

BOARD OF ZONING APPEALS
May 24, 2021
MEETING

ROLL CALL

The meeting was called to order at 7:30 p.m. and the assemblage was invited to stand and recite the Pledge of Allegiance.

Members Present:

Chairman Nick Nochevich, Vice Chairman Jeremy Taylor, John Marshall, Dick Sauerman, Daniel Rohaley

Members Absent: None

Staff Present:

Mayor David Uran, Chief of Staff Greg Falkowski, Commission Attorney Joe Irak, City Attorney Alex Kutanovski, 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 April 26, 2021 meeting minutes. John Marshall motioned to approve minutes as presented. Jeremy Taylor seconded the motion. With 5 Ayes, 0 Nays, and 0 Abstentions, the minutes were approved.

OLD BUSINESS

21-09 Pinnacle Treatment Centers, INC, Petitioner/CapGrow Holdings JV, LLC, Owner

Request: Variance of Use

Purpose: Operate a Group Home Facility in an R-1 Residential District

Location: 1741 East 106th Place

Mark Crandley, Attorney from Barnes & Thornburg, 11 Meridian Street, Indianapolis, IN., came before the Board and provided an overview of the petition. Crandley introduced Tom Delgado Executive Director for Pinnacle Treatment Centers. Crandley stated the petition was continued over to this month to allow them to provide the Finding of Facts as well as some additional information which include insurance info and house rules. Crandley stated they have provided all the documents and information to the city's Attorney Ochs. Crandley stated they have nothing more to say, they are simply looking for a variance for one zoning requirement and they feel this is consistent with the BZA mission. Crandley stated they are only looking for the board to approve more than 5 unrelated individuals in a house they are not looking for any other approvals.

Schlueter reported the petition was deferred from last month to allow the Board ample time to investigate the issues brought up by the neighbors as well as time for the petitioners to answer the Board's questions and provide the documents/information requested by the Staff and Board. Schlueter reported that the petitioners provided the requested documentation just last week.

Nochevich asked the petitioner what the requested number 8 is. Delgado stated it is the number of beds in the house. Nochevich asked the petitioner to verify that is the number of individuals that can be accommodated at that site. Delgado confirmed.

Taylor asked if any of the patients are employees. Delgado stated they are not employees. Taylor asked Delgado to verify that none of the employees working at this site are patients. Delgado stated none of the employees are patients.

Marshall stated the petitioner declared that the only variance they are looking for is to have more than 5 unrelated individuals in the house, but he thought it was included in the variance that they were running a group home. Crandley stated that is not their characterization and that is not how they styled the variance. Crandley stated they are only seeking a variance for the one rule they were cited for that is pending litigation.

Sauerman stated he is still curious how they arrived at 4 bedrooms and 8 patients. Delgado stated because it is a 4-bedroom house. Sauerman stated the related company leasing the house to Pinnacle purchased a 4-bedroom home with the intention of leasing it to Pinnacle for this purpose. Crandley stated he does not feel that is the case. Sauerman asked Crandley if CapGrow had some type of advertisement that they had a house available for lease. Delgado stated Sauerman was correct, they work with CapGrow to purchase homes to fit Pinnacle's needs. Sauerman asked if they looked at other 4-bedroom homes. Delgado confirmed they looked at various sized house.

Rohaley stated he asked this last time, is there any criteria that they look at when searching for houses to determine which ones to purchase. Rohaley stated he guesses CapGrow is their real estate arm and then the program comes in and provides housing for the patients/tenants. Crandley stated CapGrow is a separate company and not an arm of Pinnacle. Rohaley asked the petitioners to verify that CapGrow buys the house and then Pinnacle enters into a lease agreement with them. Delgado stated Pinnacle locates the houses and then works with CapGrow letting them know which houses Pinnacle is interested in. Rohaley asked what the criteria is that is given to search for houses. Delgado stated the criteria is they like to have at least 4 bedrooms and they want to be able to sleep 8 residents in each home. Rohaley asked why they come up with that magic number. Delgado stated because 4 or more so if they found a 5-bedroom house there would be 10 residents. Delgado stated they have 20 different residential homes across the country, and they vary in size. Rohaley asked if the minimum is 5. Delgado stated their minimum is 8. Rohaley asked if they saw a 3bedroom house it would most likely not be on their list. Delgado confirmed that.

