

**BOARD OF ZONING APPEALS
PUBLIC MEETING MINUTES
AUGUST 28, 2023**

I. CALL TO ORDER

The Board of Zoning Appeals Public Meeting was called to order at 6:00 P.M. by Chairman Tom Kouros at the Schererville Town Hall, 10 E. Joliet St.

A. Pledge of Allegiance

The Pledge of Allegiance was recited.

B. Roll Call

Roll call was taken with the following members present: Chairman Tom Kouros, Vice-Chairman Michael Davis, Secretary Rick Calinski, and Mr. William Jarivs. Staff present: Town Manager James Gorman, Director of Operations Andrew Hansen, Attorney Alfredo Estrada, and Recording Secretary Megan Schiltz. Absent was Mr. Eric Kundich and Planning & Building Administrator Denise Sulek. In the audience was Councilman Tom Schmitt.

C. Approve Minutes of the Board of Zoning Appeals Meeting of July 24, 2023

Vice-Chairman Michael Davis made a motion to approve which was seconded by Mr. William Jarvis and carried 4-0.

II. PUBLIC ACTION AND PUBLIC HEARINGS

A. B.Z.A Case #23-8-11 510 77th Ave. – Elad & Julie Bachar
Proposed: Home Business – Police Security/Canine Training

General Location: 510 77th Ave.

Petitioner(s): Elad Bachar and Julie M. Bachar

Request: Variance of Use as required by Ordinance No. 1797, Title XVII,
Section 7, Paragraph B

Proposed: To allow a home business to consist of police/security canine training

Mr. Kouros asked if Proofs of Publication were in order. Attorney Estrada stated after review and discussion with Staff and the petitioner Proofs of Publication are not in order. Attorney Estrada went on to say the publication has been properly published in the local newspaper; however, an issue occurred with the mailings where 7 individuals within the 300 ft. parameter did not get notice of this hearing by certified mail as required by the Town of Schererville Ordinance, therefore they are not in order. Attorney Estrada said that in discussion today to respect everyone's due process rights for those 7 individuals, it is with his recommendation that this case gets deferred to the September 25th B.Z.A meeting to be heard at that time.

Attorney Estrada continued to say that in an attempt to correct the deficiencies of notice the petitioner has agreed to send new notice to those 7 individuals via certified mail for the September 25th hearing and then we will have all the individuals on the list with notice and proper publication for that meeting. Attorney Estrada further stated that every individual who received notice may have appeared today and had the opportunity to hear the deferment to the September 25th hearing and those who didn't appear could have appeared and heard the announcement of today. Attorney Estrada stated the petitioners are here with their council Attorney Jim Wieser of Wieser & Wyllie, LLC who knows of this procedure to protect due process rights.

Mr. Jarvis made a motion to defer to the September 25th meeting. This was seconded by Mr. Calinski and carried 4-0.

B. B.Z.A Case #23-8-12 1020 U.S. Hwy. 41 Proposed: Stan's Donuts Drive-thru

General Location: 1020 U.S. Hwy 41 – Boulevard Square Planned Unit Development

Petitioner(s): Boulevard Square, LLC – Al Krygier

Request: Variance of Use as required by Ordinance No. 1797, Title XVI, Section 5, Paragraph C (3)

Purpose: To allow a drive-thru lane within the U.S. 41 Commercial Corridor Overlay District

Mr. Kouros asked if Proofs of Publication were in order. Attorney Estrada stated they were. Mr. Doug Rettig, P.E. of DVG Engineering represented the petitioners along with Mr. Al Krygier, property owner and petitioner. Mr. Rettig said that they are requesting a variance of use for a drive-thru for the proposed Stan's Donuts. Mr. Rettig informed the Board that the site is located on the north east corner of the former Menards building site which is a subdivision they did several years ago called Boulevard Square. Mr. Rettig stated that Mr. Krygier has been redeveloping the site for several years; and when initially developing Boulevard Square, the plat showed an area for a future outbuilding on the north east corner. Mr. Krygier said there are currently 8-10 Stan's locations in the Chicagoland area and they plan on branching out in NWI this being the first Indiana location. Mr. Rettig stated they will be back for a site and grading plan for approval, but cannot proceed until variance is granted for a drive-thru.

