

BOARD OF ZONING APPEALS
July 24, 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 informed the Board that the June 26, 2023, meeting minutes would need to be deferred. Jeremy Taylor motioned to defer the minutes. John Marshall seconded the motion. With 5 Ayes, 0 Nays, and 0 Abstentions, the minutes were deferred.

OLD BUSINESS

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

George Kucik, 505 W. South St., came before the and provided an overview of the petition.

Watson reported the petitioner is requesting to encroach the 5 foot side yard setback by 3 feet to the west side of his property. Watson reported Kucik intends to construct a carport on the front of his house, using some of the existing driveway footprint. Watson reported the carport will be 18 ft wide by 24 ft long, resulting in a 432 sq ft structure. Watson reported the planning department has received no letters of support but has received numerous phone calls for remonstrations.

Sauerman asked if the curb of the driveway is 5' of the property line or is it inside the line already. Kucik stated he thinks is inside the line. Kucik stated he wants to build the carport right over the driveway so it will be 2 ½' from his neighbor's fence. Kucik stated the carport will be 20 x 20. Kucik stated the carport will be a custom carport made to match the house. Sauerman asked Kucik to verify the size of the carport. Kucik confirmed it will be 20 x 20. Sauerman stated he is a little confused on the size and placement, he asked Kucik for a drawing or survey. Kucik showed Sauerman his phone and they had a discussion that was not audible. Sauerman asked if Kucik had spoken with his neighbor about this. Kucik stated he has, and she is fine with this.

Taylor asked to see the phone as well. Kucik showed him his phone and Taylor, Marshall & Kucik had a discussion. (inaudible)

Nochevich asked the petitioner and Board to use the microphones so everything could be heard.

Sauerman asked Kucik to verify the distance from the neighbor's fence. Kucik stated the carport will be 2 ½' from the neighbor's fence. Sauerman asked Kucik if he has a carport now. Kucik stated no, he has been parking outside for almost 44 years. Sauerman asked if the carport had to be 20' to get the cars to fit. Kucik stated no but he has to put the posts on the outside. Sauerman asked if he could reduce the width of the carport. Kucik stated the driveway is a little over 17' wide and the posts would need to go on the outside.

Rohaley asked Kucik to verify he does not have a garage. Kucik confirmed. Rohaley asked how far the carport would be off his property line. Kucik stated 2.6'. Rohaley asked Kucik to verify that this will not have walls, it will not be a garage. Kucik stated it will not be a garage, there will be no walls. Rohaley asked if Kucik will need to go on his neighbor's property to maintain the carport. Kucik stated he does not, he could do everything from his property. Rohaley stated he feels 2 ½' is not enough room for Kucik to work on the carport. Rohaley stated he does not see the hardship for this petition. Kucik stated the hardship is he is 70 years old.

Marshall asked Kucik to verify that the city will not let him have a garage. Marshall asked why. Kucik stated he thinks Watson told him it was the setback. Watson stated it had to do with the front yard setback and the building line so he could build a garage, but it would have to be within the ordinance. Marshall asked what the ordinance was. Watson stated he wasn't sure. Pause stated by ordinance it would need to be 5' off the side. Marshall and petitioner discussed design and materials. Marshall stated the only difference between a garage and a carport are the walls. Marshall asked if Kucik has contacted the neighbor and are they ok with it. Kucik confirmed the neighbor is ok with it. Marshall stated he is still trying to figure out the difference between a carport and a garage. Watson explained the difference. Watson reported the petitioner was administratively approved for a carport back in 2021 but now wants to make it larger so that approval is no longer valid. Marshall asked what the original size approved was. Pause stated the approved size was 24 x 14. Marshall asked if it was going to be 24' long. Kucik confirmed. Marshall stated he is trying to understand why a carport can be approved and a garage cannot. Watson stated a carport is an open structure which would be considered a temporary structure that could be removed, and a garage is enclosed which makes it more of a permanent structure. Marshall stated he was against this when he thought it was going to be some metal carport. Kucik stated this is going to be a nice custom carport that will match the house.

