal matters to be resolved pertaining to this variance. Mr. Culp explained the process.

**Chairman Martin stated the docket BZA-0519-024-R3 will remain tabled until October 17, 2019.**

 5. New Business

 **Docket#: BZA-0719-029-NC**

 **Petitioner: TerraFerma, LLC**

 **Property Address: 90 N. Peru St. Cicero, IN 46034**

 **A Development Standards Variance request application has been submitted concerning Article 7.13 of the Cicero/Jackson Township Zoning Ordinance in order to: Allow on-street parking for a business. Whereas; Section 7.13 D. PK-04 states “To reduce traffic congestion and hazards along roadways, off-street parking shall be required for business and industrial uses.”**

Chairman Martin requested petitioner to approach to address the Board.

Diane Lydell-Jones 1 Point Lane, Arcadia. This building purchased in 2008, set up for a tanning building by previous owner, process had been completed to do remodel. Purchased the building several years ago and came before board to remodel building for Honey extraction in the back of the building. That is complete, however now want to open a small medical facility in the front. Information submitted included a floor plan with parking plan from previous variances. Also has copies of minutes from previous meetings. Has contacted INDOT and Railroad. Chairman Martin questioned what type of medical facility. Mrs. Lydell-Jones stated not like a family medical practice but for services that cannot get from regular doctor. Examples used as weight loss, hair loss, gastro issues. Mr. Berry asked for hours of operations. Mrs. Lydell-Jones stated 7-8 possibly Saturday am very preliminary in process. Has interest in the field. Stated three days a week, starting with one and moving forward with interest. Pictures used to discuss parking options. Mr. Taylor did clarify that Hwy 19 was public parking on both sides of the street in that area. Mrs. Lydell-Jones stated she contacted INDOT in Tipton inquiring about the Speedway Parking lot which has some parking that is being used. Also stated that permit for Speedway has elapsed so parking would be available all along there. Concern for parking during day doesn’t seem to be an issue, it is the evening that is full. Chairman Martin questioned Mr. Taylor on this issue. Mr. Taylor shared that he instructed Mr. Jones to contact Speedway station owners. Mr. Jones shared with Mr. Taylor that Speedway Owners were not interested in selling property or leasing spaces to anyone. Mr. Taylor continued with the information that the Methodist Church parking is committed to other businesses. Mr. Taylor stated there is no other option within a 600 ft. radius for private parking and this is why they are here for the variance. Mr. Bockoski stated has not seen the issue, are we talking designated parking spots for her business along 19. Mr. Culp stated do not have that authority, however since they are all within walking distance to her business, could have variance to allow spaces to meet requirements.

**Mr. Baker made motion to open BZA-0719-029-NC for public hearing. Mr. Bockoski second. All present in favor.**

Chairman Martin welcomed members of public to address.

David Feltner 99 N. Byron Street neighbor to the property. Owners of property maintain building, responsible. More than any others I am affected, view etc. no issue with this request. Mr. Feltner expressed his hope that the Board would approve.

Troy Ferguson 129 Peru St. across street from Speedway. I am pro-business, but issues with Town not with people doing this business. Want the business but problem is Cicero’s lack of effort to do anything to control parking. Ordinance was adopted for safety. Read statement summarized as lack of parking options, lack of 20/20 street parking plan, lack of control by police, street department, and Town Council. Pictures shared to describe issues in the neighborhood, i.e. Parking on sidewalks, next to fire hydrant, etc. Mr. Ferguson went on to state if going to develop downtown, have to provide parking, the business owners can’t provide parking. Descriptions of violations with pictures given. Mr. Ferguson shared that he contacted INDOT, State representatives, governor about marking HWY 19/Peru St, concerns for the passing zone. Want them to get their variance but want the Town to act on Speedway property and willing to help with any plan for parking. Neighboring communities and their options/rules were shared. Passionate about Cicero and its growth.

