**BZA Meeting Minutes**

**October 17, 2019**

**7:00 p.m.**

**Roll Call of Members**

Present:

* Brad Baker
* Mike Berry
* Scott Bockoski
* Stephen Zell
* Dennis Schrumpf
* Aaron Culp - Legal Counsel
* C.J. Taylor - C/JT Plan Director
* Terri Strong- Recorder

Mr. Bockoski asked for individuals planning on speaking to sign in on the sheet by the door.

1. **Declaration of Quorum-**Chairman Bockoski declared a quorum with five members present. Chairman Bockoski announced that one member will have to leave during the meeting, if a docket came up during that time all four votes will be required. Petitioner for that docket will have the right to ask for docket to be moved to next meeting if they desired.
2. **Approval of Minutes- Mr. Zell made motion to accept minutes as presented from September 19, 2019 meeting. Mr. Baker second. All present in favor.**

1. **Public Comment-**Chairman Bockoski informed public that this is the time for any comments not related to items on tonight’s agenda. No public comments.
2. **Old Business:**

**Petitioner has requested this petition be withdrawn.**

**Docket #:** BZA-0519-024-R3

**Petitioner:**  JJ Burnett

**Property Address:** 22495 N. 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.

Chairman Bockoski verified procedure with Mr. Culp.

**Mr. Baker made motion to untable BZA-0519-024-R3. Mr. Schrumpf second. All present in favor.**

**Mr. Schrumpf made motion to dismiss BZA-0519-024-R3 from the docket per petitioner’s request. Mr. Zell second. All present in favor.**

Docket has been dismissed.

**5. New Business**

**Docket #:** BZA-0919-035-AG

**Petitioner:** Richard Gould

**Property Address:** 24260 Devaney Rd. Cicero, IN 46034

A Land Use Variance application has been submitted concerning Article 3.1 of the Cicero/Jackson Township Zoning Ordinance in order to: Allow the operation of a landscaping business in an “AG” agricultural district. Whereas; a landscaping business is not a permitted use or a special exception use in an “AG’ agricultural district.

Chairman Bockoski asked if petitioner is available to speak to the docket. Delay for petitioner to arrive.

Chairman Bockoski asked Mr. Gould to approach and explain what he was wanting to do with the first docket.

Mr. Gould stated have guys that work for me, they meet at his home and depart with assignments, mow yards, general landscaping and return at end of evening. There is not work done at the location, other than meeting. Mr. Zell asked name of business. Mr. Gould stated Graphic Lawns. Mr. Zell asked if it is registered with the state. Mr. Gould responded with yes it is, Tax ID and all received. Mr. Berry asked if was aware of operating a business that isn’t allowed. Mr. Gould stated yes, had been for 10 years, as far as he knew everything had been done that needed to be done. No one had ever said could not do at this location. Mr. Berry questioned paperwork details. Mr. Gould stated employee filled out not sure what it meant. Chairman Bockoski stated leaving many blanks. Mr. Gould have filed taxes for four years. Mr. Berry asked how much business is being done. Mr. Gould stated currently 40 customers, residential and business. Mr. Gould went on to state, if could get to running 4-5 crews would relocate the business to a more visible space. Could not run more than four crews from the home. Mr. Berry asked if currently storing equipment. Mr. Gould stated yes has day job, with seven people, and the landscaping business trying to become self-employed. Mr. Berry stated so running two businesses from your home. Mr. Gould stated works for gentleman that has crew meet and runs from his home. Chairman Bockoski asked about the Realty company, employees work there. Mr. Gould stated no, meet and leave to job sites, no actual work being done other than loading and unloading with occasional repairs done by himself. Stated this is reason for the barn, personal use. Mr. Zell verified the knowledge that Mr. Gould would need to be in touch with Plan Department to move locations. Mr. Gould stated no area determined, is goal. Most of business comes from Fishers, Carmel and Westfield. Chairman Bockoski asked about parking. Mr. Gould used monitor to explain the paths, positioning of barn etc. Discussion ensued. Mr. Baker questioned the form and the unnecessary hardship question, explain what hardship would be if variance would not be granted. Mr. Gould stated if could not operate from there would have to relocate which would cause financial burden. Chairman Bockoski stated tonight could come down to traffic coming and going, would it cause hardship to have crew meet somewhere more commercial. Mr. Gould stated much more convenient, have two trucks so one other person has to operate the other truck. Mr. Gould stated traffic in and out of property is minimal, currently four coming in, my trucks leaving, then we come back and leave. Estimated time is 30 min timeframe in am and pm not all day long, not open to public. Mr. Gould stated if got to point of open to public would have moved to more visible area.

