

BOARD OF ZONING APPEALS
March 22, 2021
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, John Marshall, Dick Sauerma, Daniel Rohaley

Members Absent: Vice Chairman Jeremy Taylor

Staff Present:

Commission Attorney Joe Irak, Executive Secretary Anthony Schlueter, IT Director Adam Graper, Recording Secretary Jenni Pause

APPROVAL OF MINUTES

Chairman Nick Nochevich asked if there are any corrections, deletions, or modifications to the February 22, 2021 meeting minutes. Marshall motioned to approve minutes as presented. Sauerma seconded the motion. With 4 Ayes, 0 Nays, and 0 Abstentions, the minutes were approved.

OLD BUSINESS

21-03 CP Prairie, LLC, Petitioner/Floyd & Brenda Mowry, LLC, Owner

Request: Variance from Development Standards

Purpose: Setback Encroachment

Location: 2411 East 109th Avenue

Christian Bartholomew and Ryan Fleming came before the Board and provided an overview of the petition. Bartholomew stated they have re-tooled portions of their petition and are ready to present those points. Bartholomew stated they believe the original design for the split boulevard entrance to this subdivision remains part of the proposal and want it to remain as the main entrance. Bartholomew detailed the entrance and the benefits of that design. Bartholomew stated the new design calls for a 10' multi-purpose pedestrian walkway path to the north of the main entrance off of Iowa St. Bartholomew stated this path would serve as a pedestrian walkway as well as an emergency access to the subdivision for emergency vehicles. Bartholomew stated the 10' wide emergency access would be constructed with 6" thick concrete with a 6" thick aggregate base that would be capable of accommodating large emergency vehicles such as fire trucks. Bartholomew showed documentation from their Engineers that have determined that method of construction. Bartholomew stated the changes to the proposal were made out of safety concerns. Bartholomew detailed all the changes they made to help make the development safe for the residents and surrounding properties. Bartholomew reported on the Finding of Facts. Fleming came before the Board and stated they feel they have come up with a great alternative proposal for the subdivision after listening to concerns of Board members and Staff.

Executive Secretary Anthony Schlueter reported on the location, zoning and history of approvals. Schlueter reported on the entrance that was required by the Fire Dept. as well as the new emergency access path requested by the BZA. Schlueter reported the emergency access will meet with city road specifications. Schlueter recommended approval of the petition.

Dick Sauerma asked they arrived at 10' wide being the width of the access drive. Sauerma asked if that is enough. Schlueter reported they feel 10' is wide enough for a vehicle to get through.

John Marshall asked for clarification on whether the path will be (2) 5' wide sidewalks or a 10' path. Fleming stated it will be a 10' wide sidewalk and Fleming stated they would be happy to add signage if requested. Marshall asked what Staff decided on for the signage. Schlueter asked Fleming if there would be two paths with grass in between or a solid 10' path. Fleming stated their intention was a solid 10' wide path but they would be happy to amend that if needed. Schlueter stated they would prefer a 10' wide path. Marshall stated he just wanted clarification because he had heard it both ways. Marshall stated he feels this is the best solution for this property.

Rohaley stated at least now they have some type of access. Rohaley stated he does not like it but feels a precedence has been set and they have come up with the best solution they are going to for the subdivision. Rohaley stated it is better to have the emergency access and not need it.

Nochevich stated they have come up with the best plan possible for what they have to work with.

Nochevich opened the public portion of the meeting.

Ed Lukacsek, 2530 E 111th Ct, came before the Board and asked what the distance from the center line of 109th and the center line of this double entry/exit, what is the north/south distance along Iowa St. Lukacsek asked what other locations in Crown Point have the two accesses been waived. Lukacsek stated he does not see what the hardship is with 40 lots which is what is within the city ordinance and the petitioner should be made to reduce their lots to 40 to stick within the ordinance. Lukacsek asked what the radius of the roundabout at 109th & Iowa St is.

Nochevich asked if there was any other public. Schlueter stated he sees none.

Fleming stated he cannot answer how large the traffic circle is as he is not familiar with that project. Fleming stated the distance from 109th to the center of Honeycrisp Dr is approximately 550'.

Schlueter stated as far as the other questions he would have to do some additional research and get back to Lukacsek. Lukacsek stated they need those answers before the vote and the vote should be deferred until they have those answers.

Bartholomew stated the location of the main entrance it is the only feasible location due to utilities. Fleming stated their hands were tied on the location they could use to make sure they did not interfere with the roundabout. Bartholomew stated they cannot speak to the other locations where one access was allowed.

Schlueter stated there is a comment that there is a concern with traffic. Schlueter stated he feels that is everyone's concern.

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

Attorney Irak stated if the approval goes through, he would like to see it subject to him working with the petitioner and their legal reps on tweaking the language for the hold harmless and maintenance agreement for the temporary emergency right of way. Bartholomew stated they would be open to that. Rohaley stated any approval should also be subject to the Plan Commission conditions of approval; all ten items.

Nochevich entertained a motion. Marshall motioned to approve Petition #21-03 subject to all conditions set forth by the Plan Commission, the petitioner working with legal for proper language regarding the hold harmless and maintenance agreement for the temporary emergency right of way and all Staff comments. Nochevich seconded the motion. With a roll call vote of 4 Ayes, 0 Nays, and 0 Abstentions Petition #21-03 was approved.

NEW BUSINESS

21-04 Nina Bivol, Petitioner/Owner

Request: Special Use (Private Club)

Purpose: Reiki/Yoga Center

Location: 209 West State Road 231

Nina Bivol, 209 W State Road 231, came before the Board and provided an overview of the petition. Bivol reported on the Finding of Facts.