Taylor asked if the number of residents in the home has a baring on their treatment. Crandley stated these individuals, under the disability act, have the same right to live in the same kind of housing as anyone else so if mor than 5 people that are related can live in a house together these people should be able to as well. Taylor asked the petitioner to verify that what they are looking for is 5 unrelated people in a house. Crandley stated that is correct that is why they need the variance. Taylor stated uniformly across the city more than 5 unrelated people cannot live together. Crandley stated that is where the federal discrimination act comes in there is a difference being made between some people that can live in a housing with more than 5 people and disabled people cannot. Crandley stated if there is an ordinance like that on the books, they have to offer the same type of housing or housing conditions that the non-disabled people get.

Nochevich stated the ordinance allows 5 unrelated people to live together. Crandley stated it allows for 5 related people to live together. Staff corrected and stated the ordinance allows 5 unrelated people to live together. Petitioners, Staff and Board discussed what the ordinance allows, it was determined and agreed upon that the ordinance allows 5 related or unrelated people to live together in a house, the variance could be sought for more than 5 unrelated. Nochevich stated the ordinance would allow for 5 unrelated people to live together in a house anywhere in the city, disabled or not. Nochevich stated they are not saying the petitioner cannot have 5 unrelated people living in a house they are just saying you cannot have more. Crandley stated they are asking for 8, which would be allowed if they were all related to each other.

Marshall asked Crandley to verify that the city allows more than 5 related people in a house and they want the same rule to apply to them. Crandley confirmed. Marshall asked the petitioners if they have evidence of that. Crandley stated he does feel that is appropriate or necessary. Marshall stated he disagrees. Marshall asked legal to tell the Board what the variance is that the petitioners are seeking because it seems to be different from last month to now. Marshall asked someone to tell him exactly what the variance is for Petition is. Attorney Ochs stated the determination to the nature of the variance is up to the Zoning Administrator; the council for the petitioner is correct that there was an act brought forth to enforce a particular provision of the ordinance, but if the Zoning Administrator determines that, without regard to the Fair housing Act, any group home would require a use variance in this residential district then that is what the variance is for regardless of what the petitioner claims he is seeking. Ochs reported to operate the petitioner needs a variance for any provision of the ordinance that would apply not just one. Ochs stated getting the one he is seeking is fine but if he does not get the variances necessary to operate the facility from all the requirements it does not do him any good. Ochs stated this Zoning Administrator placed it on the agenda as a use variance as a group home which implicates more than merely have more than 5 unrelated people in a house. Marshall asked Ochs to verify that what they are voting on is running a commercial treatment center/group home with more than 5 unrelated people. Ochs confirmed. Crandley stated he wants to be very clear on the record that, that is not what they have asked for. Crandley stated if the request they have made is not approved, they go back to Federal court, he wants to make it very clear that is another violation of Federal Housing Administration Act. Schlueter reported a group home is not permitted in a residential district. Marshall stated they want more than 5 unrelated people, but they are not a group home. Crandley stated this is not a group home, they want the same treatment as anyone else in that neighborhood has to live in their home.

Sauerman stated that is not quite right because they are looking for more than 5. Crandley confirmed.

Marshall stated the 8 or 5 is basically a economical decision because they cannot make money at 5 people. Delgado stated they do not make money on the residents living it that home. Marshall asked what they charge them. Delgado stated they pay if they can afford it if they cannot they do not pay. Marshall stated when their insurance pays for treatment some of it applies to housing. Delgado and Crandley stated none of it applies to housing. Marshall asked why they are supplying housing. Delgado state because it gives them an opportunity to extend their recovery. Marshall stated if they are not making money with 8 in the house what difference does it make if they do not make money with 5 in the house. Delgado stated because they would like to have their house full. Marshall stated so it is a for profit. Delgado stated it is not. Crandley stated whether it is a for profit has no difference to the Federal disability rights of their patients.

