The Fall Creek Board of Zoning Appeals convened at 6:00 p.m.

The meeting was called to order by Mr. Richards.

A roll call was taken and those members present were: Steve Richards, Rich Bassett, Joel Fenske, and Chris Huck. Others present were: Rodney Retzner, Kevin Stotts, Ross Hilleary, Megan Schaefer, Jessie Boshell, Andrew Magee, Kay Prange, Tony Scott, Sherry Minnick, Eric Rector, Bruce Young, Donna Young, Donald Barker, Jason Barnett, D. Baker, Jeff Hern, Salvatore DeSantis, Suzanne Clare, Elizabeth Tyanberg, Dave Close.

Mr. Richards opened the meeting to nominations for Election of Officers, Appointments and Designations.

Election of President- Mr. Richards asked for nominations for President. Mr. Bassett nominated Steve Richards for President, seconded by Mr. Fenske. The nomination was approved, 4-0.

Election of Vice-President- Mr. Richards asked for nominations for Vice-President. Mr. Richards nominated Rich Bassett as Vice-President, which was seconded by Mr. Huck. The nomination was approved, 4-0.

Appointments and Designations:

Appointment of Secretaries (Tony Bagato, Kevin Stotts, Dale Davis, Megan Schaefer, Ross Hilleary, Andrew Magee, Jessie Boshell)- Mr. Richards made a Motion to approve the appointments, which was seconded by Mr. Fenske. The Motion was approved, 4-0.

Appointment of Recording Secretary (Kay Prange)- Mr. Richards made a Motion to approve the appointment, seconded by Mr. Fenske. The Motion was approved, 4-0.

Designation of Plan Commission Legal Counsel (Krieg DeVault)- The Motion to approve the Designation was made by Mr. Richards and seconded by Mr. Bassett. The Motion was approved, 4-0.

Designation of Commission Legal Publications (Noblesville Times and The Current)- The Motion to approve the Designation was made by Mr. Richards and seconded by Mr. Bassett. The Motion was approved, 4-0.

Mr. Bassett made a Motion to approve the Minutes from the Previous meeting, November 29, 2018, which was seconded by Mr. Richards. The Motion was approved, 4-0.

Public Hearings:

Case # VA-19-3-13210 Promise Road

Request to consider a variance from section 5.7.B.2.G of the City of Fishers Unified Development Ordinance to exceed the allotted one (1) vehicle allowed to park on site for a home occupation. Subject property is zoned R-2 and is approximately 3.00 acres.

Eric Rector, the Petitioner, presented the request for a use variance to park more than one (1) vehicle on site for a home business. Currently 10 trucks and 8 trailers are parked on the property for a lawn service business.
Mr. Richards opened the meeting to Public Comment.

Anthony Scott (13274 Promise Road) and Cheryl Minnick (13168 Promise Road) both spoke that Mr. Rector is a good neighbor and they have no concerns.

Mr. Richards closed the Public Comment portion of the meeting.

Jessie Boshell, Planner II, presented the Staff Report. The vehicles in question have been there for 10 years and the request is in order to comply. The application for the variance is in response to an anonymous complaint brought to the City’s attention. The complaint also referenced heavy equipment, smoke, commercial uses, and truck fueling. Staff is not making a recommendation to the Board.

In Committee discussion, Mr. Richards asked if there had been other complaints. Mr. Boshell answered that none had been received. He also asked if the fuel is compliant. The Petitioner replied that the EPA does inspections and that the two tanks have been inspected. They are filled once a week, as a rule.

Mr. Fenske asked if he has looked at berm/fencing/trees on the north side of the property.

Mr. Richards asked for a Motion. Mr. Bassett made a Motion to approve, with the voluntary commitment:

1. That the petitioner work with Staff for screening
2. That there be no more mulching or earthmoving
3. That the vehicles and fuel storage be kept behind the building

Mr. Fenske seconded the Motion and the Motion was approved, 4-0.

a. **Case #VA-19-6 10490 E. 116th Street**

Request to consider a Development Standards Variance from section 6.2.2.B.C. to exceed the allotted height and placement of an accessory structure on the subject property. Property is zoned R-2 and is approximately 4.91 acres.

Bruce Young, the Petitioner, presented the request for a height variance for a new garage to house a motorcoach. The new garage will copy the style of the existing garage. Exterior elevations were reviewed, with aerial views of the property. It is his intent to purchase the property if the second garage can be built.

Mr. Richards opened the meeting to Public Comment. Seeing none, he closed the Public Comment portion of the meeting.