Taylor stated he would be more inclined to approve this as a carport and not a garage and explained his reasonings. Taylor asked if once they put the posts up will be any additional overhang or will they be inline with the posts. Kucik stated there will be no additional overhang. Taylor stated the rendering provided to them had decorative stone around the 4 x 4 post. Kucik stated he did not know if he was going to do that. Taylor asked Kucik to verify that anything he does including the stone will not be any closer than 2 1/2 '. Kucik confirmed it will not be any closer than 2 ½'. Taylor asked for verification of the driveway size. Kucik stated the driveway is 17 ½' wide. Taylor asked if the current driveway is wide enough that you can park two cars next to each other. Kucik confirmed it is. Taylor asked if it was possible to bore into the driveway so he would not have to encroach. Kucik stated it is not possible.

Marshall asked if Kucik has a shed to put his lawnmower in. Kucik confirmed he does.

Nochevich asked what size the posts will be Kucik stated 6 x 6. Nochevich asked Kucik to verify that the posts will not be any closer than 2 ½' to the property line. Kucik confirmed they will be 2 ½'. Nochevich asked about

the roof overhang and clarification on what "a couple inches" is. Kucik stated he is not sure, it will be whatever is required for the drip edge. Kucik stated 3" at the most.

Sauerman stated he is having trouble with the math, because the statement says that Kucik is requesting to encroach the 5' side yard setback by 3' and that only leaves 2' and Kucik keeps saying 2 ½'. Sauerman stated in addition the application states 18" wide and now Kucik is talking about 20' wide. Taylor explained with the posts and the roof overhang over the 17' driveway, they are looking at about 19.6'-20'. Marshall agreed with Taylor on the math. Sauerman stated Kucik currently has no protection for any of his cars right now. Kucik agreed. Sauerman stated the approval he received back in 2021 would have provided protection for one vehicle. Kucik agreed.

Rohaley stated this is precedence setting and if the petitioner does not have a demonstrated hardship if the Board approves it then if everyone on his street comes and wants the same thing the precedence is set.

Rohaley stated he feels if Kucik stays on the concrete, he would be ok.

Taylor stated it is hard to read the numbers, but it appears he will be less than 5' regardless.

The Board discussed the numbers and how hard they are to read. Rohaley stated the driveway is not an encroachment.

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

Marshall asked Watson if he had received any letters. Watson reported they received 2 phone calls against the petition, one seemed personal, the other one simply stated they did not want to see these popping up all over the place

Taylor motioned to approve # 23-23 subject to the structure coming no closer than 2 ½' to the property line, all materials must be similar to the home and staff comments. Marshall seconded the motion. Pause asked for clarification that the approval is for an 18 ½ x 24 structure. Marshall confirmed. With a roll call vote of 3 Ayes, 2 Nays, and 0 Abstentions Petition #23-23 was approved.

NEW BUSINESS

23-26 Abby Otterman, Petitioner/Philip & Cynthia Struebig, Owner

Request: Variance of Use

Purpose: Allow Convenience/General Store in a B-1 Business Zone

Location: 238 South Main Street

Nochevich informed the Board that Petition #23-26 has been administratively withdrawn.

23-27 Abby Otterman, Petitioner/Philip & Cynthia Struebig, Owner

Request: Variance of Use

Purpose: Allow Commercial Recreation/Assembly in a B-1 Business Zone

Location: 238 South Main Street

Abby Otterman, 5120 W 172nd Ave., Lowell, IN, and Dawn Sylvester, 6304 W 117th Ave., Crown Point, came before the Board. Otterman stated the assembly use they are seeking is for their workshops they hold. Otterman stated they do paint workshops, floral arranging, yoga classes, kid's workshops and will be held at the back of the building inside the Quonset hut from September – November. Sylvester stated they do on occasion tend to do the Grinch and Santa events in November & December.