Nochevich stated they had a meeting over a month ago and the Board requested some additional information, he asked why it took so long to get to them, they just got it in their hands several days ago. Crandley stated he provided it to the city's lawyer at least a week ago. Ochs stated that is not true, he just received it last Tuesday which is less than a week. Crandley stated he does not know what that has to do with the zoning application and what they have to do under the Fair Housing Authority. Nochevich stated he understands that, but the petitioner is there asking them to make a decision on something they haven't really had the opportunity to review. Crandley stated he provided it to the attorney. Nochevich stated at the last meeting, a month ago, Crandley stated he would have the requested information within a few days. Crandley stated he does not know if he said a few days, but they could not do it then. Crandley stated once again he does not know what that has to do with the zoning application. Nochevich stated to allow the Board ample time to do their job and make the decision that is being requested of them, they are trying to look at everything and understand everything so they can make the right decision in the aspect of everyone involved. Nochevich stated when you do not have all the facts in front of you it is hard to do that. Nochevich stated he has some questions on the rules of the house, he stated they seem pretty straight forward. Nochevich stated his concern is a section that refers to being outside of the home/facility, it states no one is allowed to go outside the facility unless everyone is

together. Delgado confirmed. Nochevich stated at the last meeting and in between the Board has heard about people moving around outside the home in other areas. Delgado state he is going to disagree with that, they do not move unless they are in a group. Marshall asked if they are allowed to leave the house and go for a walk around the block. Delgado stated they are not allowed without staff accompanying them all as a group. Marshall stated if it is happening, they are breaking the rules and asked what the results of that are. Delgado stated he does not believe it is happening but if the rules were broken then those would be addressed individually which could be a warning or dismissal depending on the severity of the rule. Nochevich asked how they monitor or police this fairly, again the rules are very clear but if it is happening how do they make sure it is taken care of. Crandley stated he understands the concern, but he would go back to what they are asking for and what they are not asking for. Crandley stated they are not looking for a golden ticket from the BZA to do whatever they want, if they are violating rules or if there is some public disturbance then that is dealt with elsewhere, all they are requesting is a narrow variance. Crandley stated they disagree with the characterization of a group home. Crandley stated if they violate some provision of municipal ordinances those can be enforced against them. Crandley stated they are not asking for a release from every possible enforcement, they just want to be able to have more than 5 unrelated people in the building; that is all they asked for. Marshall stated Crandley stated those things will be dealt with elsewhere and asked where elsewhere is. Crandley stated an example would be a noise ordinance violation which officers could give a citation. Marshall stated in the past have put a 12–24-month review on a project where they come back, neighbors can talk about things that have gone on, they pull police reports and talk to code enforcement. Marshall asked the petitioner if they have any problems with that. Crandley stated the issue is not if they are breaking any rules, it is they have a federal right to this variance and they are not going to agree to provisions. Marshall asked the petitioner if he feels they have a federal right to do whatever they want. Crandley stated that is not true. Marshall stated then they should have no problem with a review. Crandley stated he feels that is waiving the rights of the people that live in the house. Marshall stated he is not asking them to waive any rights the review would have nothing to do with the patients. Crandley stated they have a federal right to be in this house. Marshall asked what the repercussions on for breaking the rules. Crandley stated he does not understand what Marshall is saying. Marshall stated if a guy leaves the house, and the city has numerous reports of it and Pinnacle does not do anything about it. Delgado stated he is going to answer that question one more time and then he is going to ask that they move on to the variance of 5-8 people. Delgado stated if someone breaks a rule they are dealt with individually depending on the severity of the rule. Delgado stated there are various things that can happen when someone breaks a rule. Marshall asked the petitioners what they do about sexual predators. Crandley stated that has nothing to do with the variance. Taylor asked if the patients are considered residents and if they are on a registry, would they be required to register as residing in this home. Delgado stated if anyone is on a registry, they are required to report them living in the house. Marshall asked how close the house is to a park. Crandley and Delgado stated they do not know. Crandley stated the only reason someone would bring up sexual predators is a discriminatory intent. Taylor stated he is trying to understand the process and wants to know if people know they are going to that house and that there is a park within 500'. Delgado stated he does not believe there is a park within 500', but yes they know they are going to that residence.

Taylor stated he is still confused by the relationship between Pinnacle and CapGrow. Taylor stated they have been told that Pinnacle does not make a profit off the home and asked if CapGrow does. Delgado stated they pay rent to CapGrow. Taylor asked if there is a lease involved and what is the duration. Crandley stated there is and he believes it is 3 years.

Marshall asked how many people they have had register in the last year. Delgado stated none. Marshall asked the petitioner to verify that in over a year no one has had to register. Delgado stated not to his knowledge.