**Mr. Zell made motion to open public hearing. Mr. Baker second. All present in favor.**

No public comment.

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

Mr. Zell stated since has operated for 10 years even though did not have permit has shown no issues. Chairman Bockoski stated times are typical rush hours, are there any conditions needed on variance, times of operation or sales of product. Mr. Culp suggested maximum number of employees before had to return, open to public, and variance stays with this property owner or cease operation.

Chairman Bockoski stated looking to add conditions, what would be maximum number of employees. Mr. Gould stated prior to relocating, 2-3 men for one truck, so maximum of 15. Not sure could have that many but that would be maximum. Chairman Bockoski questioned selling of product. Mr. Gould stated only intend to provide services not to sell product. Discussion among board.

**Mr. Baker made motion to approve BZA-0919-035-AG with following stipulations: that there would be no more than 15 employees at any time, no retail sales at this location and variance runs with property ownership. Mr. Zell second.**

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

**Motion approved.**

**Docket#:** BZA-0919-036-AG

**Petitioner:** Richard Gould

**Property Address:** 24260 Devaney Rd. Cicero, IN 46034

A Development Standards Variance application has been submitted concerning Article 3.2 of the Cicero/Jackson Township Zoning Ordinance in order to: Reduce the side yard setback to ten (10) feet for an accessory structure in an “AG” agricultural district. Whereas; according to article 3.2 of the Cicero/Jackson Township Zoning Ordinance, the minimum required side yard setback in an “AG” agricultural district is thirty-five (35) feet.

Chairman Bockoski asked Mr. Gould to explain project. Mr. Gould stated could show (using the monitor) barn is 40x48 feet and like to place in this corner, with property could not do unless place in middle of property due to the 35-foot setback, would not have a yard. Not damage the trees, however place in the trees, likely to be 12-15 ft but used 10 to be safe. Access discussed. Mr. Baker asked for size of property. Mr. Gould stated 107 (?), two parcels separate deeds. Mr. Zell asked Mr. Taylor about number of accessory buildings. Mr. Taylor stated discussed that several were under size and planning to consolidate. Mr. Baker reminded this was a variance on the side yard setback. Mr. Zell add but it is for an accessory structure. Mr. Gould when on to explain the changes. Greenhouse to be moved, container will be gone, other buildings remain.

**Mr. Zell made motion to open public hearing. Mr. Baker second. All present in favor.**

**No public comment.**

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

Chairman Bockoski asked for further comments/questions or conditions. Mr. Taylor stated he did have conversation about lighting with Mr. Gould, having minimal security lighting. Mr. Taylor stated would also have agreement with his office for timeline of removal of other buildings.

**Mr. Schrumpf made motion to approve BZA-0918-036-AG. Mr. Berry second.**

**Mr. Schrumpf approve, Mr. Zell-approve, Mr. Berry-approve, Mr. Bockoski-approve, Mr. Baker-no.**

**Motion passes 4-1.**

Chairman Bockoski asked for record to show that Mr. Schrumpf had to leave meeting at this time.

**Docket#:** BZA-0919-037-AG

**Petitioner:** James and Roberta Dohner

**Property Address:** 2880 E. 236th St. Cicero, IN 46034

A Development Standards Variance application has been submitted concerning Article 7.21 of the Cicero/Jackson Township Zoning Ordinance in order to: allow construction of a forty-eight (48) inch tall fence in the front yard in an “AG” agricultural district. Whereas; article 7.21 states that the maximum height allowed for a fence in the front yard in an “AG” agricultural district is thirty-six (36) inches.

Chairman Bockoski asked for petitioner to step forward.

James and Roberta Dohner 2880 E. 236th St. Cicero. Chairman Bockoski reminded that Mr. Schrumpf had to leave, and they have the option to postpone. Mrs. Dohner stated they would like to proceed. Chairman Bockoski asked to explain the situation. Mrs. Dohner stated they have very large dogs taller than a 36in fence and live on 236th St. which is also HWY 47. There are a lot of motorcycles on 236 and while dogs are not allowed in front, have grandchildren and accidents do happen. Six years ago, had chain link fencing and gave quite a scare to drivers, would also like the fence to be more substantial. Agricultural fence behind it. Discussion on materials and color, silver with fence being black. Mr. Baker asked if open to less yardage in the front 35-40. Gentlemen stated placing in the same space of the existing fence.