Mr. Davis asked if this will be a stand-alone establishment. Mr. Rettig responded this will be a free standing building to be built on the parking lot; adding that in the PUD years ago they proposed a 6,000 sq. ft. multi-tenant building to be built there instead they have decided to do a single tenant 2,500 sq. ft. to condense the space and allow for a drive-thru. Mr. Rettig added that the building will face east of Rt. 41 and the only access will be from Willowbrook Dr. so the traffic flow will go around the building, and that they are aware they will need to relocate some utilities and a light pole. Mr. Davis asked if there are any concerns with the existing establishments parking and having to go through it. Mr. Rettig stated they have been watching the parking patterns through the years with the fitness center, and that the north east corner is never used not even by staff of existing tenants; they are allowing for the stacking parallel to Route 41 where the digital sign is, and will exit through the parking lot going to Sky Zone or turn right onto Willowbrook.

Mr. Rettig went on to say that after watching for a few years they thought a 6,000 sq. ft. building with multi-tenants would be a little much so they waited for the right situation and in doing so feel this would be perfect. Mr. Kouros opened the matter to the floor. There being no questions or comments from the floor the matter was brought back to the Board. Mr. Jarvis asked if this was common area parking and if there are any restrictions. Mr. Krygier stated this is common area parking and there are not any restrictions; they have allowed for future growth being that dual drive-thrus are common and popular now; although they are only doing a single lane, they are allowing capacity for double as well incase needed for the future. Mr. Calinski made a favorable recommendation given that based on an overall opinion that there will be no negative impact of this surrounding area and in a positive based on overall development in that general area which was seconded by Mr. Davis and carried 4-0.

C. B.Z.A. Case #23-8-13 8499 Burr St. – Alfred & Sarah Perez
Proposed: Perez Addition, Lot 1

General Location: 8499 Burr St.

Petitioner(s): Alfred Perez

Request: Developmental Variance as required by Ordinance No. 1797, Title IV, Section 3, Paragraph A

Purpose: To allow a new home with a height of 44 feet on the proposed Lot 1 of Perez Addition (Maximum height allowed 35 feet)

*Mr. Kouros stated that **items C, D, E, F, G AND H - B.Z.A. Case #23-8-13, #23-8-14, #23-8-15, #23-8-16, #23-8-17, and #23-8-18 for the proposed Perez Addition, Lot 1 located at 8499 Burr St.** will all be heard together.

Mr. Kouros asked if Proofs of Publication were in order. Attorney Estrada stated they were in order. Mr. Doug Rettig, P.E. from DVG Engineering represented the petitioners. Mr. Rettig stated they are currently in the process of getting a 2 Lot subdivision and will be back at the next Commission meeting for that. Mr. Rettig said there is an existing home on a 20 acre piece of land at the north east corner of 85th and Burr and immediately east of the Hyles Anderson Pond. Mr. Rettig informed the Board that the Perez family owns the property and would like to build their own home east of Burr that requires several variances in order to build the size of the house they want. Mr. Rettig said that there is a third story on this home that makes the roof shaped as a "French chateau" and would make the height greater than the required maximum of 35 ft. Mr. Rettig continued that because there will be living space in the third story they are requesting a variance of 44 ft. to cover the height of the house.

Mr. Rettig stated that for item **D** of the agenda they are requesting a variance to have a setback of approximately 250 ft. back from the road right-of-way line. Mr. Rettig said the Ordinance for a typical subdivision in the Town of Schererville has a setback of 30 ft. and cannot exceed the maximum of 50 ft. from the road right of way. Mr. Rettig added that this will not be a typical home being that it sits on 19 acres and they would like the new home to sit back off the road and on top of the hill. Mr. Rettig continued to say that the backyard is mostly flood plains and wetlands and based on the topography this would be the only spot they could build on.