Taylor asked what the cost of the lease is per month. Crandley stated he would need to look it up. Taylor stated he can wait while he looks it up.

Marshall stated the biggest obstacle he has is as a Board member he does not know what he is voting on. Nochevich asked the petitioner to verify that they are simply asking for a variance for 8 unrelated people in the house and nothing more. Crandley confirmed and stated they are not looking for a variance to be characterized as a group home or permission to run a group home. Ochs reported the problem with that is if they ignore what the Zoning Administrator has determined which the petitioner knew about because that is the way it was characterized on the agenda and in the notices. Ochs reported if all the necessary variances to operate the facility as they want are not approved it still violates the zoning ordinances. Ochs reported they need all the variances necessary in order to operate the home and the Zoning Administrator has determined that it requires a use variance as a group home. Crandley stated they are just telling him this tonight. Crandley stated in their view none of the other rules apply it is just an attempt to prevent them from exercising their federal rights and it will have to be taken up in the federal court. Ochs stated he is not suggesting that they don't need the variance for 8 people, he is stating there are other variances required as well under the ordinance for the operation of this facility as the petitioners has described it. Ochs stated it is fine that the petitioners think this should be granted because it is a reasonable accommodation, but he wants to be clear that they cannot do this halfway. Crandley stated they were told this was the provision they were told they needed and now they are being told they need additional variances. Crandley stated they just want the variance they have been sued by the city for violating. Crandley stated if there are other variances down the road, they will take care of the, then.

Taylor stated he feels in his opinion that the 5-8 variance does not affect them in treating their patients and why they are protected under the fair housing act. Taylor stated he does feel that it creates a problem with the comprehensive plan for zoning. Taylor stated they could operate with 5 individuals in the house instead of the 8.

Marshall stated he is still confused as to why they do not know they are coming in as a group home. Marshall stated they have never piecemealed, and they should be seeking all the variances required to run as a group home. Crandley state they are not a group home. Crandley claimed they were not told they were a group home until today. Marshall stated he has to disagree with them and asked how they could have missed it at last months meeting. Crandley stated they sat and talked about the variance they were requesting at the last meeting without being told they were a group home.

Nochevich stated the Board is in a position that they are trying to hear all the facts and make a decision and as Marshall mentioned they had a meeting a month ago where the Board asked questions about the rules and such. Nochevich asked the petitioner if the only thing they wanted to know about was 5-8 why didn't they nip that in the bud, then. Crandley stated they answered the questions that were put to them, but they very clearly stated what they wanted in the variance petition. Crandley stated there were questions asked the last time that they answered but are not relevant to the petition. Nochevich stated they are trying to look at the overall picture to make the right decision for the city of Crown Point and the residents that live there. Crandley stated they are only looking for the one variance for 8 people to live in the house. Nochevich stated he is more confused now than he was before because he has more questions. Marshall asked Crandley if they have a copy of the petition, they sent in. Crandley stated he sent it to the city's council. Marshall asked Crandley if he could provide the Board with a copy of the application to show exactly what they submitted. Marshall asked Staff if the Board member could get a copy of the petition so that they can see exactly what they wrote down.

Sauerman stated he is listening and hears that the residents that live in the house can pay voluntarily but that there is a lease in place and the lease has to be met. Sauerman stated what he is hearing is absent those people paying voluntarily there is no other income source to be paying for the house. Delgado confirmed. Sauerman asked the petitioner to verify that Pinnacle has an arrangement with CapGrow to go out and find homes that fit their criteria. Delgado corrected him and stated Pinnacle goes out and finds the houses and they

partner with them. Sauerman asked what kind of due diligence do they go through. Sauerman stated clearly if they would have went through the city's ordinances they would have seen that they have limitations for more than 5 unrelated people, but yet they went out and bought a 4 bedroom home that allows 8 unrelated people which is clearly against the ordinance. Crandley stated that ordinance is unenforceable under federal law to these individuals. Sauerman asked Crandley if those people are treated with more rights than the people that live in the subdivision. Crandley stated they cannot be treated with less rights. Sauerman stated that is right so they are not being treated any differently. Crandley stated they are because they are not allowing them to have the same occupancy numbers as people that are related to each other. Sauerman stated the ordinance states if there more than 5 unrelated people a variance is required. Sauerman stated the residents are not related. Crandley stated that kind of relation criteria creates an unfair discrimination against people who cannot live in residential housing unless they have the variance or reasonable accommodations.