James Dohner 2880 E. 236th St. Cicero. Looking to replace with the wood fence and horse fence to ensure dogs do not get out. Discussion on items on monitor and mapping.

Roberta Dohner stated the existing fence is the same height as the one they want to replace. Chairman Bockoski questioned the visibility of the new fence. Mr. Dohner stated this is why they are wanting to pull the fence back at the drive areas.

**Mr. Berry made motion to open public hearing. Mr. Zell second. All present in favor.**

**No public comment.**

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

**Mr. Zell made motion to approve BZA-0919-037-AG as presented. Mr. Berry second.**

**Mr. Zell-approve, Mr. Bockoski-approve, Mr. Berry-approve, Mr. Baker-no.**

**Motion passed 3-1.**

Chairman Bockoski stated variance approved, see Mr. Taylor for the permit.

**Docket#:**  BZA-0919-038-NC

**Petitioner:** S&K Group LLC

**Property Address:**  11 N. Main St., Cicero, IN 46034

A Special Exception Use Variance application has been submitted concerning Article 4.1 of the Cicero/Jackson Township Zoning Ordinance in order to: Allow outdoor seating for a restaurant in an “NC” Neighborhood Commercial District. Whereas; article 4.1 states that a restaurant with outdoor seating is a special exception use in an “NC” Neighborhood Commercial District.

Chairman Bockoski asked if petitioner is present. Mr. Zell stated this petition came before the Plan Commission last week for aesthetic review with contingencies, first was approval of tonight’s variance, second is relocation of dumpster, lease agreement of parking and signage to be approved by plan director and tables and chairs to be approved by plan director. Mr. Zell suggested Mr. Taylor may need to give update on those matters or contingencies may be needed on this approval before them tonight.

Mr. Steven Little 11 N. Main St. the addition is outdoor patio/with seating. Mr. Baker asked if the enclosure would be moved. Mr. Little stated it is a dumpster and would be moved to the north east corner, monitor was used to describe. Mr. Baker questioned the parking dealing with all the businesses in the building. Questioned if had other parking spaces go with the business. Mr. Little stated yes for all businesses, and have a leased agreement for other spaces within the 600 ft. Discussion on the parking location. Mr. Berry questioned how much of the current parking will be eliminated. Mr. Little stated parking will be turned, and handicap will remain. Monitor was used for this discussion on where off-site parking would be as well. Mr. Culp asked if dumpster position would create a blind spot. Mr. Taylor stated did not think so, but as discussed at Plan Commission would measure and utilize Chief Hunter for assisting to ensure visibility is not hampered. Mr. Baker questioned the existing items in the proposed location. Mr. Little explained that it is a small grease dumpster. Mr. Zell stated the additional parking is critical due to the number of seats, and the current ordinance ratios must be met. Mr. Zell also questioned if music. Mr. Little stated since it was a patio, would be considering. Mr. Zell stated that is something that would need to be explained, days, times, type to prevent issues with neighbors and police. Mr. Little stated had discussed, probably 1-3 people at most, soloist no later than 10 p.m. Discussion ensued. Mr. Little stated Friday-Sunday 4-10 with state holidays additionally, would like approval for. Mr. Zell asked if approved tonight, when are you looking to start the project. Mr. Little stated would like the patio to be constructed asap, otherwise would have to wait until spring due to weather. Conversation continued with discussion of dumpster positioning and Republic being able to service, the question is if there is not enough clearance, would this require another meeting. Mr. Zell explained that if plan A doesn’t work, it may require another meeting. Mr. Culp stated they left it with CJ approval for positioning. Mr. Taylor stated left up to him for set back and vision. Mr. Bockoski asked if 100% that dumpster could not go behind the building. Mr. Little stated yes, the power lines would prevent. Mr. Berry asked if serving alcohol. Mr. Little stated yes beer and wine two-way license. Mr. Zell asked if further information was needed tonight on the parking spaces on the property. Mr. Taylor stated the ordinance states adequate on-site parking or an agreement within 600 ft. Aesthetic review was discussed, both parking agreement and dumpster location will be determined prior to issue of permit.

Chairman Bockoski asked if further questions for petitioner. No questions.

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

Leanna Evans owner of 250 W. Jackson St. one question or request is that there are small children in the area, requesting music for school nights to be cut off at 8:00 p.m. Not concerned since has been addressed, but there is no parking on Jackson. Home is the second home from the location. The Board has addressed all of the other questions according to Mrs. Evans.

