



CICERO/JACKSON TOWNSHIP PLAN COMMISSION

BZA-0322-08-R3 Swan Vondersaar
BZA-0422-09-R4 Andrew Kinney
BZA-0422-10-R5 Thomas Caldwell
BZA-0422-11-R1 Tim Walter
BZA-0422-13-NC Robinson Appliance Services LLC
BZA-0422-14-NC Robinson Appliance Services LLC

BZA Meeting Minutes April 21, 2022 7:00 p.m.

Roll Call of Members

Present:

- ☐ Scott Bockoski
- ☐ Mike Berry
- ☐ Liz Foley-Nelson
- ☐ Steve Zell
- ☐ Aaron Culp - Legal Counsel
- ☐ Frank Zawadzki - C/JT Plan Director
- ☐ Terri Strong- Recorder

Absent:

Dennis Schrumpf

1. Declaration of Quorum: Chairman Bockoski declared a quorum with 4/5 present. Explained to the public that three votes are required to pass any motion. Any petitioners on the docket this evening does have the right to ask for a postponement until the next meeting with a full quorum. Chairman Bockoski also informed everyone present that the Board of Zoning Appeals is a quasi-judicial branch of government. And will be reviewing items on the dockets for issues for items on the dockets. All comments must be directed to the board and not each other. Any attendants wanting to speak tonight must sign in on the list by the door. Each of the members wanting to speak on the dockets, must stated name and address each time they approach the podium. Each docket will have time set aside for public comment, if a person wishing to speak agrees with a previous speaker, it is not necessary to restate all items just state agreement this helps with time.
2. Approval of Minutes:
Mr. Zell made motion to approve minutes as presented from March 17, 2022. Mr. Berry second. All present in favor.
3. Old Business:

Docket #: BZA-0322-08-R3



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Petitioner: Swan Vondersaar

Property Address: 0 East 236th Street, Cicero, Indiana 46034

(Located behind 7690 East 236th Street, Cicero, IN 46034)

A Land Use Variance application has been submitted concerning Article 3.7 of the Cicero/Jackson Township Zoning Ordinance in order to: Allow a Commercial (Business) parking lot in a "R3" (Residential) District. Whereas a Commercial (Business) parking lot is not a Permitted Use or Special Exceptions Use in a "R3" (Residential) District.

Need to untable.

Chairman Bockoski asked Mr. Strong to provide information for this docket. Untable is necessary first.

Mr. Zell made motion to untable BZA-0322-08-R3. Mrs. Foley-Nelson second. All present in favor.

Mr. Dan Strong stated the Vondersaar's have decided to withdraw the petition. If Chairman will allow latitude, Mr. Strong stated he would explain why. Mr. Strong stated would not encroach into the R3 area. In 2001 they rezoned their property, it was an NC and R6, came to Plan Commission to request rezone to C1 status. Plan Commission did not want entire property zoned to C1, and neither did the Town Council. They allowed the property to be rezoned a C1 and R6, with later rezone to R3. Map provided, 700 ft that was left wooded area, which was in the C1 area. The Vondersaar's determined that if more parking area in the future is needed, that area is C1 and could be utilized with proper notifications and approvals without a rezone. Mr. Strong indicated map to the members of the public as well as board members.

Chairman Bockoski stated he would allow question from public for clarification.

Cindy Dwiggins 78 Bluewater Dr. Cicero. If stays with the Commercial piece, would she continue with the fencing, lights, etc. Mr. Strong answered we have standards for parking lots. Requirements for setbacks and lights and requires paving. Ms. Dwiggins expressed concern for safety if bright lights, and if taxes will be paid on parking lot. Also added before people it should be looked at if they are paying their taxes.

Mr. Culp stated there is no legal reason to look at that, no recourse, doesn't pertain to why we are here. Ms. Dwiggins expressed gratitude for the efforts of the Board.

Chairman Bockoski stated the request has been withdrawn at the request of the petitioner.

