

**MINUTES OF THE BOARD OF
ZONING APPEALS PUBLIC MEETING
APRIL 22, 2024**

I. CALL TO ORDER

The Board of Zoning Appeals was called to order at 6:01 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, Mr. Michael O'Rourke, and Mr. William Jarvis. Staff present: Town Manager James Gorman, Director of Operations Andrew Hansen, Planning & Building Administrator Denise Sulek, Recording Secretary Megan Schiltz, and Attorney Lauren Konagel from Burke Costanza & Carberry. Absent was Secretary Rick Calinski. In the Audience were Councilmen Caleb Johnson and Tom Schmitt.

C. Approve Minutes of the Board of Zoning Appeals Meeting of March 25, 2024

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

II. PUBLIC ACTION AND PUBLIC HEARINGS

A. B.Z.A. Case #24-3-2 636 E. Joliet St. – Justin Mora

General Location: 636 E. Joliet St. – Farmers 2nd Lake Addition, Lot 2

Petitioner(s): Justin Mora

Request: Variance of Use as required by Ordinance No. 1797, Title V, Section 2

Purpose: To allow eight (8) hen chickens to be raised and kept on-site in an (R-2) Residential Zoning District and Joliet St. Overlay District

Mr. Kouros reminded the Board that this matter was deferred from the March Meeting. Mr. Kouros asked the petitioner if he still plans on having no more than 8 hen chickens. Mr. Justin Mora replied that was correct. Mr. Kouros asked counsel if proofs of publication were still in order from last month. Ms. Konagel stated that they were. Mr. Davis stated that it looks like there is a lot of land in the backyard. Mr. Mora stated that he lives on a quarter acre and is surrounded by 15 acres. Mr. Davis asked where the coop was located. Mr. Mora answered that the chicken coop with connected chicken run is located in his backyard. Mr. Davis then asked if there have been any preparations to address the noise issue with this being in a residential area. Mr. Mora responded that he only has 8 hen chickens that are female, therefore they do not crow; there is not a rooster so the eggs would never be fertilized.

Mr. O'Rourke stated that last month there were questions asked about having the hens checked by a vet or a doctor or about getting shots, asking Mr. Mora if he had any information on that. Mr. Mora said that he is not an egg farmer that sells eggs and will only be consuming them himself. Mr. O'Rourke stated that he wanted more information and looked into it himself; adding that he called the Lake County Health Department, who then sent him to the Animal Control Department that is run by Ms. Angela Malinowski. Mr. O'Rourke went on to say that Ms. Malinowski explained that they have no control over chickens if the residents live in the Town, they only cover unincorporated areas; and they do not have any regulations on health checks or vet visits. Mr. O'Rourke stated that it was then suggested to call the Board of Animal Health (BOAH) in Indianapolis which is the State Board. Mr. O'Rourke said he then called the State Board and talked to Mrs. Jean Wilson, who emailed a letter to the Board; which Mr. O'Rourke then read:

To the Town of Schererville Board of Zoning Appeals and whom it may concern,

In many instances of Indiana State Law (IC and IAC) poultry is considered livestock. In most instances of Indiana state law poultry is defined as chickens, turkeys, ostriches, emus, rheas, etc. "IC" refers to the Indiana Code. "IAC" refers to the Indiana Administrative Code.

- The Indiana Board of Animal Health (BOAH) has jurisdiction over poultry and livestock including their welfare.
- The Indiana Department of Natural Resources (DNR) has jurisdiction over wild avian species and licenses.
- The Indiana state agency with jurisdiction over poultry meat products is the Meat and Poultry Division of the BOAH. BOAH does not have any regulations for meat products produced by and for an individual's own household use.
- The Indiana state agency with jurisdiction over eggs is the Indiana State Egg Board. However, the Egg Board only regulates chicken eggs and does not regulate the consumption or use of eggs produced by and for an individual's own household use. The Egg Board had no regulations (even for the sale) of eggs from other species of poultry such as ducks, quail, and turkeys.
- Both BOAH and the Egg Board are only really involved when poultry meat and eggs are used outside of the household from which they are produced.
- BOAH nor any other state agency has any regulations that require Indiana poultry to be vaccinated against any disease.
- BOAH nor any other state agency has regulations that require Indiana poultry to be tested for any disease except in the event of a reportable disease outbreak such as highly pathogenic avian influenza (HPAI).
- BOAH does have a record keeping requirement for individuals who own poultry. Poultry owners are required to maintain records of flock additions and removals for 3 years.
- Premises registration of poultry sites is encouraged, but not required.
- BOAH does not have entry requirements for poultry coming in to the state. The only requirement for live poultry movements within the state is the record keeping. No testing, vaccinations, or inspections are required to move live domestic poultry within the state of Indiana.
- BOAH does have requirements for poultry going to an exhibition within Indiana which would apply to something like a county or state fair.

