

BOARD OF ZONING APPEALS
June 26, 2023
MEETING

ROLL CALL

The meeting was called to order at 7:00 p.m. and the assemblage was invited to stand and recite the Pledge of Allegiance.

Members Present:

Chairman Nick Nochevich, Vice Chairman Jeremy Taylor, Dick Sauerman, John Marshall, Daniel Rohaley

Members Absent: None

Staff Present:

Commission Attorney Joe Irak, Executive Secretary Josh Watson, Assistant Planner Luke Fricke, Recording Secretary Jenni Pause, Media Manager Mary Freda

APPROVAL OF MINUTES

Chairman Nick Nochevich asked if there are any corrections, deletions, or modifications to the May 22, 2023, meeting minutes. John Marshall motioned to approve the minutes as presented. Nick Nochevich seconded the motion. With 5 Ayes, 0 Nays, and 0 Abstentions, the minutes were approved.

OLD BUSINESS

23-09 Joseph Neri, Petitioner/Albertsons, LLC, Owner

Request: Variance from Development Standards

Purpose: Allow Seasonal Greenhouse in Jewel-Osco Parking Lot

Location: 1276 North Main Street

Joseph Neri, 1276 N Main St., came before the Board as a representative of Jewel. Neri provided an overview of the petition.

Executive Secretary Josh Watson reported Jewel is seeking a variance from development standards to allow an oversized seasonal greenhouse in their parking lot from April 1-July 1. Watson reported the petitioner has on 4 separate occasions applied for and has been granted this Variance; Petition 04-06 (1 yr), 05-10 (5 yr), 11-09 (3 yr), 15-07 (3yrs), and 18-08 (5 yr) for a seasonal. Watson reported the city has required that the petitioner return every 5 years. Watson reported no letters of remonstrance or support have been received by the Planning Department. Watson reported all notices have been properly sent out by Certified Mail and the notice has been published in the newspaper. Watson recommended approval.

Rohaley asked Neri where he has been the last couple months. Neri stated he has been working and missed the last meeting because of a family emergency. Rohaley asked if he sent any correspondence to the Board regarding that. Neri stated he did not. Rohaley voiced his frustration with the petitioner not keeping the Board informed and waiting until the Greenhouse is gone to get the approval. Rohaley asked what was wrong back in April. Neri stated they did not have everything out in time. Rohaley asked what they should do with this. Attor-

ney Irak stated in the past the Board has approved this a five-year period. Irak recommended doing the same thing with the same conditions. Rohaley stated he is not inclined to give this any five-year approval based on their performance this year.

Sauerman agreed with Rohaley because they have operated the greenhouse without a variance this whole season. Sauerman asked for verification that the petitioner is looking for forgiveness for 2023 and approval for 2024-2027. Negri confirmed. Sauerman stated he is inclined to reduce the period after what has transpired so that others do not think they can just not conform and come in for forgiveness later.

Marshall stated Jewell has been a good corporate citizen in Crown Point for many years. Marshall stated he is inclined to give them a 3–5-year approval to avoid this same problem. The board discussed the options. Marshall did not disagree that the petitioner should have called Josh when they could not make it to the meeting.

Taylor stated he sees both Marshall and Rohaley’s points. Taylor stated there have not been any other issues with this petitioner and no remonstrations so he would be inclined to vote for a 5-year approval of the variance.

Nochevich stated when Jewel started doing this, they were doing it on a yearly basis and because they were coming in yearly the Board was gracious and extended the approval. Nochevich stated it was working well and not creating problems. Nochevich stated he would be inclined to allow a multiple year approval with an amendment that if procedures are not followed, they would have to go back to a yearly approval.

Sauerman asked when was the first time the 5-year variance was approved. Fricke reported the first approval of 2005-2010. The Board discussed the past approvals.

Nochevich opened the public portion of the meeting. With no public coming forward, Nochevich closed the public portion of the meeting.

Taylor recommended a 2-year period that includes 2023 then they would have to come back for 2025 and then maybe they could do another 5-year approval.

Marshall informed the petitioner that he had already made up his mind that if they did not show up at this meeting, he was going to vote to deny the approval. Marshall stated he would be ok with a 2–3-year period.

