

**BOARD OF ZONING APPEALS
PUBLIC MEETING MINUTES
OCTOBER 23, 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 Jarvis. Staff present: Attorney Alfredo Estrada, Town Manager James Gorman, Director of Operations Andrew Hansen, Planning & Building Administrator Denise Sulek, and Recording Secretary Megan Schiltz. Absent was Mr. Eric Kundich. In the audience were Councilmen Tom Schmitt and Caleb Johnson.

C. Approve Minutes of the Board of Zoning Appeals Meeting of September 25, 2023

Vice-Chairman Michael Davis made a motion to approve which was seconded by Secretary Rick Calinski and carried 4-0.

II. PUBLIC ACTION AND PUBLIC HEARINGS

A. B.Z.A. Case #23-10-19 1951 Fairview Ln. – Edith & Francispol Rimas Cabanilla, Sr.

General Location: 1951 Fairview Ln. – Fairview Addition, Lot 17

Petitioner(s): Francispol Rimas Cabanilla, Sr.

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

Purpose: To allow a 240 Sq. Ft. addition to an existing 864 Sq. Ft. detached garage – totaling 1,104 Sq. Ft. (Maximum Allowed – 840 Sq. Ft.)

Mr. Kouros asked Attorney Estrada if Proofs of Publication were in order. Attorney Estrada stated they were in order. Mr. Cabanilla stated that he is looking to extend his existing detached garage another 240 Sq. Ft. Mr. Kouros asked if the garage was located in the backyard. Mr. Cabanilla said it was. Mr. Calinski asked what the reason was for the extra space. Mr. Cabanilla replied that the additional space would be used for more storage room. Mr. Davis asked if the current existing garage is only used for storage. Mr. Cabanilla stated that was correct. Mr. Calinski stated that according to the picture shown on the projector, it looks like construction had already started; he then asked Ms. Sulek if a permit was pulled and construction had already begun. Ms. Sulek stated that Mr. Cabanilla had already started the work not realizing a permit would be needed and was stopped by Code Enforcement. Ms. Sulek went on to say that the permit is currently on hold because he would need a variance, adding on that the existing garage is already over what is allowed. Mr. Kouros stated that the picture seems like there would be a roof addition necessary as well. Ms. Sulek stated that would all be reviewed by the Building Inspector if the variance is approved. Mr. Kouros opened the matter to the floor. There being no comment from the floor it returned to the board. Mr. Jarvis asked Mr. Cabanilla if he has a background in construction since he is doing the work himself. Mr. Cabanilla stated he does. Mr. Jarvis asked how deep the current foundation is. Mr. Cabanilla replied 2ft. and Mr. Jarvis asked what is allowed. Ms. Sulek stated that it would be 3ft. Mr. Kouros stated that his opinion would be for him to go to the Town submit the plans with the Building Inspector and get on the agenda once that gets approved due to not having much information. Ms. Sulek said to Mr. Kouros that building plans have already been submitted but does not get reviewed until after it goes through this

process. Mr. Jarvis asked if a permit was ever issued for the existing garage that is 24 ft. over the maximum that is allowed. Ms. Sulek replied that there was a permit for that, but she would have to go through the files because it is an older home from probably the 1970s; going on to say that at some point a shed was added at the back and that he is just trying to square it off. Mr. Davis asked if it would be possible for the Building Inspector to go out to answer some of the questions they have. Mr. Gorman stated that this is what is called an "After the Fact" permit being that the work had already begun not knowing a permit would be needed; and that after being notified by the Code Enforcer, he then came in and applied for the permit. Mr. Gorman added that since the garage is already over the allowed square footage, it got denied and would need a developmental variance in order to proceed with construction. Mr. Gorman concluded that once/if this gets approved, our Building Inspector would then go out, make his analysis of what he sees so Mr. Cabanilla could correct before continuing. Mr. Davis asked Mr. Gorman if the Building Inspector would not go out unless there is an approval by the Board. Mr. Gorman stated that was correct because Mr. Cabanilla would not be able to do it unless he had a variance for the extra size. Mr. Davis then asked if the Building Inspector would be able to go out if this case was deferred. Mr. Gorman answered that he would not because he doesn't have the permit yet.