Watson reported Abby Otterman is requesting a Variance of Use to allow commercial recreation/assembly in a B-1 Business Zoning District, located at 238 S Main Street. Watson reported the petitioner has already opened the business, which is the second location of her store 2 Old Goats, with the first located on Wicker Avenue in Cedar Lake Indiana. Watson reported the site is located on .5 acres on the Northeast corner of S Main Street and E Walnut St. Watson reported the building is immediately surrounded by B-2 with B-1 and R-3 bordering those properties. Watson reported the petitioner is seeking a Variance of Use due to the nature of the business and while originally presented as an antique store, variety of the products and use of the property such as hosting events and training courses, changes the classification of the business per City Ordinance. Watson reported the Planning Department has received no letters of support but has received numerous calls, letters, and in-person filings of remonstrations.

Taylor asked the petitioner on average how many people they bring in for the workshops. Otterman stated for the workshops it is 12 people. Taylor asked when the workshops are held. Otterman stated Friday and Saturdays between 5:30-8:30.

Marshall asked for verification that the property is in a B-1 zoning. Watson confirmed.

Rohaley asked Otterman to verify there will be around 12 people at each of the workshops. Otterman confirmed. Otterman stated that currently she has 6 tables and there are usually around 2 people for each table. Sylvester detailed what the storytelling will be like.

Sauerman stated the corner looks a lot better. Sauerman stated he liked the way Sylvester detailed the progression. Sauerman stated are the workshops all for kids. Otterman stated the workshops are all ages. Sauerman asked if there will be alcohol involved in any of the events. Otterman stated there will not. Sylvester detailed what types of food and drink might be offered at the store. Sylvester stated they have talked about trying to serve mocktails but at the current time there is no license for that but there will be no alcohol.

Nochevich asked for clarification that any and all events will be right around that 12-person capacity, they won't be exceeding that number. Otterman stated their workshops will have no more than 12 but their Grinch event and Santa event she cannot say for sure. Nochevich asked Otterman to verify the workshops will remain at 12. Otterman stated 12-16.

Nochevich opened the public portion of the meeting. Sandy Boyd, President of the Oil Jail, 406 E Clark St., came before the Board. Boyd stated they had a rough start to their relationship with Otterman due to a misunderstanding. Boyd stated she came to the meeting to find exactly what the petitioner was doing. Boyd detailed some of the events held at the Old Jail. Boyd stated she was just curious how they would have to compete for parking. Boyd asked Otterman if they will have parking in their lot or are they all competing for the parking in

front of their buildings. Boyd wanted to make sure they weren't fighting over parking. Boyd explained the property lines as she understands them and stated she could produce a survey.

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

Otterman stated she does not know anything about the boundaries they are just renting. Sylvester stated she feels like they are going to end up as fabulous neighbors. Sylvester stated she is excited about all the action on that corner. Otterman stated their parking lot is private not public and when they do their workshops, they have plenty of room in their lot for their customers to park. Sylvester stated they will have to work with them on parking but will have to be through the landlord. Sylvester stated they are bringing a Murder Mystery to Crown Point that will be held in the Halls of Justice.

Rohaley asked the petitioner how they are going to sequester this off to keep 10-15 kids from just running off. Rohaley asked if there would be a fence. Watson stated they are working with Staff and Indiana Landmarks on this. Watson stated anything they do will have to be approved by the Historic Preservation Commission. Watson stated they will be installing some kind of barrier. Sylvester detailed the proposed barrier.

Marshall asked if another antique store came into Crown Point in a B-1 zoning they would have to get a variance of use for assembly. Watson confirmed that is correct. Marshall stated this is precedence setting and just wants to make sure everyone knows what will be required.

Marshall motioned to send a Favorable recommend to the City Council for Petition # 23-27. Taylor seconded the motion. With a roll call vote of 4 Ayes, 1 Nays, and 0 Abstentions Petition #23-27 received a Favorable Recommendation to the City Council.

Nochevich informed the petitioner they will need to be at the next City Council meeting for final approval.