Jessie Boshell, Planner II, presented the Staff Report. All phone calls have been supportive and the request complies with permission from the current property owner. Staff recommends approval.

In committee discussion, Mr. Bassett confirmed annexation of the property as a commitment and confirmed that garage placement is OK. Mr. Boshell confirmed that it is.
Mr. Richards asked for a Motion. Mr. Bassett made a Motion to approve, provided that there is a commitment to annex the property. The Motion was seconded by Mr. Richards. The Motion was approved, 4-0.

b. **Case # VA-19-10 IN Gun Club**

Request to consider a Development Standards to replace the existing shell house with a new structure to be used for storage, consistent with the current use, and to add one (1) additional building for storage. This will be a change to the approved development plan under Conditional-Use 78-SE-13. None of the proposed improvements represent an expansion of the current use of the property.

Jeff Hern, representing the Gun Club and the Indiana Trapshooters Association board, presented the building of a new garage to store ammunition and equipment. An old garage would be torn down, replaced, and most of the trailers removed. They want to start construction now to get ready for upcoming events. Their concern is that as a condition of the Variance request, they would be annexed into the City of Fishers. They want to hold off on annexation as they are concerned with how City ordinances such as noise, gun laws, etc. will affect their current operation. They are also concerned about legal issues with the surrounding residents who may think the Gun Club incorporating into City limits means they should not be able to continue operations. The Gun Club feels the annexation may bring legal fees to deal with these issues. A State Statute specially written for the Gun Club may exempt them from City Ordinances, but no one present was familiar enough with this statute to confirm.

The Gun Club asked to have the City mitigate liability for any adverse impact due to gun laws, noise ordinances, etc. due to Annexation and for annexation fees and legal fees to be paid by the city. Mr. Hern is looking for a commitment that voluntary annexation would have no negative impact. Rodney Retzner, City Attorney, stated that there is no way to mitigate liability. The City will not pay legal fees. Mr. Hern stated that taxes will go up, which was confirmed by a Study done by the City Controller’s department. He also stated that the ITA board saw pitfalls with annexation.

Mr. Hern asked that the Annexation be taken out of the conversation but that the Gun Club is willing to dedicate the appropriate ROW needed for a path along 113th Street. Mr. Retzner stated that the condition of voluntary annexation is at the FCBZA’s discretion and they can approve the Variance request without annexation.

**Mr. Richards opened the meeting to Public Comment.** Seeing none, he closed the Public Comment portion of the meeting.

Megan Schaefer, Planner II, presented the Staff Report. She clarified that there is no expanded use related to this Variance but was required because there would be a change to the development plan approved under the original Conditional Use permit. Staff has been directed to ask for Voluntary Annexation when property improvements are involved in Variance requests and requested the board approve the variance request with the condition of voluntary annexation.

Kevin Stotts, Assistant Director of Planning and Zoning, explained that our direction from City Council is to seek voluntary annexations for properties being improved. Staff did not expect annexation to be taken off the table. At the same time, the City doesn’t want to hold up construction. Ms. Schaefer noted that at some point in the future, annexation would take place as City Limits are expected to continue expanding to the east.
In Committee Discussion, Mr. Richards noted that the Board takes seriously following the City’s directive. He feels that the Board doesn’t know enough regarding the State Statue and how annexation will affect the laws applicable to the Gun Club. The Attorneys for the Gun Club and the ITA need to look at liability issues and have the process moved forward to see if State Law pre-empts Fishers ordinances. Mr. Fenske asked if the FCBZA needed to be concerned about laws regarding ammunition storage. Mr. Retzner stated that those are all regulated by the EPA, ATF, and Hamilton County.

Significant discussion with many wording variations was held with respect to voluntary annexation of the property. The Petitioner repeated concerns that annexation into the City might affect continued operations of the shooting range. Petitioner voluntarily committed to annexation of the property provided that such annexation would allow continued operations of the facility in the manner currently operated. Petitioner also committed to voluntary dedication of right-of-way for trail or sidewalk on the southern edge of the property along 113th Street if and when requested by the City.

Mr. Richards made a Motion to approve VA-19-10 with the following conditions:

1. Petitioner voluntarily committed to the annexation of the property provided that the annexation would allow continued operations of the facility in the manner currently operated
2. Petitioner also committed to a right of way for a trail or sidewalk along 113th St.
3. The approval letter be recorded on the property
4. The approval is subject to the plans presented

The Motion was seconded by Mr. Bassett. The Motion was approved, 4-0.

Respectfully Submitted by:

Kay Prange, Recording Secretary