4. New Business:

Docket#: BZA-0422-09-R4

Petitioner: Andrew Kinney



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Property Address: 580 Iron Bridge Road Cicero, IN 46034

A Development Standards Variance application has been submitted concerning Article 3.10 "R4" District Standards of the Cicero/Jackson Township Zoning ordinance in order to: Reduce the side yard setback from 6 feet to 3 feet for an addition to the garage/home.

Andrew Kinney 580 Iron Bridge Road. Mr. Kinney started with making a correction to the information, upon review there is a smaller difference of 1'4", the R5 district has a 5-foot setback and the R4 has a 15 foot. Mr. Kinney stated he has been grandfathered into the R5 district. Clarification of district area was done, using map. Mr. Strong stated the home is in the R4 district. Mr. Kinney stated he was told grandfathered into the historic district due to age of home. Mr. Culp explained that isn't the way grandfathering works. If something is already built in a setback when an ordinance would change that would be considered grandfathered. But anything built after an ordinance change would have to comply with new changes. So new one would be under the current standard.

Mr. Kinney ok, R4 district. Working with architect for a year since we moved in knew would want to add on to home as it was built as a lake home not for year-round living. Designs shared, functional garage. 3'8" gap from the building to the edge of the property is shown on the plans. Mr. Kinney stated he felt was adding to the value of Cicero Shores, and no negative impact to the neighbors.

Mr. Zell asked about the gap, are there any utilities running in that area. Mr. Kinney stated everything is on the other side. Mrs. Nelson asked if drainage swell. Mr. Kinney stated gradual slope to the lake, would be fixed with the remodel. Mrs. Nelson asked if mound or wall. Mr. Kinney stated approximately 1-2 foot retaining wall that would be removed and he would be matching the grade to the neighbors. Retaining block is on Mr. Kinney's property. Chairman Bockoski stated have copies of project in packet.

Mr. Zell in summary: R4 reducing side yard setback from 6' to 3'8". Mr. Kinney stated R4 would be 15. Mr. Zawadzki stated in Cicero Shores setback is 6 feet. Mr. Zell asked if Mr. Kinney would state the purpose of the request for garage and also if did not get approved what issues would that cause.

Mr. Kinney stated functionality, adding a front door for guests. If not approved, would have a cost of money, time and would have to go back to drawing board, have contractors lined up as well. Mr. Berry asked if living quarters in this structure/above the garage. Mr. Kinney stated yes, master bedroom above, currently utilizing a room in basement.

Mr. Zell made motion to open public hearing for this docket. Mr. Berry second. All present in favor.

Todd Pairutz 560 Iron Bridge, neighbor to Mr. Kinney. Have sent letter but will address. Happy to see neighbor working to improve neighborhood. Have concerns with variance, sent letter and others that received notice signed the letter. Letter to Mr. Zawadzki of opposition was read.



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Summary of letter: Lot 8 has drive up to property line, driveway elevated 12 inches, concern is size of garage on the size of the lot. Concern for the eave overhang shortening setback more, northern exposure is limited now only worsens with less setback for growing plants/grass, concern for drainage and maint. access. This is the only access to the lake. Currently runoff is to my hilltop, adding two-story building only adds to that. Maintenance concerns for the future. No access on other side of property. Concern for safety issues. Mr. Pairutz finished with variance is not warranted as a two-car garage can be achieved without encroaching. Several neighbors signed. Concern for future of the neighborhood with home stacking on small lots. Design of neighborhood was smaller homes.

Mrs. Foley-Nelson asked setback of Mr. Pairutz home. Mr. Pairutz stated 15 feet and 6 feet on his side. Mr. Zawadzki added emails to read into record. 1) Mr. Jared 600 Iron Bridge Rd Feel the current setbacks of 6 feet should not be changed. 2) Mr. Kramer is on the other letter. Names on the letter read by Mr. Pairutz added for the record: Doug and Cindy Morris 569 Iron Bridge Rd, Bill and Cathy Jared 600 Iron Bridge Rd, Dave Maxwell 549 Iron Bridge Rd, Steve and Maureen Prater 540 Iron Bridge Road, and Steve Newby 589 Iron Bridge Road.