Nochevich asked Crandley to clarify that the Federal Housing Act allows not to be discriminated to live in a setting like this, but if the ordinance in the city says anybody, disabled or not, the same rule for everyone is 5 that is now discrimination if they do not say yes to 8. Crandley stated that issue has not really been litigated. Crandley stated the question comes up when you can have people related that can live with more than 8.

Marshall stated he read the petitioners letter and asked what a residential facility is. Marshall stated the letter reads that Pinnacle manages a "residential facility" and asked what that means. Marshall asked where in the letter does it state that the petitioner wants to have 8 people in the house. Crandley stated it is his letter and he wrote it and he indicated they wanted a variance for more than 5 unrelated people. Marshall asked Crandley to verify that this is his letter that he wrote to apply for the variance. Crandley confirmed. Marshall asked where in the letter does it state 8. Crandley stated they represented their findings and they stated it at the last meeting. Marshall stated it could have been in the letter they wrote to apply for the variance. Crandley stated he said 8 a dozen times at the last meeting. Marshall asked Crandley to verify that they did not know the number when they wrote the letter. Crandley stated they asked for the variance for 5 or more. Marshall asked where the number 8 comes from. Crandley stated they submitted findings that have the number 8. Crandley stated whether the number 8 appears in the letter is beside the point. Marshall stated they just got the findings. Crandley stated he sent them to the city's council 6 days ago.

Nochevich read from the Finding of Facts for clarification. Crandley stated there are lots that will allow more than 5 related people but not more than 5 disabled. Taylor stated if they had 10 related patients, they could all live in the house. Crandley stated that would be a pretty unique circumstance.

Marshall stated Crandley claims there are 10 related people living in a house in Crown Point and asked where the house is located. Crandley stated he is just giving an example.

Nochevich stated the Board just needs to understand the petition and what is being asked. Nochevich stated the petitioner claims there has been curve balls thrown at them, but he feels there have been more curve balls thrown at the Board. Nochevich stated they are just trying to comprehend and figure out what is the best situation. Nochevich stated they are not in a place where they want to discriminate against anyone, but they want to be fair to the city and the residents and everyone that lives here that is abiding by the rules. Nochevich stated they want to understand how this facility is going to operate so that when they say yea or nay that the people understand that the Board did their due diligence. Nochevich stated it has been a mystery as to what goes on at the house and that is part of the problem. Nochevich stated getting more information is helping understand what they do so that they can make the right decision. Crandley stated they are looking for a very narrow variance and investigating everything going on at the house is not what they are here for and maybe they can dispute that in the federal lawsuit.

Taylor stated he feels 8 is a very arbitrary number and he does not understand the difference between 5 and 8. Nochevich asked the petitioner if there are any medical reasons that the number has to be 8, it's just a request based on the facility they have. Crandley stated it is because it is a 4-bedroom house, and they can have 2 people to each bedroom. Crandley stated they bring the 8 up because they want to make sure the city knows they are not asking for more.

Sauerman stated with this house they want 8. Sauerman stated their lawsuit contention is they could be at 20 and the city would still be in violation. Crandley stated he does not feel they would have a house that would fit 20. Crandley stated that is what the federal law allows. Sauerman stated that is his contention but he is not sure that is true. Sauerman stated he wishes the petitioners were good corporate citizens and would have come to the city in the very beginning to have these discussions. Sauerman stated now the Board is being told by Crandley that they are not acting in good faith, but the petitioners put them in that position because they did not come open arms with full facts and full disclosure to let them know what is going on. Sauerman stated he feels they are trying to do a cram down on the city. Crandley stated when the city reached out and issued an ordinance violation the petitioners immediately tried to work with the city's lawyer. Crandley stated they had some building code violations that he believes have all been fixed but has not heard. Crandley stated they tried to work with the city but were sued and now feel they have to defend their rights. Sauerman asked if they care about residential neighborhoods where they go. Sauerman stated maybe they have a legal right, that is for a judge to determine, but don't they care. Sauerman asked Crandley if he would like to have a home like this next to him. Crandley stated that question is why they are in federal court. Crandley stated the insinuates that there is something wrong with these disabled people. Sauerman stated that is an unfair characterization. Sauerman stated the people in this subdivision went out and bought these homes and now the perception is their house is worth less because they have this home next to them.