Nochevich asked Taylor to verify what he recommended; Taylor recommended a 2-year period that includes 2023 meaning they would have to come back before the 2025 season to get another approval.

Irak asked Taylor if that was his motion. Taylor motioned to approve # 23-09 with staff comments with a 2 year renewal period. Marshall seconded the motion. Marshall stated the petitioners do need to show up at the meeting. With a roll call vote of 4 Ayes, 1 Nays, and 0 Abstentions Petition #23-09 was approved.

Nochevich reminded the petitioner next time he will need to be before the Board before their approval expires.

NEW BUSINESS

23-19 Gold Nest Property, LLC, Petitioner/Taeni & Jacqueline Chang-Stroman, Owner

Request: Special Use

Purpose: Allow Townhomes in a R-3 District

Location: 1810 East South Street

Jeff Ban, of DVG 1155 Troutwine, came before the Board and provided an overview of the petition. Ban detailed the proposed residential property/development as well as the proposed commercial property/development. Ban stated they were before the Plan Commission for a rezone. Ban stated the whole property was zoned R3 and detailed the property they received a recommendation for a zone change from R3 to B3 on to permit the development of a multi-tenant office building. Ban stated he feels this fits in with the city's Comprehensive Plan.

Watson reported the petitioner is requesting a Special Use permit to construct three two-unit paired homes in an R-1 residential district. Watson reported the duplexes will complement the surrounding duplexes and apartments located within Oak View Estates & Prairie View subdivisions to the West and North. Watson reported the petitioner received approval from the Plan Commission for a rezone of a portion of the property June 12. Watson reported the Planning Department has received no letters of remonstrance or support. Watson recommended approval of the petition.

Taylor stated he feels this property has been before the Board several times and feels this is a good plan.

Sauerman stated he had no questions.

Marshall stated he feels this is a good plan.

Rohaley asked if they submitted Finding of Facts. Ban stated he did and reported on the findings.

Nochevich opened the public portion of the meeting.

Leo Malmo, President of the Prairieview HOA, 1807 Evergreen Ct., came before the Board to specify that Prairieview HOA only consists of 41 units. Malmo stated he does not want people to think it includes the whole subdivision because it does not. Malmo asked if the parking is going to be at the back of the proposed three buildings. Nochevich informed Malmo that this Board will not make the final decision, the City Council will. Malmo stated he feels this is the best plan he has seen for this property. Nochevich agreed. Nochevich explained the process for this petition.

Tammie Travis, 1835 Golden Oak Ct., came before the Board and voiced her concern with what will happen with the wall to her north and if there will be any type of fencing. Travis stated the neighbors would like to know what will happen with the commercial pole barn on the property and wants to make sure it is not going to be used as a storage facility.

Dakota Ortiz, 1817 Golden Oak, came before the Board and stated he agrees with the single-family homes in the R3 but he is not in favor of the commercial property to the east because he has not heard of any quality of life accommodations for those buildings. Ortiz asked what is going to be on the commercial building/parking lot as far as lighting and what safety measures are going to be in place for the children playing in the alley behind their homes. Ortiz stated he feels there needs to be a more definitive plan to allow a commercial structure next to their residential homes. Nochevich stated those worthy issues, but the petitioner is only there for the residential portion of the property. Nochevich stated the resident is welcome to go to the City Council meeting to voice his concerns.

With no other public coming forward, Nochevich closed the public portion of the meeting.

Ban addressed the parking concern; he stated each unit will have space for 6 cars to park so parking should not be an issue. Ban stated the city informed them and they agreed that no parking will be allowed on Madison St. Ban detailed the type of businesses that may go in the building. Ban stated when his clients receive approval from the city for the use, he will put the resources in to get the architectural plans completed as well as all the site engineering. Ban stated the petitioner will be required to construct a fence between the commercial property and the residential so that should resolve any safety concerns. Ban stated they will be required to send out additional notices when they go to get site plan approval so neighbors will have the chance to come to that meeting and see the architectural plans as well as the landscaping, fencing and lighting.

Nochevich entertained a motion. Rohaley motioned to send a Favorable Recommendation Petition # 23-19 with Staff comments. Taylor seconded the motion. With a roll call vote of 5 Ayes, 0 Nays, and 0 Abstentions Petition #23-19 received a Favorable recommendation.