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

Chairman Bockoski asked Mr. Kinney to approach, as he has questions. Question is has the drainage been addressed by the Drainage Board. Mr. Zawadzki stated it would be at the permit stage. Next question was the mentioned eave, is there an eave on that side. Mr. Kinney stated it is included in the measurements. Mr. Kinney asked to address the use of the side yard, the garage would have a rear facing garage door so access to the back would be through the garage and sees minimum use of side yard to access the lake. Also adding pictures of stairs within the six feet easement that are the neighbors. Concern for process and being fair. Came to table to show and indicate pool equipment and stairs on the water side that would be in violation. Indicated that no variance was sought by the neighbor in this case, or he would have addressed. Purchased home with 75 ft of waterfront but have about 73 due to the encroachment. Mrs. Nelson asked was stairs and decking in place when he purchased the home. Mr. Kinney stated no, last year, actually not complete, no notice of any variances received. Trying to do the right thing by going thru the process for the needs of my family. Mr. Kinney stated if you look at GIS will show deck is on his property definitely not meeting any 6-foot setback. (Pictures provided).

Chairman Bockoski asked if a floor plan was available for the structure. Mr. Kinney used information in packet to explain. Chairman Bockoski ask if functional without 3-feet. Mr. Kinney stated 2-feet would have to be removed from garage and 12 inches or so from hallway or perhaps removing the front door totally which would not be as appealing.



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Mrs. Nelson questioned the rear elevation grade slope listed on the plans, .25 listed per foot, experience is that 1 in per 12 is usually the standard. Mr. Kinney stated that can be addressed, good catch. Mr. Kinney stated he felt that shouldn't be punished for following the variance procedure when plenty of examples have not gone thru the process by neighbors that spoke.

Mr. Culp clarified that what is happening on adjacent property has no bearing on tonight. Mr. Zawadzki would look at that in his role if there is a violation or not. Explained the rules of the BZA ruling.

Chairman Bockoski asked the Board about any stipulations. Mr. Zell added that motions are always made in the affirmative.

Mr. Zell made motion to approve BZA-0422-009-R4 as presented. Mrs. Foley-Nelson second.
Mr. Berry-no, Mr. Bockoski-no, Mrs. Foley-Nelson-no, Mr. Zell-no. Motion denied 0-4.

Chairman Bockoski stated if further questions, see Mr. Zawadzki.

Docket#: BZA-0422-10-R5

Petitioner: Thomas Caldwell

Property Address: 22501 Gifford Avenue Cicero, IN 46034

A Development Standards Variance application has been submitted concerning Article 7.5 "R5" District Standards of the Cicero/Jackson Township Zoning Ordinance in order to: Allow an Accessory Structure (pole barn) to be constructed on a lot without a Primary Structure being constructed.

Chairman Bockoski stated to petitioner and Board that he would abstaining from voting and recluse himself from this docket, turning the proceedings over to Mr. Berry. Also asking Mr. Culp to explain to petitioner what this means, what ramifications there may be.

Mr. Culp explained that when members recluse themselves, there are situations when they are required to due to conflict of interest, as well as if there is appearance of conflict. This being said, you need three affirmative votes to pass, if 2-1 it would not be considered a final decision and would come back next month. Do have the option to postpone until next month and have a full board and even an alternate for Mr. Bockoski. Or could go ahead tonight if so desired. Mr. Culp stated any vote requires three (3) favorable votes to pass. Mr. Caldwell decided to proceed.

Thomas Caldwell 22501 Gifford Avenue purchased a lot with intentions to build a home on the lot. Have worked closely with Health Department and could not get approval for septic on the lot. So, with denial of that looking to build a storage building for myself, brothers' boat, shelves, cabinets, building materials.