Nochevich opened the public portion of the meeting.

Daniel Bajda, 1761 E. 106th Pl, came before the Board and voiced his concerns with what goes on at this house. Bajda stated the petitioner is calling them residents but since the last meeting there have been 24 different people have been through the house. Bajda stated 24 people in 4 weeks shows that those people are not living there. Bajda stated it is a flop house. Bajda stated if this is not a group home that is has no federal protection, they are simply operating a motel in a residential area. Bajda stated the big federal court cases were based off the Hoxford House which operates approximately 800 homes across the country and the average stay is 6 months for each resident, with 76% staying 13 months and they have to pay their daily rate. Bajda stated the typical lease with CapGrow is 10–15-year lease and feels the petitioner is flat out lying. Bajda stated if they are getting any type of state or federal money, they are subjected to opening up their books. Bajda stated the petitioner claims no rules are being broken but he has documentation of a trespassing violation and nothing was done. Bajda stated the websites describes this as a recovery house so where does the federal protection come from. Bajda stated he found out if any of the patients have prescription drugs that have to do with their addiction, they lose federal protection. Bajda stated if this is not a group home, they have no right to be there, they are operating a motel. Bajda stated he has pictures. Nochevich asked council if they should look at the pictures. Ochs stated if people can be identified in the pictures, he would advise against it. Bajda asked how they could be identified if the Board does not have a list or roster. Bajda stated he takes pictures for his own safety and the safety of his family and neighbors because it is a rotating door out of the house. Bajda asked what the legal definition of an addict is because HIPAA requires you to be in a medical facility not a private home. Bajda stated HIPAA requires that you not share medical history that does not include pictures. Bajda voiced his concern with no supervision. Bajda stated he will not let his family be in harms way over two corporations trying to make money.

Laura Didonna, 1830 E 103rd Pl. came before the Board and voiced her concern with the safety of the residents

especially the children because of this house. Didonna stated she feels the bigger issue is the purpose of the home, she feels it is a business being run out of a residential neighborhood. Didonna stated her and her husband purchased a home in a residential neighborhood area not a business district. Didonna stated she is very surprised, if the organization did their homework, does not know that there is a park right down the street probably less than 500'. Didonna read the definition of a "home" and stated this is not a home and needs to be in an appropriately zoned area.

Jon Nealy, 1740 106th Pl. came before the Board and voiced his concern with the fact that this is a business. Nealy stated they are opening a can of worms if they allow this in a residential neighborhood. Nealy stated they do not take care of the maintenance on the house, lawn, or trees. Nealy stated if these people were proactive and good with the community this would be a different story, but this is all about money and a business. Nealy stated they are trying to back door everything and lie about everything including in court. Nealy stated he worries about his wife and children being outside because there is a revolving door of people.

Felicia Henley, 10660 Alabama St. came before the Board and voiced her concern as a parent that they do have rotating people in and out and they do not know if the area on a sex offenders registry. Henley stated last summer her 9-year-old daughter was riding her bike in front of this house and had two men catcall out to her. Henley stated her daughter came home in hysterics and her girls are now not allowed to ride their bikes or walk alone near this house. Henley state they are counting on their elected officials to protect them.

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

Crandley stated they have nothing additional to say.

Marshall stated he does not want to be argumentative, but he still does not know what they are voting for. Marshall stated he would defer to allow legal time to clarify what they are voting on.

Nochevich stated they are just a recommending body and asked the petitioner if they could do a special meeting so that they could still go before Council on June 7 would they be ok with it. Crandley stated he is concerned with them spinning their wheels. Crandley stated they are simply asking for a variance for the 8 unrelated individuals in a house. Crandley stated the court is going to want a ruling. Ochs stated it is the board's prerogative to do as they like.

Mayor Uran asked Schlueter if he has a copy of the Staff report. Schlueter stated he does not have it with him. Uran asked the Board to reaffirm their confidence in the Planner that read the Staff report at the last meeting exactly what they are voting on. Uran stated what he is hearing tonight is it is somewhat different based on the actions of the petitioners. Uran stated he feels it is unfair based on Schlueter not having the document. Uran stated he hears the residents loud and clear and would recommend deferring this to a special meeting to make sure there is no inappropriate vote based on what was filed. Uran stated he has all the confidence in the world in Schlueter but feels it should be deferred for 7 days to allow for clarification and to make the correct determination.