Nochevich informed the petitioners to be present at the next City Council meeting for final approval.

23-20 Dover Development, Petitioner/Eastside Property Company, LLC, Owner

Request: Variance from Development Standards

Purpose: Reduce Parking for Assisted Living Facility

Location: 10255 Broadway

Nick Dwyer, of Dover Development 30 Hunter Ave., Suite 200, St. Louis, MO, came before the Board and provided an overview of the petition. Dwyer stated they received a special use from the city to build a new assisted living and memory care center at this location. Dwyer state they are starting to get into their site design and are before the Board to get their parking variance. Dwyer explained why they feel assisted living facilities require less parking than what the ordinance states.

Watson reported Dover Development is requesting a parking requirement variance for 75 parking spaces located at 10255 Broadway. Watson reported the standard parking spaces required is 123 and this is a reduction of 40 parking spaces. Watson reported the petitioner received approval for a special use to allow development of an assisted living home in a B-3 Business District, at the April 24th Board of Zoning Appeals Meeting. Watson reported the site plan meets the minimum requirements of the Crown Point Zoning and Subdivision Codes. Watson reported the site plan was reviewed by the Fire, Utilities and Public Works Departments. Watson recommended approval of Petition 23-20. Watson reported all notices have been properly sent out by certified mail, the notice has been published in the newspaper, and no letters of remonstrance or support have been received. Watson recommended approval of the petition.

Sauerman stated he has no issues with this.

Rohaley asked the petitioner to verify they have plenty of room to play with and have no issues with flood plains.

Dwyer stated they have plenty of room to the east and just a small area of flood plain on the south.

Marshall stated he has no issues.

Taylor stated he has no issues.

Nochevich opened the public portion of the meeting. With no public coming forward, Nochevich closed the public portion of the meeting.

Nochevich entertained a motion. Taylor motioned to approve # 23-20 with Staff comments. Nochevich seconded the motion. With a roll call vote of 5 Ayes, 0 Nays, and 0 Abstentions Petition #23-20 was approved.

23-21 Nicole Dillner, Petitioner/Heritage Square Crown Point, LLC, Owner

Request: Special Use

Purpose: Dance Studio in a B-3 District

Location: 1125 Merrillville Road

David Fisher, 1926 N Main St., came before the Board as a representative of the petitioner and provided an overview of the petition. Fisher stated they have been at their current location for 6 years and have outgrown their space.

Watson reported the petitioner is requesting a Special Use permit to operate a dance studio in a B-3 Business District, located at 1125 & 1127 Merrillville Road. Watson reported the dance studio has been at their current location for 6 years and has grown to the point of requiring a larger location. Watson reported the proposed location is next to a fitness gym and a martial arts studio. Watson reported the Planning Dept. has received no letters of support or remonstrations. Watson recommended approval of the petition.

Taylor asked what type of zoning would be required for this type of use. Watson stated a special use would be required for this use in all districts.

Marshall stated he likes to see a Crown Point business growing and choosing to remain in Crown Point.

Rohaley asked if they have enough parking. Fisher confirmed. Rohaley asked how many students they have. Fisher stated 112. Rohaley asked how many kids per class. Fisher stated about 20 kids and most get dropped off and picked back up.

Sauerman stated his only question was about parking which has already been answered and agreed with Marshall.

Nochevich opened the public portion of the meeting. With no public coming forward, Nochevich closed the public portion of the meeting.

Nochevich entertained a motion. Taylor motioned to send a Favorable Recommendation to the City Council for #23-20. Sauerman seconded the motion. With a roll call vote of 5 Ayes, 0 Nays, and 0 Abstentions Petition #23-20 received a Favorable Recommendation.

Nochevich informed the petitioners to be present at the next City Council meeting for final approval.

23-22 Restaurant Holdings, LLC, Petitioner/1205 & 1209 Main Street, LLC, Owner

Request: Variance from Development Standards

Purpose: Reduce Parking & Reduce Rear Setback

Location: 1205 & 1209 Main Street

Watson informed the Board that this petition has been withdrawn.