Mr. O'Rourke then stated that the letter went on to list her extensive 9 years with BOAH and of being a graduate of Purdue University with a Bachelor of Science in Animal Bioscience; concluding if there were any further questions we can direct them to her. Mr. O'Rourke stated that Mrs. Wilson then suggested that if there was a thought of allowing this in the Town of Schererville to look at the City of Columbus who passed an Ordinance in 2019 regarding chickens; under Ordinance XXXII from the Municipal Columbus Conduct Code under Animal Care. Mr. O'Rourke added this is some of what they require:

- Harboring a chicken flock shall be prohibited within the city limits unless the chicken flock is in possession of a keeper or the confinement of the chicken flock, not to exceed four hens. Mr. O'Rourke stated Mr. Mora has 8 hens but they require 4 at maximum.
- The chicken flock shall be housed in a chicken coop that provides each individual chicken with not less than four square feet of living space.
- The chicken coop shall have a chicken run attached to the coop with no less than four square feet.
- The chicken coop shall contain ground cover that separates the chicken from the soil.

Mr. O'Rourke then stated the list goes on and on, prohibiting roosters. Mr. O'Rourke went on to say that the last thing that was said is that the City of Indianapolis allows chickens, 6 hens and 1 rooster. Mr. Mora said that he had read Indianapolis allows 12 total hens with 1 rooster. Mr. O'Rourke replied that he hadn't looked into it and that this is just what Mrs. Wilson had said; generally they are allowed 6 hens at maximum. Mr. O'Rourke concluded that was just what he had gathered because he was curious.

Mr. Kouros then opened the matter to the floor. There being no comments the matter was closed to the floor and returned to the Board. Mr. Kouros stated for the record that the Board was in receipt of a letter dated March 19, 2024 from Mr. & Mrs. Kavourinos at 615 E. Joliet St. and Mr. & Mrs. Mendoza from 621 E. Joliet St.; stating that they do not have any problems with Mr. Mora raising chickens, and that the only concern is that they will not be

roaming freely in front of the house and into the street. Mr. Jarvis asked Mr. Mora if he knew what Histoplasmosis was. Mr. Mora replied that he did not. Mr. Jarvis stated that Histoplasmosis is a lifetime lung disease that can get transferred from the chicken and transmitted to others; adding that he had serious reservations due to it being in proximity of other homes. Mr. Mora asked Mr. Jarvis if he eats chicken or eggs. Mr. Jarvis responded that he does and that they are processed at a chicken farm that is not in Schererville. Mr. Jarvis then made an unfavorable recommendation to the Town Council pursuant to all State, Local, Federal regulations; as well as the health, safety, and welfare of the general public in the surrounding area. This was seconded by Mr. Davis and carried 3-1 with Mr. O'Rourke not in agreement.

B. B.Z.A. Case #24-4-3 7725 U.S. 41 – (Proposed: Drive-thru lane)

General Location: 7725 U.S. 41 – Boulevard Commons, Lot 1

Petitioner(s): Kenneth S. Drenth

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. Kenneth Drenth from Boulevard Commons represented the petitioners. Mr. Drenth stated that he is seeking approval for a drive-thru at 7725 U.S. 41, which is located on the east side of U.S. 41 and just a block east of 77th. Mr. Drenth said there are 2 buildings on this parcel, the first building to the north has already been erected with tenants and in June the first tenant would be moving in. Mr. Drenth continued to say that he had a Letter of Intent on the second 4 unit building with a proposed drive-thru. Mr. Kouros wanted to verify that the second building which already exists will have a drive-thru in the unit on the most northern side. Mr. Drenth responded that was incorrect and that drive-thru was already approved; adding that this proposed drive-thru is for the second building on this property which is located south of the first building. Mr. Jarvis asked if the yellow highlighted section on the layout map provided was the proposed drive-thru. Mr. Drenth replied that was correct. Mr. O'Rourke stated that he assumes the north drive-thru is a restaurant. Mr. Drenth replied that was correct and that he had a lease signed with a new franchise called Hello Donut, which will serve breakfast foods such as donuts and coffee. Mr. O'Rourke asked what would be located in the new building. Mr. Drenth responded that the second buildings proposed drive-thru would be for lunch/dinner foods such as hot dogs, hamburgers, and gyros. Mr. O'Rourke then asked Mr. Gorman if he thinks there would be any issues with the traffic. Mr. Gorman replied that it all depends on how popular it would be with stacking because both drive-thrus are going to have to share the parking lot on the east side of the property. Mr. Drenth stated that the stacking that he showed was for the north building and has 6-10 cars stacked. Mr. Drenth went on to say that the second building had another 6 cars on the north end with plenty of room for additional stacking. Mr. O'Rourke stated that when following the arrows, it shows that to get to the north building you would come from the south around the east side of the new building and then go all the way out. Mr. Drenth replied that was correct.