Nochevich agreed. Nochevich stated they do not want to prolong things but want to make the best decision for all involved. Nochevich stated there are some things that need clarification and other things brought up by the residents that need to be looked at.

Marshall stated he wants to know first what they filed for and also what other variances might be needed. Marshall stated this should be voted on as a package deal. Marshall wants clarification on whether this is a group home or not.

Nochevich motioned to defer Petition #21-07 for 7 days. Marshall stated he does not want any surprises at the next meeting. Marshall seconded the motion. Ochs asked for date and time of meeting. Nochevich stated it will be June 1st at 7pm in the chambers. With a roll call vote of 5 Ayes, 0 Nays, and 0 Abstentions Petition #21-07 was deferred to June 1st.

NEW BUSINESS

21-10 Midwest Express Care, 4 LLC, Petitioner/KRG/I-65 Partners, LLC, Owner

Request: Special Use

Purpose: Operate a Medical Clinic in a B-3 Business District

Location: 129 E. 107th Avenue

Nicole Hawkins, 12989 Hayes St. and Brittany Press, 15052 Cary St., Cedar Lake, IN came before the Board and provided an overview of the petition. Press provided details on what the clinic will do. Hawkins provided details about the business. Press reported on the Finding of Facts.

Schlueter reported on the location, zoning, proposed facility, and history of business. Schlueter reported on the operating hours and number employees. Schlueter reported the petition has been properly advertised and all public notices were sent out. Schlueter reported the Planning Dept has not received any letters of support or remonstrations for this petition. Schlueter reported he feels this type of business agrees with the comprehensive plan and compatible with the surrounding businesses. Schlueter recommended a favorable recommendation.

Marshall stated he is in favor of this business and feels it fits in with the surrounding businesses.

Taylor asked what the normal zoning for a clinic like this. Schlueter stated OS1 which is very limited in the city.

Nochevich opened the public portion of the meeting.

Matt McClay, 11416 Maryland St., came before the Board as the construction manager for the petitioner and stated he feels this is a great fit to the community.

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

Nochevich entertained a motion. Marshall motioned to send a favorable recommendation to the City Council for Petition #21-10 with all Staff comments. Sauerman seconded the motion. With a roll call vote of 5 Ayes, 0 Nays, and 0 Abstentions Petition #21-10 received a favorable recommendation.

Nochevich informed the petitioner that they would need to be present at the next City Council meeting to receive the final determination.

21-11 NWI Escape Room, LLC, Petitioner/Lake County Trust No. 3500, Owner

Request: Variance of Use

Purpose: Operate a Commercial Recreation Business in an I-1 Industrial District

Location: 1220 Arrowhead Court

Jennifer McMullen, 319 N. Grant St., came before the Board and provided an overview of the petition. McMullen stated they had to move from their location on Main St. due to the fact they were not able to rent the entire building as the landlord required.

Schlueter reported on the location, zoning, history of business and approvals. Schlueter reported on the business operations, hours and parking. Schlueter reported the petition has been properly advertised and all public notices were sent out. Schlueter reported the Planning Dept has not received any letters of support or remonstrations for this petition. Schlueter reported the business has operated successfully for several years with no issues and recommended a favorable recommendation for this petition.

Nochevich stated he remembers this petition and feels this is a better location.

Marshall agreed with Nochevich. Marshall stated he feels the new location will be more successful.

Rohaley stated he is in favor of this petition and feels the petitioner runs a very professional and orderly business.

Nochevich entertained a motion. Taylor motioned to send a favorable recommendation to the City Council for Petition #21-11 subject to Staff comments. Rohaley seconded the motion. With a roll call vote of 5 Ayes, 0 Nays, and 0 Abstentions Petition #21-11 received a favorable recommendation.

MISCELLANEOUS AND PUBLIC COMMENT

No Public.

No Misc.

ADJOURNMENT

At 9:10 pm, Nochevich entertained a motion to adjourn. Sauerman motioned to adjourn; motion was seconded by Marshall.

ATTESTMENT OF MEETING MINUTES.

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

Nick Nochevich, Chairman

Anthony Schlueter, Executive Secretary