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Mr. Berry questioned living quarters. Mr. Caldwell stated no, would have well for hose to wash out the bays, but no living quarters, drainage would be off the floors. Mr. Berry asked if cement. Mr. Caldwell stated concrete foundation and concrete drive, nice for neighborhood. Continued with classic car, boat and build homes so have building materials to store. Mr. Zell questioned bright yellow in color. Mr. Caldwell stated have not determined colors, or blueprints due to cost. Do plan a block foundation no living quarters. Mrs. Foley-Nelson asked exterior storage. Mr. Caldwell stated no. Mr. Zell asked about running a business out of it. Mr. Caldwell stated no, he does have a business but not running a business out of building. Mr. Zell questioned customers/traffic. Mr. Caldwell stated no.

Mr. Zell made motion to public hearing. Mrs. Foley-Nelson second. All present in favor.

Steven Laliuff 4030 E. 225th St. Don't want to look at a pole barn, feel it would be an eyesore. Concern for that it may be used for commercial, maybe not this owner but the next guy. Concern for looks in this area, historic lodge building is next door to the lot prefer it was a parking lot. Sorry he purchased without knowing about well/septic but don't want to live next to a pole barn for his mistake.

Gary Grider 1919 W. St. Rd 38 Sheridan. Representing the Hinkle Lodge, used to have a house next to the lodge, got run off from the property. Building/lot built in 1832 is 190-year-old historic lodge, concern for the adding structure on the lot due to run off. Have tried to purchase lot three times to add a park. To add a pole barn next door, how do we know it isn't going to be a commercial operation. Wanting to preserve the historic building and beautify Deming. Mr. Grider continued with desire for the lodge to purchase land still stands, felt he (Mr. Caldwell) purchased under false pretenses.

Mr. Zell asked if Mr. Grider is Board member of lodge. Mr. Grider stated he is currently junior deacon.

J.R. Freiburger 4020 E. 226th St. Feel uniqueness and quaintness of Deming needs to be preserved. Position of the property the pole barn would be very visible, safety concern of trucks/boats coming going etc. Feels it is a slippery slope for a contractor business with property in name of a realty company see a slippery slope. Ask the Board to consider that information.

Janet Phillips 4010 E. 225th St. Neighbor to the property, already have issues with flooding with the way the house was removed. Did nothing with the well or septic when house was removed. Positioning of new septic would be 60 feet from Ms. Phillips well. Will block view to come out of our drive, concern for safety, area is already poor. Threatened in September 2021.



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Mr. Zawadzki have emails to share. (Summarized by recorder) One from Ms. Phillips who just spoke, outlying concerns. 2) Deanne Pickett 22501 Gifford Ave. Building would cause discomfort due to view. Concern for safety of family daycare.

Peggy Jennings 22595 Gifford Ave Doesn't feel like a traffic hazard. Feels will slow down traffic. In favor. Has water also, runs from road. Doesn't feel there will be traffic/selling stuff.

Mr. Zell made motion to close public hearing. Mrs. Foley-Nelson second. All present in favor.

Mr. Berry allowed the Petitioner to address. Mr. Caldwell stated he wants to be a good neighbor, will work with Hamilton County surveyors to address the water properly with swells or whatever is needed. Also, there are several other properties in the area with pole barn without primary structure.

Mr. Zawadzki stated has letter from surveyors approving their drainage plan.

Mr. Berry asked if other Board questions. Mr. Zell commented wanting to understand the historic area of the lodge. How to put a modern-day pole barn next to a historic building, hearing from citizens that it is important to them, as well as the drainage concerns. Mr. Berry commented that he heard also from public desire for green space/park, discussion among board on what that would mean-still need plan and variance etc.

**Mr. Zell made motion to approve BZA-0422-10-R5 as presented. Mrs. Foley-Nelson second.
Mrs. Foley-Nelson -no, Mr. Zell -no, Mr. Berry-no. Motion denied 0-3.**

Chairman Bockoski resumed chairing the meeting.