Jim Hunter with Cicero Police Department, asking for clarification on the fence that being shown what is the height of the fence and are there any openings from the outside. Mr. Little answered 36 inches from the ground, proposed is that there would be a gate whether to be locked or remain locked will need to determine that since selling beer and wine. Chief Hunter stated curious whether general public would be able to access from the outside. Chief Hunter questioned regarding the parking, are the other businesses remaining open. Mr. Little stated Groomingdale’s a pet grooming business is remaining but closes at 5:00 p.m. The other area will be used for storage.

Chief Hunter also clarified that any conditions on the music would be in addition to the town ordinances.

Chairman Bockoski asked Mr. Little if 8:00 p.m. would be an issue for school night. Mr. Little answered yes for Sunday, the only caveat would be if the holidays were on a weekday.

Chairman Bockoski asked if further comments from the public.

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

Chairman Bockoski asked if any other board member comments/questions. Mr. Culp stated has suggested conditions, must maintain lease of parking, if lose agreement for parking then must cease operation of outdoor seating. For hours of operation Mr. Culp listed Fri and Sat as 4-10 and Sun 4-8, with state holidays 4-10. Regarding concern for patio access, no non-emergency for ingress or egress of gates around patio area. Mr. Zell in terms of variance with several contingencies, feels if business were to be sold the new owner would have to come to board. Mr. Culp clarified that the variance would stay with the owner not the business. Mr. Berry expressed concern. Brief discussion ensued. Mr. Baker asked for hours again. Chairman Bockoski repeated.

**Mr. Baker made motion to approve BZA-0919-038-NC with the following contingencies: 1. Off-site Lease for additional parking to be secured and maintained. 2. Controlled egress/ingress for emergency only not accessed by general public required. 3. Allowable music Friday and Saturday from 4-10, Sunday 4-8, state/federal holidays 4-10. 4. Variance runs with the ownership of the property. Mr. Zell second the motion.**

**Mr. Baker-approve, Mr. Berry-approve, Mr. Bockoski-approve, Mr. Zell-approve. Motion carries 4-0.**

**6. Plan Director’s Report:** Enclosed in your packet also via email. Finances are doing fine, down for the month but good for year. Violation notice was sent to business in town, many changes without notice, will now hand deliver due to lack of response. Discussed brewery on 19, will continue to work as have help to do it. Has one extension and Mr. Yeary said he would continue to extend to complete project. Mr. Berry asked how long each extension is, Mr. Taylor answered 3 mo. Mr. Baker asked how long has been working on project, when was first permit issued. Mr. Taylor stated 21 months ago. Mr. Taylor continued that many conversations on requiring competition dates on projects to prevent long delays. 370 So. Peru has been approved, adding parking to rear, 770 So. Peru has been approved, previously Cicero Pool and Spa building remodeling all of that a Professional Building for lease. Mr. Baker asked question regarding giving of variances for initial plan for remodel, did not do what was presented as a remodel. Mr. Taylor stated technically still a remodel. Mr. Baker asked if new building was attached. Mr. Taylor stated yes. Chairman Bockoski was the façade approved. Mr. Taylor stated yes, aesthetic review and variances. Mr. Taylor shared that the initial paperwork has been summitted for two PUD’s. Lennar Homes, 180 homes 231st and Tollgate. Arbor Homes 497 homes on east side where original proposal was. Mr. Zell regarding growth spurt, are we staying connected with Dr. Arrowwood, they are doing a lot of changes at school. Mr. Taylor stated Mr. Strong does stay connected with him. Mr. Culp stated info is shared, also briefly discussed water and sewer. Mr. Baker asked if status of schools is known. Discussion ensued stating the decline of students has not changed. Mr. Culp shared that once people move to the area, they don’t want to leave, M/I Homes was mentioned as helpful solution. Mr. Taylor stated M/I Homes is coming to the boards requesting to convert more of section 2 or all of section 2 to villas due to their success.

**7. Chairman’s Report**: Chairman Bockoski stated in absence of Chairman Martin, no report but thanked everyone for their attendance. Consensus was Mr. Bockoski did a great job being Chairman!

**8. Legal Counsel’s Report:** No report other than local income tax for 911 has improved. State has approved, will go into effect on January 1.

**9. Board Member Comments**: Mr. Schrumpf had returned.

**10. Next Planned BZA Meeting:** November 21, 2019

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

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

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

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

Location:

Cicero Town Hall

70 N Byron Street

Cicero, IN 46034