Mr. Davis questioned if there would be a possibility that some of the traffic would be backed up on U.S. 41 due to stacking. Mr. Drenth stated that there are 3 ingress-egress easements with one being on U.S. 41 in the center of the property. Mr. Drenth continued that the main entrance will be to the south off Jenny Lane which runs east-west. Mr. Drenth said that the cars would come in off of Jenny Lane which is about 200 ft. to the east entrance into the strip mall; adding that there will be signs to direct people for the drive-thru. Mr. Drenth went on to say that as far as stacking for the north building, the customer would have to go all the way around the south building; adding that with it being a donut shop there shouldn't be much of a wait for donuts or coffee. Mr. Davis wanted to clarify that when facing west bound there is an entrance & exit off U.S. 41 that's not going to be utilized for the drive-thru. Mr. Drenth stated that if the customer does turn in off U.S. 41 they would come in, make a right and go south around the south building and all the way around and could assure it wouldn't stack up off U.S. 41. Mr. Kouros asked Mr. Hansen if he could show where the customer would be driving on the projector screen. Mr. Gorman said to Mr. Davis that at the bottom of the drawing provided there are 2 entrances off Jenny Lane. Mr. Gorman added that most likely if any of the recipients are going to the drive-thru, they would turn left off Jenny Lane and go north into the parking lot to go into the drive-thru; rather than driving through the parking lot and make a U-turn to go north again. Mr. Gorman continued to say that they would probably

turn at Jenny Lane and not at the entrance off of U.S. 41, they would leave that way most likely but probably wouldn't come in that way. Mr. Kouros asked Mr. Hansen to highlight how the cars would enter. Mr. Davis asked Mr. Gorman that both he and Mr. Drenth don't anticipate any traffic coming into the location off of U.S. 41 with traffic that may be headed north bound to come in and see the offerings at this location. Mr. Gorman stated that he thinks it would make more sense instead of driving past Jenny Lane you would turn on Jenny Lane; adding that he does not anticipate them passing the road, going into the parking lot just to do a U-turn and then go to the drive-thru when they can just head north bound on U.S. 41 and turn right through Jenny Lane. Mr. Davis asked if the front of the buildings were facing west. Mr. Drenth replied that the existing building does and that the second building is mainly facing south towards Jenny Lane. Mr. Jarvis wanted to clarify that U.S. 41 has a divider lane so you could not turn south out of the exit until you get down by Jenny Lane. Mr. Drenth responded that was correct. Mr. Jarvis continued that the vehicle could only go north to U.S. 30 so there would not be a possibility of any collisions because of the divider. Mr. Drenth replied that was correct, the people leaving would have to go to Jenny Lane.

Mr. Kouros opened the matter to the floor. There being no comments the matter returned to the board. Mr. O'Rourke asked that if they were not asking for this drive-thru, would it be normal that one lane is going east and the other lane running west. Mr. O'Rourke added that in other words to get to the north building would the vehicle just simply go around between the two buildings, if there wasn't a drive-thru proposed. Mr. Drenth replied that originally they had always planned on having drive-thrus at both buildings. Mr. O'Rourke stated that he could see problems happening behind the buildings, especially with having the dumpster back there; adding that if cars were still waiting at the southern building, they would be blocking the northern building and then those people would have a difficult time with backing out or pulling in. Mr. O'Rourke went on to say that like Mr. Gorman said earlier, it depends on how much traffic you would get. Mr. Drenth stated that there are parking spots along the east fence line which he anticipates will mostly be employee parking for both buildings. Mr. Kouros asked Attorney Konagel if proofs of publication were in order. Attorney Nagel stated that they were. Mr. Jarvis made a favorable recommendation to the Town Council with the stipulations that it be pursuant to all Local, State, and Federal regulations, that there are no safety issues, that it would not affect the adjoining properties value, and that this would fit into the comprehensive plan. Mr. Davis seconded the motion and it carried 4-0.