Docket #: BZA-0422-11-R1

Petitioner: Timothy J and Tricia L Walter

Property Address: 24 Forest Bay Lane Cicero, IN 46034

A Development Standards Variance application has been submitted concerning Article 3.4 "R1" District Standards of the Cicero/Jackson Township Zoning Ordinance in order to: Allow for the construction of an accessory structure at the maximum height of 24 feet whereas an accessory structures maximum height in the "R1" District is 20 feet.

Tim Walter 24 Forest Bay Lane, Cicero Bought home in 2020, looking to add structure and want it to match existing home. All other standards, setbacks, and architecture would match standards. Also in packet is picture, the bright yellow, that is not the color, will match existing home.

Chairman Bockoski asked if running a business out of structure. Mr. Walter stated no. Chairman Bockoski asked about heating, lighting, plumbing planned for structure. Mr. Walter stated only electricity. No living quarters. Lighting discussed, plot plan used pool side, three ceiling fans, and coach lighting on front and back.



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Lighting on porch but not on neighbor's side. Chairman Bockoski asked if drive would be extended. Mr. Walter stated have a fence/gate but do not plan on drive as only using for storage in the winter for boat and mower. Using as a gathering space most of the year. Chairman Bockoski addressed drainage with Mr. Zawadzki and that would be part of his approval process. Mr. Walter shared initial plan. Chairman Bockoski reminder that the main situation before the Board is the height of the buildings, even though addressed the extras. Also, that the Board may need to address this particular ordinance for this area as the roof pitches and aesthetics of the area come up often.

Mrs. Foley-Nelson made motion to open public hearing. Mr. Zell second. All present in favor.
No public came forward. No letters/emails from Mr. Zawadzki.

Mr. Berry made motion to close the public hearing. Mrs. Foley-Nelson second. All present in favor.
Chairman Bockoski asked for further comments from Board. Mr. Zawadzki mentioned when the motion is made, the legal notice is 24'6" in height. Mr. Berry questioned the drive/gate situation. Chairman Bockoski asked the questions related to the drive and fencing. Mr. Walter stated no drive, have a 12' wide gate in the fence, ample room since using only one/two times a year. Question raised, is a driveway required. Mr. Zawadzki stated if driveway present, to be paved is the ordinance. Mr. Culp stated he is not aware of any ordinance that requires a drive to an accessory structure.

Mr. Zell made motion to approve BZA-0422-11-R1 with height of 24'6". Mr. Berry second.
Mr. Bockoski approve, Mr. Berry approve, Mrs. Nelson approve, Mr. Zell approve Motion passed 4-0.

Chairman Bockoski stated will read next dockets, hear together, and vote individually.

Docket #: BZA-0422-13-NC

Petitioner: Robinson Appliance Service, LLC

Property Address: 70 North Peru Street Cicero, IN 46034

A Development Standards Variance Application request has been submitted concerning Article 10.5 of the Cicero/Jackson Township Zoning Ordinance in order to: Exceed the maximum allowed cumulative area for Permanent Signs of 100 square feet in the "NC" Neighborhood Commercial District.

Docket #: BZA-0422-14-NC

Petitioner: Robinson Appliance Service, LLC

Property Address: 70 North Peru Street Cicero, IN 46034

A Development Standards Variance Application request has been submitted concerning Article 10.5-10 of the Cicero/Jackson Township Zoning Ordinance in order to: Allow a Permanent Projecting Sign to have a cumulative total of 33.75 square feet, protrude more than 18 inches from the wall it is attached to,



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and extend above the eaves of the roof. Whereas article 10.5-10 allows a maximum of 15 cumulative square feet, no part of a projecting sign may protrude more than 18 inches from the wall it is attached to, and no part of a projecting sign may extend above the eaves of the roof or be mounted on the roof.

Tim Robinson 70 N Peru St. Cicero. Plan is to be as simple as possible to replace the signs that were in position before. Building has been in place at least 80 years. Been without signage since July. Sign in the second docket is 6'4", sign facing east is not illuminated to not disturb the residential area. The signs on front and back will be illuminated.