23-23 George W Kucik, Jr, Petitioner/Owner

Request: Variance from Development Standards

Purpose: Encroach Side Setback and Building Line

Location: 505 West South Street

Watson reported Staff is requesting a 30 day deferral. Marshall motioned to defer Petition #23-22 for 30 days. Rohaley seconded the motion. With a roll call vote of 5 Ayes, 0 Nays, and 0 Abstentions Petition #23-22 was deferred to next month's meeting.

23-24 Nathan Vis, Vis Law, LLC, Petitioner/Cheri Shanahan, Owner

Request: Variance of Use

Purpose: Allow a Dog Kennel in a R-1 Residential District

Location: 634 Omega Drive

Attorney Nathan Vis 12634 Wicker Ave., Cedar Lake, IN, came before the board as a representative of the petitioner and provided an overview of the petition. Vis provided an aerial of the property. Vis stated Shanahan has been operating board and training facility since 2019. Vis stated Shanahan was unaware that she would need any types of approval to run the small business out of her home. Vis stated the petitioner brings in a max of 3 animals at a time and must have current vaccinations. Vis stated the animals must have a no bite history and are always on a leash. Vis stated this is not a kenneling service it is a board and train. Vis stated Shanahan does not take animals of people going on vacation or anything like that. Vis detailed Shanahan's education history on training and stated she is licensed and bonding. Vis provided 5 support letters from neighbors. Vis reported on the Finding of Facts.

Watson reported Cheri Shanahan are requesting a Variance of Use to operate a dog kennel & training business in a R-1 Residential District, located at 634 Omega Dr. Watson reported the site is located on .2 acres in a residential district located just to the west of Indiana Ave behind Certa Pro Painters. Watson reported the home is surrounded by R-1 in all directions. Watson reported the Planning Department has received one letter of support and a letter, as well as numerous calls of remonstrance. Watson stated he does not recommend approval of the petition.

Rohaley asked for clarification on whether the dogs stay over night or are picked up. Vis stated they can be dropped off at any time and will keep the animal anywhere from a few days to four weeks depending on the training. Rohaley asked what the maximum number of dogs Shanahan would have at any time. Vis stated her max is 3 dogs at a time.

Sauerman asked if this is a profitable business. Vis confirmed it is. Sauerman asked why this must be performed in a residential neighborhood. Vis stated the reason a residential neighborhood is essential is because a significant part of the training is teaching the dog how to live within a residential home and all the things that include. Vis stated this allows Shanahan to speed up the training process. Sauerman asked if this type of business is conducted in other areas of the country. Vis confirmed and stated Shanahan provided documentation of other residential training properties. Vis stated the need for this type of business is growing.

Marshall asked how long the petitioner has lived in the home. Cheri Shanahan, 634 Omega Dr., stated 4 years. Marshall asked if the community she lived in before allowed this type of in-home business. Shanahan stated she was allowed to have dogs at the house. Shanahan stated she did not have a business established then. Shanahan stated she waited until she had all her certificates. Marshall asked Shanahan to verify that she bought this house and went straight into business. Shanahan stated she started the business in 2019. Shanahan detailed the history of how she started training full-time. Marshall stated he would have issues with a

neighbor having dogs that constantly bark. Shanahan stated she cannot take dogs that bark incessantly. Marshall stated he can name a few commercial businesses in town that provide dog training and are operating legally. Marshall stated after receiving the information he cannot support this.

Taylor asked how many personal dogs Shanahan has. Shanahan stated 2 dogs. Taylor asked if the max number of 3 includes her dogs. Shanahan stated it is 3 additional dogs. Shanahan asked how many dogs are allowed in a household.

Vis provided the 5 letters of support to the Board. Nochevich stated all letters will become part of public record.

Nochevich opened the public portion of the meeting.

Michael Segura, 622 Omega Dr. came before the Board as a resident of Crown Point since 1967. Segura stated he has lived on this block for 35 years. Segura stated there are plenty more locations that this type of business could be operating out of. Segura stated there are dogs barking from the petitioner's property. Segura stated he heard the petitioner used an air horn to get a dog to come to attention. Segura voiced his concerns with parking because she is on a curve and the cars cause a safety issue. Segura stated Shanahan's garage has been converted into a kennel. Segura stated Shanahan is housing dogs. Segura voiced his disdain for the sign that was installed. Segura also voiced his concern with what this will do to his property values.