Mr. Kouros wanted to verify with Mr. Gorman that the Inspector could not go out and make his recommendations to the Board before they issue a variance. Mr. Gorman stated that we could under special circumstances if that is actually what they would like to do. Mr. Kouros stated that he would feel more comfortable if this case got deferred to another meeting based on the findings that the Building Inspector recommends. Mr. Davis made a motion to defer B.Z.A. Case #23-10-19 until the Commissioner could go out to inspect and make a recommendation to the Board. Mr. Jarvis seconded the motion with the comment that they receive a set of drawing on this at the next scheduled meeting and at the direction of the Building Inspector. Attorney Estrada stated that there was a motion to "defer until" with a list of conditions but no date was given. Mr. Davis stated that his motion was to defer until the Boards concerns could be analyzed by the Building Inspector. Mr. Gorman stated that if the intent is to be sure this is constructed in a proper manor, and this comes back at the next meeting and gets passed on that finding, he believes it would be appropriate to pass it now if they are going to pass it or deny. Mr. Gorman added that if they are going to deny, the next process would be for the permit to be approved by Ms. Sulek; then the Inspector will go out, and if not built correctly it is going to fail and get a red tag. Mr. Calinski stated that he agrees with the Staff recommendation and that the action of the Board is to determine if the size of the garage is appropriate given the Ordinance, and let the Staff do their job on the construction. Mr. Davis removed the motion. Mr. Calinski made a motion to approve B.Z.A. Case #23-10-19 which was seconded by Mr. Jarvis and carried 3-1, with Mr. Davis objecting.

B. B.Z.A. Case #23-10-20 7529 W. 77th Ave. – David Parks

General Location: 7529 W. 77th Ave. – Lincoln Parkway Acres, Lot 29

Petitioner(s): David Parks

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

Purpose: To allow 6-10 hen chickens to be raised and kept on-site on a 2-acre (R-1) residentially zoned property

Mr. Kouros asked Attorney Estrada if Proofs of Publication were in order. Attorney Estrada replied that they were. Mr. Kouros stated that the Board was in receipt of a pamphlet and letter from the petitioner Mr. David Parks for the record. Mr. Parks said that he currently has a 240 Sq. Ft chicken coop with 6 hens on his 2 acre property, located to the east side on the back of the property; adding that he has had it for the past 7 years. Mr. Parks went on to say that it is secure, quiet, and clean and has never had any complaints regarding the noise, safety, pollution, or devaluation of the property in those 7 years. Mr. Parks informed the Board that he had received a citation in April for the chickens, went to the Town Hall meeting in May, and was told the only real option is to file for a variance. Mr. Parks went on to say that he has a unique property where he is basically on a dead end road; adding that the coop is on the east side because nobody lives in the old farm house located on the 6-10 acres of vacant property next door. Mr. Parks informed the Board that he cleans the coop every day. Mr. Parks stated that back in 2016 his fiancé's sister was diagnosed with breast cancer and discovered that his fiancé is a carrier for the BRCA-1 gene mutation, which is known to increase risk of breast cancer. Mr. Parks stated that for that reason they decided to grow their own food and live a much cleaner and healthier lifestyle to reduce those chances. Mr. Parks went on to say that many of his loved ones, such as his Uncle, depend on natural eggs for the

health benefits. Mr. Parks said that he is raising his daughter as a vegetarian and uses eggs as a main source of protein and nutrition for her because she could possibly be a BRCA-1 carrier as well. Mr. Parks added that the chickens help to produce food waste and provide a natural fertilizer. Mr. Parks stated that if granted a variance he promises not to sell eggs, will maintain no more than 6-10 hens, and will never have any roosters so they can remain quiet and show respect to neighbors; adding that he will maintain a quiet, clean, and safe coop. Mr. Parks informed the Board that when first looking into having chickens he went to Crown Point for information and regulations since his address is a Crown Point address; going on to say that he has followed their regulations, and that the coop is 250ft. from the nearest neighbor to the east and over 300 ft. to the neighbor on the south west corner which are the only neighbors that he has.