Schlueter reported on the location, zoning, and surrounding properties. Schlueter reported that the petitioner intends to operate a Reiki and Yoga center. Schlueter reported on the parking, drive, class size and operating hours. Staff feels this will have no negative affect on any adjacent properties and recommended a favorable recommendation.

Rohaley commended the petitioner on a perfect way to submit a perfect BZA petition application. Rohaley stated this location is perfect for what she plans to use it for.

Marshall agreed with Rohaley. Sauerman agreed with Marshall and Rohaley. Nochevich agreed with the rest of the Board members.

Schlueter stated he sees nothing but positive comments on facebook.

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. Rohaley motioned to send a favorable recommendation to the City Council for Petition #21-04 subject to Staff comments. Nochevich seconded the motion. With a roll call vote of 5 Ayes, 0 Nays, and 0 Abstentions Petition #21-04 received a favorable recommendation.

Nochevich informed the petitioner that she will still need to go before the City Council for final approval.

21-05 Hunter Carmichael, Petitioner/Orchard Properties Inc., Owner

Request: Variance of Use

Purpose: Indoor Golf Simulation

Location: 1005 Millennium Drive

Hunter Carmichael, 2124 Copper Creek Dr., came before the Board and provided an overview of the petition. Carmichael detailed what they are proposing for the site. Carmichael explained why they chose the location. Carmichael reported on the Finding of Facts.

Schlueter reported on the location, zoning, and surrounding properties. Schlueter reported on the employees, design, hours and parking. Schlueter reported he feels this area is zoned incorrectly and feels this use would be appropriate for this location. Schlueter recommended a favorable recommendation to the City Council.

Sauerman stated he had no questions.

Marshall asked for clarification on if the alcohol is part of the petition. Schlueter reported the petitioner does want to serve alcohol at this location and it is all included in this petition. Marshall asked Schlueter to verify that the BZA has to approve the serving of alcohol. Schlueter reported they have to approve the whole thing.

Rohaley asked if this is a type of indoor top golf where you have leagues and games. Carmichael confirmed and stated the difference is at Top Golf you hit into an open air and with this it is a simulator inside that is compatible for the area. Rohaley and Carmichael discussed how the simulator will work. Rohaley stated he was not aware there was going to be an eating and drinking establishment. Rohaley stated he feels the eating and drinking should be a separate petition. Schlueter stated this will not be a restaurant or bar. Carmichael stated they have no intention of having anything open like fry oil but will be sticking to paninis and cold cut sandwiches because he thought it was a requirement for the alcohol.

Nochevich stated he felt like this would be a positive addition to the community.

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

Nochevich motioned to send a favorable recommendation to the City Council for Petition # 21-05. Marshall seconded the motion. Nochevich asked for a roll call vote of 4 Ayes, 0 Nays, and 0 Abstentions Petition #21-05 received a favorable recommendation.

Nochevich informed the petitioner that he will still need to go before the City Council for final approval.

21-06 Adam Smith, Petitioner/Adam & Dan Smith, Owner

Request: Variance from Development Standards

Purpose: Flagpole Height

Location: 1110 East Summit Street

Adam Smith, 1110 E Summit St, came before the Board and provided an overview of the petition. Smith stated they would like the flagpole for their new building. Schlueter asked Smith to verify that the proposed flagpole will be approximately 60' from the road. Smith stated it will be about 80'.

Schlueter reported on the location, zoning, and surrounding properties. Schlueter reported there is a similar flagpole at Buddy & Pals down the street.

Rohaley asked Schlueter if there were any Finding of Facts. Schlueter reported that he checked yes to all. Rohaley asked Schlueter to verify that they have an incomplete Finding of Facts. Schlueter reported he does not think so.

Marshall asked what size flag you put on a 60' pole. Smith stated a 12' x 18' flag. Marshall stated he thinks that is fantastic.

Sauerman stated he had no questions.

Rohaley asked how far the flagpole is from the road. Smith stated approximately 80'. Rohaley asked Smith to verify that if it falls down it will not be in the road. Smith confirmed it will not.

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

Marshall motioned to approve Petition # 21-06 subject to Staff Comments. Sauerman seconded the motion. Nochevich asked for a roll call vote of 3 Ayes, 0 Nays, and 1 Abstentions Petition #21-06 was approved.

MISCELLANEOUS AND PUBLIC COMMENT

No Public.

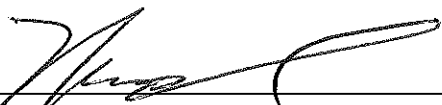
Sauerman voiced his concern with something he read in the Board of Works minutes regarding the road improvements at the intersection of 231 and 113th/South St which calls for a roundabout which will basically be located at the end of his driveway. Sauerman asked when the neighbors will be notified. Schlueter stated he can ask Kutanovski when the surrounding property owners will be notified. Sauerman stated they will talk later.

ADJOURNMENT

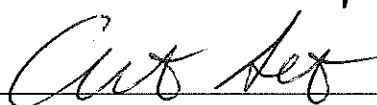
At 8:12 pm, Nochevich entertained a motion to adjourn. Marshall motioned to adjourn; motion was seconded by Sauerman.

ATTESTMENT OF MEETING MINUTES.

The above minutes were approved and adopted by majority on the 26 day of April 2021.



Nick Nochevich, Chairman



Anthony Schlueter, Executive Secretary