C. B.Z.A. Case #24-4-4 8485 Burr St. – Al Perez

General Location: Developmental Variance as required by Ordinance No. 1797, Title IV, Section 7, Paragraph B

Petitioner(s): Al Perez

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

Purpose: To allow a home with an accessory building/detached garage door height of 14 feet (Maximum allowed per Ordinance 9 feet)

Attorney Nagel stated that items C and D are the same petitioner therefore they could be heard together and that proofs of publication were in order for both items. Mr. Kouros stated for the record that items C and D would be heard together. Mr. Doug Rettig from DVG Engineering represented the petitioners. Mr. Rettig reminded the board that they were there several months ago seeking different variances for this property. Mr. Rettig added that this is a large 19 acre lot that had been recently platted as a subdivision and would be building his home very soon. Mr. Rettig stated that last year they had received several variances, one of which was for the size and height of the accessory building. Mr. Rettig went on to say that originally they were seeking approval for a 50 x 100 ft. accessory building and was asked by the board to rethink the size, so it was lowered to a 40 x 80 ft. building. Mr. Rettig said that once they were further along with the architecture for the home it was decided that the accessory building should match; adding that this was a much larger house than most residential homes. Mr. Rettig stated that the architect had reached out stating they were granted a variance last year for a 22 ft. accessory building, but could not make it work and would need 23 ft. 8 in. due to the roof style and a future purchase of a mobile home. Mr. Rettig added that they are asking to revise the variance to 24 ft. Mr. Rettig went on to say that they would need a 14 ft. tall overhead door with a 16 ft. tall ceiling height to accommodate the overhead door. Mr. Rettig said that due to the size of the accessory

building and the size of a possible mobile home and other vehicles that he owns, he would like oversized doors. Mr. Rettig added that the ordinance has a 9 ft. maximum on garage doors; planning on 12 x 12 doors for the building with one door 14 x 14 to allow easier access for the mobile home.

Mr. Kouros wanted to verify that it would be an additional 2 ft. on the property itself and the garage doors height to 14 ft. Mr. Rettig said that was correct. Mr. Jarvis stated that this went before the Plan Commission and the reason because it was given 22 ft. is because they wanted to keep it as low as possible, but the height of the home is 40 ft. so 24 ft. would make sense. Mr. Rettig said that it would be way back off the road. Mr. Jarvis went on to say that it was also put into the Findings of Fact that no commercial equipment were allowed. Mr. Jarvis then asked how many square feet is the home. Mr. Perez responded that it is almost 2,000 sq. ft. Mr. Jarvis said that he understands that they would be needing a bigger door with the mobile home, asking if the 14 ft. door would be towards the east. Mr. Rettig stated that all the doors face south and is away from Burr St. Mr. Jarvis asked if the 14 ft. door is to the east or west. Mr. Rettig replied that it is on the east side, but will be recommending to Mr. Perez to put it on the west because it would be a lot easier to maneuver in and out of the garage. Mr. Rettig added that they would also be leaving some of those trees as a buffer. Mr. O'Rourke stated on the GIS map on the projector screen he could see the house and asked how far it is off of Burr St. because the lot looks like it is 1300 ft. deep going east and west. Mr. Rettig replied that was correct. Mr. O'Rourke again asked how far off of Burr St. the home was. Mr. Rettig responded that the main house is probably close to 180 ft. back from the road and the accessory building is even further back. Mr. O'Rourke asked if the house in the corner of the lot is part of that. Mr. Rettig replied that Mr. Perez used to live in that home and had created a 2-Lot subdivision owning both plots; adding that the house is on top of the hill on Lot 1. Mr. O'Rourke stated that this would be well off the road. Mr. Rettig said that was correct, the back end is basically all wetland and floodplain so there would not be any buildings or activities back there other than walking. Mr. Kouros opened the matter to the floor. There being no comments the matter returned to the board.

Mr. Davis made a motion to approve B.Z.A. Case #24-4-4 with the stipulation that there be no commercial vehicles or commercial activities at this location. This was seconded by Mr. O'Rourke and carried 4-0.

D. B.Z.A. Case #24-4-5 8485 Burr St. – Al Perez

General Location: 8485 Burr St. – Lot 1, Perez Addition

Petitioner(s): Al Perez

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

Purpose: To allow a home with an accessory building/detached garage height of 24 feet (Maximum allowed per Ordinance is 14 feet)

For discussion see item C above. Mr. Davis made a motion to approve B.Z.A. Case #24-4-5 with the stipulations of no commercial vehicles or commercial activities at this location. Mr. Jarvis seconded with discussion. Mr. Jarvis stated to Mr. Davis that he wanted to make sure that they only allow one 14 ft. overhead door with the rest of them being 12 ft on the stipulations above; and no commercial vehicles or storage allowed. Mr. Jarvis said to Attorney Konagel that Attorney Alfredo Estrada usually asks the petitioner if the stipulations were acceptable. Attorney Konagel asked Mr. Perez if he approved of the stipulations. Mr. Perez stated yes for the record. Mr. Jarvis seconded the motion and it carried 4-0.

III. COMMISSION BUSINESS:


A. Cancel May 27, 2024 Board of Zoning Appeals Public Meeting

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

IV. ADJOURNMENT

There being no further business, the meeting was adjourned at 6:49 P.M.

Respectfully Submitted:


Rick Calinski, Secretary