Paul Gibson, 5 Point Lane, representing 50 Cass St. asked if the plan submitted was a retailer, and what kinds of items would be sold in the business. Chairman Martin asked the petitioner to explain. Mrs. Lydell-Jones responded with items for patients. Mr. Gibson questioned CBD. Mrs. Lydell-Jones stated no.

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

Mr. Baker stated he would agree with a lot of things that Mr. Ferguson stated, was going to make some similar comments. However, out of the criteria of which we as a board consider, do agree. There is congestion and needs action to be taken. Chairman Martin stated Town Council would be the body to take concerns to for action on the town parking concerns.

Chairman Martin stated motion should include variance stays with business. Mr. Culp condition of added hours of operation should be considered, perhaps 7-7, however at discretion of the Board. Discussion on this possibility ensued. Mr. Baker expressed concern for setting a business’s hour. Mrs. Lydell-Jones added that the business is hers and the building owner is her husband. Mr. Culp asked if documentation was given of POA from the business owner to address this matter. Discussion followed on ownership. Business name will be Bellalisse.

**Mr. Bockoski made motion to approve BZA-0719-029-NC as presented with the stipulation that the ruling goes with the business Bellalisse operating within the business building. Mr. Baker second.**

**Mr. Baker-approve, Mr. Berry-approve, Mr. Bockoski-approve, Mr. Martin-approve, Mr. Schrumpf-approve.**

**Chairman Martin stated motion passed 5-0.**

 **Board Member Training: Mr. Culp**

Mr. Culp started session with the basics of the Town government, giving descriptions of job duties, responsibilities. Mr. Culp provided a copy of his PowerPoint for review.

Mr. Culp spent several minutes on the differences between the Plan Commission and the Board of Zoning Appeals. Plan Commission is first and foremost policy setting board. Plan Commission is on the creation side of ordinances whereas the BZA is the application side.

Discussion included the Comprehensive Plan/Master Plan, ordinance development. Purpose of Master Plan: Planning to direct development not development directing planning. Minimums discussed, including utilities, water, sewer, parks as examples.

BZA roles discussed, legal notices, rules related to discussion outside of meeting discussed at length.

Discussion of recusing oneself from voting and meeting discussion.

Discussion of impartiality took place. Discussion of Chairman’s role as it relates to crowd control and public hearing needs. Example of controlling would be time limits, repeating, asking for agreement by hand raising especially in cases where there are many individuals attending.

Discussion of decisions based on fact and on what is presented. It is the burden of proof on the petitioner to present why they should be approved.

Findings of fact and the importance of this document, especially after the meeting for petitioners as well as in appeal situation was discussed. Time limits of 30 days after the hearing for an appeal but could be months and the findings of fact are used as memory of what had happened and why decision was made. Details can be lost otherwise.

Discussion on the Findings of Fact and the understanding that all three questions must be answered yes or agree to vote in favor. This slide was discussed with many examples given.

Mr. Culp discussed the frequency of the Comprehensive Plan and concerns that may come up for the next one. Understanding that the Plan takes approximately $30K for the plan and many individuals are involved so it isn’t entered into lightly.

Land Use Variance slide was presented, and the five standards were discussed. Examples used.

Rezone vs Variance was discussed, including the appropriate Boards that are involved.

Petitioner has responsibility to prove their case, however questions by the board members can get more answers especially if petitioner is not familiar with the processes.

Special Exceptions are that the use is allowed, however is an exception for possible restrictions the Board may want to attach.

Administration Appeal was defined. This applies to the Plan Director’s decisions.

6. Plan Director’s Report: Enclosed in your packets, July very good month and Tamarack is going well.

 Headway with getting properties cleaned up.

7. Chairman’s Report: Chairman Martin thanked everyone for the time invested tonight. Thank you, Mr. Culp, for the additional training.

8. Legal Counsel’s Report: No other report.

9. Board Member Comment: Mr. Baker and Mr. Berry will not be at next meeting.

10. Next Planned BZA Meeting:  **September 19, 2019 at 7:00 p.m.**

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

Chairman:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Secretary:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Date:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Location:

Cicero Town Hall

70 N Byron Street

Cicero, IN 46034