Mr. Rettig stated that for item **E** of the agenda they are requesting a larger than typical attached garage. Mr. Rettig also stated that this would be a multi structure garage with a 3 car garage attached to the residence with another 3 car garage flanking that to the north connected by a roof, and a 1 car garage in the back, bringing it to a total of 7 garage bays. Mr. Rettig continued to say that the maximum allowance for an attached garage to a residence is 840 sq. ft. and are requesting to have the attached portion of the garage be 3,200 sq. ft.

Mr. Rettig went on with item **F** being a detached garage, calling it a pole barn that may not be built until later due to the design not being finalized. Mr. Rettig said Mr. Perez is unsure of the size it will be at this time, but that it will not exceed the 50x100.

Mr. Rettig stated in regard to the detached garage in item **G**, the ordinance allows for a maximum height of 14 ft. which works if building a shed or small garage but not for a pole barn. Mr. Rettig stated they are asking for a variance for 25 ft. but may be less than; continuing that they will not know for sure until they have the final drawings. Mr. Rettig added that they feel comfortable that it will not exceed the requested 25 ft.

Mr. Rettig stated that with item **H** they are requesting to build a decorative fence along the right of way line on Burr St. Mr. Rettig added that the ordinance does not allow fences in front of the house but because this is not a typical home, they would like to have more of an "estate look" with brick columns and wrought iron fencing going through, and a swinging gated entrance that will remain open during the day and locked at night. Mr. Rettig continued to say that because this is not a privacy fence and it is purely decorative, it will not surround the property; it will run along Burr St. wrapping around each corner just a little bit on the north and east side for better aesthetics. Mr. Rettig concluded that they will need these variances in order to continue designing the house as well as to continue with the subdivision process.

Mr. Kouros asked if the entrance of the home would be north of the stop sign on Burr where the ponds are in front of Hyles Anderson. Mr. Rettig replied that at the T intersection with 85th St. running west and Burr St. running north and south there is an existing home (that the petitioner owns) at the corner of the property that will be staying the way it is. Mr. Rettig continued that just north of that house they will put the new driveway for the future home; and because of the proximity to the intersection with a stop sign and a hill, there are visibility issues, so for safety reasons they do not want the driveway at the bottom of the hill being too far from the stop sign. Mr. Rettig added that they are trying to push it as far as they can where traffic is moving slower and has better visibility. Mr. Davis stated that there presently isn't any fencing going down Burr and asked if there has been any feedback from the neighbors that live close by. Mr. Rettig said that this being the first public meeting there have not been any discussions about the fence but notices were given so they would be able to remonstrate now.

There being no further questions from the Board the matter was opened to the floor. Mr. Ronald Sprycha from 8513 Burr St stated that his home is currently 2 houses to the south of the existing house and believes that with all these changes they are requesting to make they should just look for a different piece of land. Mr. Sprycha continued to say that the proposed house would be too high and would not fit with the neighborhood, that a 5,000 sq. ft. garage would be too large and does not want it to turn into a business. Mr. Sprycha further stated that even the proposed 32,000 sq. ft. garage would be bigger than his quad level home. Mrs. Evelynne Sprycha from 8513 Burr St added that given Burr St. is a busy street and that her concern would be the view from her back deck that faces the retention pond and the forest with trees the left of that. Mrs. Sprycha continued to say that she believes the fence to the front of the house would be an obstruction of view and would create more danger even with it open being that the intersection has multiple accidents from drivers flying through and ignoring the stop sign and would be detrimental to the area.

Mr. Rettig stated that the vast majority of the property would be untouched being that there are flood plains and wetlands, and that would only be clearing where the home is to be built leaving 2/3rds of the property undisturbed. Mr. Alfred Perez who is the owner of that property stated that he likes the woods and does not plan to interrupt that other than for the footprint of the new home. Mr. Perez added that he plans on keeping a lot of the trees on the south side of the property, and leaving some between the proposed and existing home. Mr. Perez further stated that he loves and collects cars and trucks and has several that need to be parked which are all personal and non-business related; adding that with all the trees his is unsure how much of the house would even be seen off of Burr.