23-28 Abby Otterman, Petitioner/Philip & Cynthia Struebig, Owner
Request: Variance from Development Standards
Purpose: Allow Outdoor Seating at a Convenience/General Store
Location: 238 South Main Street

Nochevich informed the Board that Petition #23-28 has been administratively withdrawn.

23-29 Abby Otterman, Petitioner/Philip & Cynthia Struebig, Owner
Request: Variance from Development Standards
Purpose: Allow Fence Past Building Line
Location: 238 South Main Street

Nochevich informed the Board that Petition #23-29 has been administratively withdrawn.

23-30 Abby Otterman, Petitioner/Philip & Cynthia Struebig, Owner
Request: Variance from Development Standards
Purpose: Allow Business/Sale to be Conducted Outdoors on Business Property

Location: 238 South Main Street

Abby Otterman, 5120 W 172nd Ave., Lowell, IN, and Dawn Sylvester, 6304 W 117th Ave., Crown Point, came before the Board. Otterman provided an overview of the petition. Otterman stated the hot dog cart will be stored at the Cedar Lake property.

Watson reported Abby Otterman is requesting a Variance from Development Standards to allow the outdoor sale of food/merchandise on the business property, located at 238 S Main Street. Watson reported the petitioner has already opened the business, which is the second location of her store 2 Old Goats with the first located on Wicker Avenue in Cedar Lake Indiana. Watson reported the site is located on .5 acres on the Northeast corner of S Main Street and E Walnut St. The building is immediately surrounded by B-2 with B-1 and R-3 bordering those properties. Watson reported the petitioner is seeking a Variance from Development Standards to allow outdoor business to be conducted, including a Hot Dog Cart to be used on the premises.

Sauerman asked Irak about the guidelines for the Historic District and asked if they preclude the BZA from approving the variance. Irak stated he feels the proper way to address that would be with a variance. Irak stated he would consider that a standard and a variance could be sought. Sauerman asked Otterman to make sure she had all her Health Dept. certification. Otterman confirmed. Sauerman asked Otterman to verify that this food cannot be sold inside. Otterman stated it cannot and this is meant to be strictly seasonal. Otterman stated they have no desire to bring it inside. Sylvester stated they are not promoting hot dog sales.

Rohaley asked for a point of clarification that this petition is only for the hot dog cart because in their paperwork it states food and merchandise and outdoor business including a hot dog cart. Rohaley asked Otterman if she plans to sell her actual antiques and other merchandise outside. Otterman stated she was unsure. Watson stated this is all encompassing. Otterman stated it would all be in the back. Watson stated the city is ok if nothing is in front. Otterman and Sylvester both stated there will be nothing in the front. Otterman stated there will be no merchandise in the front just seating.

Marshall asked if they would have to come before the Board if this was on the sidewalk. Watson stated they would have to go before the Board of Works. Marshall stated he does not know how they could deny this. Marshall stated he does not know what the difference between this and a restaurant in a B-1.

Taylor asked if the city sells vendor licenses. Watson stated he is not sure it would be done through Board of Works if they did.

Rohaley asked if this should be a variance from development standards. Watson reported it was what was recommended to him.

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

Taylor asked if Watson has the H1 16 table. Watson stated he could pull it up on his phone. Taylor read it. Taylor asked if they are ok within the table. Watson confirmed they are.

Taylor motioned to approve Petition # 23-30 subject to Staff comments and the approval being for the hot dog cart only. Marshall seconded the motion. Taylor asked for clarification that everything else would be in the back only. Otterman confirmed. Marshall asked if they are allowed to have picnic tables. Taylor confirmed they could. With a roll call vote of 3 Ayes, 2 Nays, and 0 Abstentions Petition #23-30.

23-31 Franciscan Health, Petitioner/Owner

Request: Variance from Development Standards

Purpose: Reduce Parking for Assisted Living Facility

Location: 10255 Broadway

Nochevich informed the Board that this petition need to be deferred.

Rohaley motioned to defer Petition # 23-31. Taylor seconded the motion. With a roll call vote of 5 Ayes, 0 Nays, and 0 Abstentions Petition #23-3 was deferred.

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 Taylor.

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