Mr. Davis asked if they are adding 4 additional hens to the 6 that they currently have. Mr. Parks stated that they are requesting up to 10 hens in case they would ever want more; however, right now they will keep it at 6 hens. Mr. Kouros then opened the matter to the floor. There being no comments from the floor the matter returned to the Board. Mr. Calinski questioned if there was a citation given, then somebody must have an issue. Mr. Parks replied that the Code Enforcer who issued the citation stated that there were no complaints about it from neighbors; and he believes it must have been the Town who was doing work to the east. Mr. Kouros stated that his biggest concern is health issues. Mr. Parks said that he cleans the coop daily, refreshes the straw weekly, and puts the waste in a compost to further fertilize the vegetables and his garden. Mr. Kouros stated that because this is a municipality, it will set a precedent and somebody may come along to do the same and not take as much care; adding that this becoming a health issue is a big problem for him. Mr. Davis asked if there have been any conversations with a realtor or an appraiser that this does not affect the value of the surrounding areas. Mr. Parks stated that he had the property appraised, and the appraiser stated that because of the coop location, this would not be an issue. Mr. Kouros asked the Board if there are any other questions, comments, or a course of action. There were none. Mr. Kouros then asked Attorney Estrada what to do. Attorney Estrada stated that a motion must be made and that is the duty of the Board. Mr. Kouros told Mr. Parks that he appreciates the fact that he is helping his family, but that his concern is this becoming a health issue to the community.

Mr. Jarvis made an unfavorable recommendation of B.Z.A. Case #23-10-20 to the Town Council with the stipulation to limit the number of chickens to 6 at the most, based on his health and property value concerns. Mr. Davis seconded the motion. Mr. Calinski asked Mr. Jarvis if his motion is unfavorable recommendation but can only have up to 6 chickens. Mr. Jarvis stated that is correct. Attorney Estrada stated that it is odd to add a stipulation to an unfavorable recommendation and generally that would be added to a favorable recommendation; suggesting that due to the fact it is an unfavorable recommendation, leave it at that and let the Town Council decide. Mr. Jarvis stated that he amends his motion. Mr. Kouros stated Mr. Jarvis made an unfavorable recommendation to the Town Council, which was seconded by Mr. Davis. This motion then carried 3-1, with Mr. Calinski making a favorable recommendation.

III. COMMISSION BUSINESS

- A. B.Z.A. Case #23-8-11 Proposed Home Business – Police Security/Canine Training
Petitioner(s): Elad & Julie Bachar
Variance of Use to allow a home business to consist of police/security canine training
FAVORABLE RECOMMENDATION TO TOWN COUNCIL (4-0) 9/25/23

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

- B. B.Z.A. Case #23-8-16 8499 Burr St. - Alfred & Sarah Perez
Proposed: Perez Acres, Lot 1
Developmental Variance to allow a 3,200 Sq. Ft. accessory building/detached garage on the proposed Lot 1 of Perez Acres (Maximum allowed 840 Sq. Ft.)
APPROVED W/CONDITIONS (4-0) 8/28/23

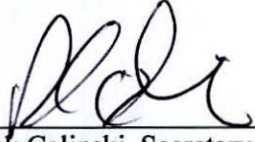
Mr. Davis made a motion to approve which was seconded by Mr. Jarvis and carried 4-0.

- C. B.Z.A. Case #23-8-17 8499 Burr St. – Alfred & Sarah Perez
Proposed: Perez Acres, Lot 1
Developmental Variance to allow an accessory building/detached garage height of 22 ft. on the proposed Lot 1 of Perez Acres (Maximum allowed height 14’)
APPROVED W/CONDITIONS (4-0) 8/28/23

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 6:47 P.M.

A handwritten signature in black ink, appearing to read 'Rick Calinski', written over a horizontal line.

Rick Calinski, Secretary