There being no further comments or questions from the floor, the matter was brought back to the Board. Mr. Jarvis asked what exactly the plans are for the 5,000 sq. ft. accessory building. Mr. Perez replied that he would like to keep his boat, jet skis, and four wheelers in the pole barn including all the tools that would be necessary to keep up with the maintenance of tree damage from storms. Mr. Rettig added that they are unsure of the exact measurement of what the pole barn will be other than that it will not exceed the 5,000 sq. ft. Mr. Jarvis questioned if there would be any commercial equipment that would be kept on the property. Mr. Perez replied there will not be any commercial equipment or vehicles just personal, and repeated that it would have the tools needed to keep up with the maintenance of the 20 acres. Mr. Jarvis asked why the height of the building for the pole barn would be so high. Mr. Rettig stated that the building would not exactly be the requested 25 sq. ft. and would be less than the height of the house, and that it mainly would need the height for the roof trusses.

Mr. Jarvis asked that in regards to item **H**, how far back the proposed fence will be from the edge of the pavement. Mr. Rettig stated they are dedicating an additional 40 ft. right-of-way for future expansions on Burr and there will be approximately 30 more ft. of untouched land before the fence begins. Mr. Rettig stated that you would be able to see the fence, but it would not obstruct vision when driving on the road.

There being no further questions from the Staff or Board Mr. Calinski made a motion to approve B.Z.A. Case #23-8-13 which was seconded by Mr. Jarvis with the fact it is pursuant to all State, Local, and Federal regulations. Mr. Calinski accepted and was carried 4-0.

- D. B.Z.A Case #23-8-14 8499 Burr St. – Alfred & Sarah Perez
Proposed: Perez Addition, Lot 1

General Location: 8499 Burr St.

Petitioner(s): Alfred Perez

Request: Developmental Variance as required by Ordinance No. 1797, Title IV,
Section 4, Paragraph C

Purpose: To allow a home with a front yard setback exceeding 250 feet on the
proposed Lot 1 of Perez Addition (Minimum required front yard shall be
thirty feet (30'), but not to exceed fifty feet (50')

*For discussion see above. Mr. Calinski made a motion to approve B.Z.A. Case #23-8-14 which was seconded by Mr. Jarvis and carried 4-0.

- E. B.Z.A. Case #23-8-15 8499 Burr St. – Alfred & Sarah Perez
Proposed: Perez Addition, Lot 1

General Location: 8499 Burr St.

Petitioner(s): Alfred Perez

Request: Developmental Variance as required by Ordinance No. 1797, Title IV,
Section 7, Paragraph A

Purpose: To allow a 3,200 Sq. Ft. attached garage on the proposed Lot 1 of
Perez Addition (Maximum allowed 840 Sq. Ft.)

*For discussion see above. Mr. Davis made a motion to approve B.Z.A. Case #23-8-15 based on the assurance that this garage is for residential usage only. This was seconded by Mr. Calinski. Attorney Estrada called a point to order for the petitioner to be asked if he agrees with the conditions that were given before a vote can take place. Mr. Perez stated he agrees with the conditions and was carried 4-0.

- F. B.Z.A Case #23-8-16 8499 Burr St. – Alfred & Sarah Perez
Proposed: Perez Addition, Lot 1

General Location: 8499 Burr St.

Petitioner(s): Alfred Perez

Request: Developmental Variance as required by Ordinance No. 1797, Title IV,
Section 7, Paragraph A

Purpose: To allow a 5,000 Sq. Ft. accessory building/detached garage on the proposed Lot 1
of Perez Addition (Maximum allowed 840 Sq. Ft.)

*For discussion see above. Mr. Davis made a motion to approve B.Z.A. Case #23-8-16 based on the assurance that this be or residential use only. Mr. Kouros asked Mr. Perez if he agrees with the condition placed. Mr. Perez stated he agrees. Mr. Jarvis seconded the motion. Mr. Calinski and Mr. Kouros denied due to the fact the size is too excessive. Attorney Estrada stated that the motion fails due to there not being a majority vote, and that there can be an additional motion if the Board would like to propose one. Mr. Kouros asked Attorney Estrada if the Board would be able to put on conditions of size. Attorney Estrada stated reasonable conditions would be able to be placed on any variance. Mr. Jarvis asked if it would not be feasible for the petitioner to come back at a later date after the home gets built and would be after one year. Attorney Estrada responded there must be a one year time frame if this motion gets denied before trying again. Mr. Perez stated that he will be needing a pole barn to keep up with the property and would be agreeable for a smaller size and would rather have a square footage determined tonight rather than to wait another year. Attorney Estrada made a recommendation that the Board defers this item for the petitioner to come back with more evidence on what the new square footage might look like in order for the Board to make a better decision.