Jan Coffey, 628 Omega Dr., came before the Board and stated she is the next-door neighbor to Shanahan and stated she does not hear the dogs. Coffey stated she does not feel anyone would even know their was any type of business being run out of this home. Coffey stated she does not feel like Shanahan poses any safety issues to the neighbors. Coffey stated Shanahan's customers do not park on the street, they park in her driveway and the cars on the curve are residents that live in the neighborhood. Coffey stated she is in support of this petition.

Kara Bleza, 1075 Ziegfield, came before the Board in support of Shanahan. Bleza stated they got a puppy a year and a half ago and would have had to get rid of it if it was not for Shanahan because her autistic son was afraid of dogs. Bleza stated they tried other training facilities, but due to her son's autism they were not able to even go in those places. Bleza stated Shanahan provided a great place that worked for her family. Bleza stated she has pictures of Shanahan walking the dogs and the dogs are not in kennels. Bleza stated one of the issues their puppy had was barking and that is not a problem now. Bleza stated she never heard barking when at Shanahan's house. Bleza detailed all the benefits of using Shanahan. Bleza stated Shanahan has been a godsend.

Andy *Inaudible, Inaudible* Cleveland St., came before the Board and stated Shanahan trained her dog as well. Andy stated her son is developmentally disabled and also was not able to go into large facilities due to the number of people and noises. Andy stated she was able to take her whole family to Shanahan's to teach her puppy. Andy stated she always parks in the driveway and has never heard barking at Shanahan's. Andy stated her puppy learned because they were in a residential setting.

Dave Schultz, 616 Omega Dr., came before the Board and read the letter of opposition he submitted to the Board. Schultz detailed several negative effects of the proposed use including leading to a larger facility housing several dogs. Schlutz stated Shanahan should have to have a commercial facility.

With no other public coming forward, Nochevich closed the public portion of the meeting.

Vis rebutted the concerns that were voiced. Vis stated this business has operated for 2 ½ years with no issues until Shanahan put up a sign. Vis stated the Board needs to take a look at the negative impact this has had for

the last 2 ½ years because no one has complained until now. Vis detailed why this business should be able to continue operating out of Shanahan's house because there is no negative effect to the neighbors. Vis stated his client is ok with a limited scope and use that will allow her to continue her services which cannot be provided in a commercial environment.

Rohaley asked how many dogs has been put through the school in the last 2 ½ years. Shanahan stated she is unsure but has over 60 reviews on her website. Shanahan stated some of those dogs were trained in their own home. Rohaley asked if Shanahan goes to people's homes. Shanahan confirmed she does.

Nochevich entertained a motion. Marshall motioned to send an Unfavorable Recommendation to the City Council for #23-24 because it does not meet any of the findings of fact. Sauerman seconded the motion. Irak asked for clarification that Marshall is stating Finding of Facts #1 was not met and #2 does not apply and #3 was not met. Marshall confirmed. With a roll call vote of 5 Ayes, 0 Nays, and 0 Abstentions Petition #23-24 received an Unfavorable Recommendation.

Nochevich informed the petitioners to be present at the next City Council meeting for final approval.

23-25 Alan Meredith, Petitioner/Owner

Request: Variance from Development Standards

Purpose: Allow Fence Past Building Line

Location: 10770 Alabama Street

Alan Meredith, 10770 Alabama St., came before the Board and stated the fence has already been installed. Meredith detailed the size of the fence and materials. Meredith stated the fence keeps things from the neighbors from hitting the house. Meredith stated his wife has severe PTSD and cannot stand things hitting the house. Meredith stated they were having issues with neighbor kids from hitting balls into their landscaping and ruining it. Meredith stated he went to court, and they told him he needed to go this route. Meredith stated he did not know he needed a variance and did not know what a variance was. Meredith stated the fence makes his wife feel safe.

Watson reported the petitioner is requesting a Variance from Development Standards to allow a fence past the building line in the front yard of his property. Watson stated complaints were received in 2022 and the non-compliance of the city ordinance led to a case in civil court where the petitioner had 60 days to attempt to get approval for the fence as is or remove the fence. Watson reported the Planning Department has received one letter of support and numerous letters, in person complaints and calls of remonstrations.