Chairman Bockoski stated understand the front and back but explain the third/fourth sign. Pictures referred to for clarification. Mr. Culp stated this did go before the Plan Commission for aesthetic review.

Mr. Berry made motion to open both dockets to the public for hearing. Mrs. Nelson second. All present in favor.

Mr. Zawadzki asked the Board to consider the brightness of the hanging sign. Could be a distraction.

Mr. Zell made a motion to close both dockets for public hearing. Mr. Berry second. All present in favor.

Chairman Bockoski explained to Mr. Robinson that in past situations, the board has asked that the sign illumination be reviewed after installed and adjusted if needed to match the signs in the area. Mr. Robinson stated again that they are the exact same number of bulbs as previously. Mr. Robinson asked if this has been an issue in the past. Chairman Bockoski stated Mr. Strong could answer better but does remember a situation with Port Cicero where the new sign was brighter than old and since have asked for level of illumination match. Mr. Zell questioned if addressed at the Plan Commission in terms of lighting. Mr. Culp stated recall that lit internally. If Board is concerned there could be a condition added that lighting is subject to review by Plan Director. Mr. Strong stated a similar thing was done with Bella Luisa because of closeness of St. Road 19. Also, cannot tell you the last time that sign was actually lit, and being the closest sign to State Road 19 and being cautious for when people are driving by. Port Cicero had added a dimmer option. Mr. Berry added that stipulation on Port Cicero was if businesses were closed their signs were off. Mr. Berry questioned if the signs will be on 24/7. Mr. Robinson stated expect the signs to be on 24 but probably add a dimmer for when we are closed. Added security is also a concern, and lighting adds. Mr. Strong expressed concern is for safety not trying to hinder business.

Chairman Bockoski summarized the goal, expectation that Mr. Zawadzki would approve, and no further meeting needed.

Mr. Berry made motion to approve BZA-0422-13-NC as presented. Mr. Zell second.

Mr. Zell approve, Mrs. Foley-Nelson approve, Mr. Bockoski approve, Mr. Berry approve. Motion passed 4-0



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Mr. Zell made motion to approve BZA-0422-14-NC with condition: Illumination of sign to be evaluated after installation by Plan Director Mr. Zawadzki review lighting for safety purposes requiring a dimming option if needed. Mr. Berry second.

Mr. Bockoski-approve, Mr. Berry-approve, Mr. Zell-approve, Mrs. Foley-Nelson-approve. Motion passed 4-0

5. Plan Director's Report: Included in your packet. Mr. Zawadzki gave summary of directors' report. For month of March 2022 permit revenue of \$29315. Up over last year + \$6619 and YTD +\$13017. 42 building permits issued for March 2022. Estimated cost of projects exceeding \$7M

6. Chairman's Report: Chairman Bockoski thanked the Board and Mr. Berry for covering last month.

7. Legal Counsel's Report: Mr. Culp shared the county extended the moratorium on solar until end of July. Also, they announced proposal for 31 corridor creating an overlay district. With restrictions on residential developments. The county has previously announced water and sewer in the area to service this district. The County has reached out to Jackson Township and Cicero to share plans for determining what we may want to do. Mr. Culp also stated in the past some of the projects in the Deming area have been part of our most contentious meetings, tonight every speaker was very respectful, followed procedures. Found this very encouraging.

Chairman Bockoski had follow up question regarding the corridor, would it just be the Plan Commission. Mr. Culp stated the Plan Commission creates any ordinances but if like in the past it would be a committee of people. Would be surprised if they would not welcome your input Mr. Bockoski.

8. Board Member Comments: Mr. Zell stated very good meeting tonight, team working well together.

9. Next Planned BZA Meeting: May 19, 2022 @7:00 pm

10. Adjournment: Mr. Zell made motion to adjourn. Mrs. Foley-Nelson second. All present in favor.

Chairman: _____

Secretary: _____

Date: _____



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Location:
Red Bridge Park Community Building
697 West Jackson Street
Cicero, IN 46034