Mr. Davis made a motion to defer B.Z.A. Case #23-8-16 for the next scheduled B.Z.A. Meeting in order for the petitioner to provide a revised plan with a lower square footage. This was seconded by Mr. Calinski and carried 4-0.

- G. B.Z.A. Case #23-8-17 8499 Burr St. – Alfred & Sarah Perez
Proposed: Perez Addition, Lot 1

General Location: 8499 Burr St.

Petitioner(s): Alfred Perez

Request: Developmental Variance as required by Ordinance No. 1797, Title IV,
Section 3, Paragraph B

Purpose: To allow an accessory building/detached garage height of 25 feet on the proposed
Lot 1 of Perez Addition (Maximum allowed height 14 feet)

*For discussion see above. Mr. Davis made a recommendation to defer B.Z.A Case #23-8-17
as it correlates with B.Z.A. Case #23-8-16. Mr. Rettig stated they are fine with that. This
was seconded by Mr. Calinski and carried 4-0.

- H. B.Z.A. Case #23-8-18 8499 Burr St. – Alfred & Sarah Perez
Proposed: Perez Addition, Lot 1

General Location: 8499 Burr St.

Petitioner(s): Alfred Perez

Request: Developmental Variance as required by Ordinance No. 1797, Title XVII,
Section 13, Paragraph A

Purpose: To allow a decorative fence to be constructed over the 30 foot front yard
Setback line, along the right-of-way line of Burr Street along the proposed
Perez Addition

*For discussion see above. Mr. Davis stated that his concern would be the safety of having
the fence in such a high traffic area. Mr. Perez stated the fence will definitely be 40 ft. off of
Burr and would not be at the road. Mr. Jarvis asked what the setback is on the current
existing home. Mr. Rettig replied that the house sits at the 30 ft. setback line that they will be
plating. Mr. Jarvis asked if then that would mean the existing house would be aligned up
with the fence. Mr. Rettig said it would and that there is currently an existing 30 ft. right-of-
way and is not a platted building line because the property has never been platted. Mr. Rettig
further explained that the existing house sits back 60 ft. from the center line of the road to
where the front of the house is and are proposing to have the fence 40 ft. from the center of
the road, 20 ft. from the front of the house. Mr. Rettig added that there will not be any
fencing in the front yard of the house and it would not affect visibility because it would run
parallel and that he would be removing the brush in front of that so visibility would actually
be better.

There being no further questions Mr. Jarvis made a motion to approve B.Z.A. Case #23-8-18
provided that the fence be columns with wrought iron and an electric gate and that the brush
be cleaned up along Burr. Mr. Perez agreed with these conditions. This was seconded by
Mr. Calinski and carried 4-0.

III. COMMISSION BUSINESS

- A. B.Z.A CASE #23-7-9 1037 Willowbrook Dr. – Willie & Lisa Johnson

Petitioner(s): Willie D. & Lisa R. Johnson

To allow construction of a 6-foot high aluminum fence, 30 feet over the building line
on a corner lot

APPROVED W/CONDITIONS (4-0) 7/24/23

Mr. Jarvis made a motion to approve which was seconded by Mr. Calinski and carried
4-0.

B. B.Z.A. Case #23-7-10 637 U.S. Hwy 41 – Proposed: Crew Car Wash
Petitioner(s): Crew Car Wash
To allow a car wash facility within the U.S. 41 Commercial Corridor Overlay District
FAVORABLE RECOMMENDATION TO TOWN COUNCIL W/CONDITIONS (4-0)
7/24/23

Mr. Davis made a motion to approve which was seconded by Mr. Calinski and carried 4-0.

IV. **ADJOURNMENT**

There being no further business, the meeting was adjourned at 7:10 P.M.

Respectfully Submitted:



Rick Calinski, Secretary