Taylor asked if the fence was still up. Meredith confirmed it is. Taylor asked if the fence is just to keep the kids and balls out of the yard. Meredith stated it is also to keep out their unruly dog. Taylor stated he is not in support of this petition. Taylor asked if there are any Finding of Facts. Meredith stated he does not understand what people are complaining about.

Marshall stated his understanding is the petitioner was asked to remove a section of the fence. Meredith confirmed and stated he was not able to remove the fence right away due to cancer treatments and his overall wellbeing. Marshall asked if that section of the fence was put back up. Meredith stated no. Marshall asked exactly what happened. Watson reported Meredith was asked to remove a section of the fence by an inspector back in September 2022, the fence remained, and an officer was eventually sent out to cite the petitioner. Watson reported at that time the dept. had received so many complaints and Meredith had hired an attorney, so they went to Civil Court where he was given the determination, he would need to remove the fence or obtain approval. Marshall asked for clarification that Meredith was asked to remove the fence, did not and was

then cited by the officer after that the petitioner removed the section of fence but the ticket had already gone forward to Civil Court where a judge determined he couldn't have any fence without a variance. Watson confirmed. Meredith stated the judge never said he couldn't have a fence, the city attorney stated that the court was not the correct venue for this. Rohaley stated the judge did indeed state Meredith could not have a fence. Marshall asked Meredith to verify that after fighting the process the city recommended in the first place, he is now in front of the Board requesting a variance. Meredith stated he is willing to do whatever he needs to, to make his wife feel safe. Meredith stated he has video of the constant issue of balls hitting the house and other issues he has stated. Meredith stated he asked the neighbors not to badger his wife anymore. Marshall stated he does not know how he can support this petition after everything.

Rohaley asked Meredith if had contacted the police about the harassment. Meredith confirmed he called the police twice. Rohaley asked if the petitioner has ever sought a restraining order. Meredith stated he had not thought about that because the fence was working. Rohaley explained why Meredith was before the Board and stated if the petitioner cannot present a hardship, they cannot approve this. Rohaley stated it cannot be granted just because they want to. Rohaley stated he sat through the civil hearing and felt the judge was very fair and provided options for the petitioner.

Sauerman stated he feels bad for the petitioners' situations, but the city cannot look at individual circumstances they have to look at the city and ordinances we have to protect values and safety within the entire area. Sauerman stated based on the letter in the package and summary that was included that throughout the process the petitioner has thumbed their nose at what the city was attempting to work out with them. Meredith stated that was not his intention. Meredith stated after he spoke with the ADA, he thought this would be ok to help protect his wife.

Nochevich stated he understands the petitioner's situation, but the Board has to look at everything broad range and cannot set a precedence. Nochevich stated they are sympathetic, but this is something individuals has to live with, living in a subdivision.

Freda read a comment online from Becky Martinez that stated no one should be terrorized in their own home by kids and the kids need better parents.

Nochevich recommended the petitioner follow some of the recommendations like a restraining order. Meredith stated he just wants to live in peace. Meredith stated if the interest rate was not so high he would already have the house on the market.

Nochevich entertained a motion. Rohaley motioned to deny Petition #23-24 because it does not meet the findings of fact. Marshall seconded the motion. With a roll call vote of 5 Ayes, 0 Nays, and 0 Abstentions Petition #23-24 was denied.

Nochevich informed the petitioner the variance was denied, and the fence needs to be removed. Meredith asked how long he has to do that. Watson stated the judge gave him 60 days and he believes he has one more month to comply. Nochevich stated the petitioner has one more month to comply.

MISCELLANEOUS AND PUBLIC COMMENT

No Misc

No Public Comment

ADJOURNMENT

At 8:53 pm, Nochevich entertained a motion to adjourn. Nochevich motioned to adjourn; motion was seconded by Marshall.

ATTESTMENT OF MEETING MINUTES.

The above minutes were approved and adopted by the majority on the 25 day of September 2023.



Nick Nochevich, Chairman



Josh Watson, Executive Secretary