

**CITY OF FISHERS  
BOARD OF ZONING APPEALS  
CITY HALL AUDITORIUM  
MINUTES  
April 28, 2021**

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

A roll call was taken. Members present: Steve Ferrucci, Howard Stevenson, and Tom Grinslade, Rick Fain. Others present: Rodney Retzner, Megan Schaefer, Ross Hilleary, Andrew Magee, Kay Prange, Tracy Gaynor, Nick Gallagher, Jeff Gerbers, Ken Woods, Ed Villangi, Laura Villangi, Donna Bond, Joy Skidmore, Fred McClure, Scott Clark.

**Mr. Ferrucci confirmed quorum and called the meeting to order.**

**Mr. Ferrucci asked for a Motion for the approval of the previous minutes. Mr. Fain made a Motion to approve. The Minutes were approved 4-0.**

**Public Hearings:**

**a. Case #VA-21-12: Humane Society Signage**

Consideration of a Development Standards Variance from Section 6.17 Signage Standards of the Fishers Unified Development Ordinance to allow the installation of building signage. The subject property is located at 10501 Hague Road, Fishers IN 46038, is approximately 8.55 acres, and is zoned PUD.

Ken Woods of ISF Signs presented the request. This will be the 4<sup>th</sup> sign which is for the Education Center. While establishing previous signs during construction, it was not added due to signage limits in the Fishers UDO. Donor name signs are very important to the Humane Society and to the donor families.

Mr. Ferrucci opened the meeting to Public Comment. Seeing none, he closed the Public Hearing.

Andrew Magee presented the Staff Report and the elevation showing all signs. Staff is supportive.

In Board Discussion, Mr. Ferrucci confirmed that artwork doesn't count as signage.

**Mr. Ferrucci asked for a Motion for VA-21-12. Mr. Stevenson made a Motion to approve with conditions that the variance run with the current organization owner, and the BZA letter be recorded on the property , seconded by Mr. Fain. The Motion was approved, 4-0.**

**b. Case #VA-21-13: 13431 Lake Ridge Lane**

Consideration of a Development Standards Variance from Section 3.2.3.B.5b of the R2-Residential Development Standards to exceed the maximum impervious surface area of 35% for site improvements. The subject property is located at 13431 Lake Ridge Lane, Fishers IN 46055, directly on Geist Reservoir within the Springs of Cambridge Subdivision, is approximately 0.44 acre, and is zoned R2 Residential.

Nick Gallagher of Carrington Homes presented the request for a variance in impervious surface for site improvements, including a pool and paver decking.

Mr. Ferrucci opened the meeting to Public Comment. Seeing none, he closed the Public Hearing.

Andrew Magee presented the Staff Report. This is a typical Springs of Cambridge request due to smaller lot sizes. Water runoff will go into Geist. Staff recommends approval.

**Mr. Ferrucci asked for a Motion for VA-21-13. Mr. Fain made a Motion to approve with the condition that the BZA letter be recorded on the property , seconded by Mr. Stevenson. The Motion was approved, 4-0.**

**c. Case #VA-21-14: 13511 E 114<sup>th</sup> Street – Development Standards**

Consideration of a Development Standards Variance from Section 6.2.2.B. Residential Accessory Structures – Height of the City of Fishers Unified Development Ordinance to allow the construction of an accessory structure exceeding 18 feet in height. The subject property is located at 13511 E 114<sup>th</sup> Street, Fishers IN 46037, directly on Geist Reservoir within the Country Lane Estates subdivision, is approximately 6.45 acres, and is zoned R2 Residential.

Joy Skidmore of F & M Real Estate presented the variance request for an accessory structure to exceed the allowable height by 4-feet. HOA concerns were expressed previously. Ms. Skidmore did not know there was an 18-ft height restriction. Mr. McClure, the property owner, was also available for questions.

Mr. Ferrucci opened the meeting to Public Comment.

Laura Villangi (13575 E. 114<sup>th</sup> St.) provided objection to the proposed variance based on the height, setback proposal and the possibility of the structure being used as a residence or with living quarters available. Additional comments were made as to potential trespass, nuisance and privacy concerns. Public comment asked for a commitment that the structure will not be used for a living space but for short-term guests residing there for less than two weeks at a time. At hearing, the only public comment on this particular variance was the need for the additional height. Petitioner responded that the additional height was necessary to match the architecture of the existing residential structure.

Mr. Ferrucci noted that the Land Use question would be discussed at the next variance, VA-21-15. He then closed the Public Hearing.

Andrew Magee presented the Staff Report. The property is currently zoned R2, with a maximum height of 18 feet. This area also has properties zoned ER (Estate Residential) in which 22 feet height would be allowed. This is due to old Noblesville zoning variations. Staff recommends approval of this variance.

**Mr. Ferrucci asked for a Motion for VA-21-14. Mr. Stevenson made a Motion to approve, seconded by Mr. Fain. The Motion was approved, 4-0.**

**d. Case #VA-21-15: 13511 E 114<sup>th</sup> Street – Land Use**

Consideration of a Land Use Variance from the City of Fishers Unified Development Ordinance to allow the construction of a second dwelling unit on one residential lot. The subject property is located at 13511 E 114<sup>th</sup> Street, Fishers IN 46037, directly on Geist Reservoir within the Country Lane Estates subdivision, is approximately 6.45 acres, and is zoned R2 Residential.

Joy Skidmore again presented the Variance Request for a 2<sup>nd</sup> dwelling on a Residential lot. The intent of the structure is that it not be used as a residence/home. It will be used to entertain. Modifications were made to the original design.

Mr. Ferrucci opened the meeting to Public Comment.

Donna Bond (13555 E. 114<sup>th</sup> St.) – noted that when this was originally approved by the HOA architecture committee, it was described as a storage facility. It is now being described as a “carriage house”. This implies that someone lives there. Mr. Ferruci did confirm the emails and letters received.

Jeff Gerbers (13595 E. 114<sup>th</sup> St.) – stated that this had not been approved by the HOA itself. No HOA approval has been given for an additional dwelling unit. Another HOA meeting is this weekend. He suggested continuance. He said that this had been presented as a “storage unit”.

Laura Villangi (13575 E. 114<sup>th</sup> St.) – confirmed that her email was received.

Mr. Ferrucci then closed the Public Hearing.

Andrew Magee presented the Staff Report. The structure has all the qualities of a 2<sup>nd</sup> dwelling unit. The planning staff made no recommendation concerning the use request but did suggest conditions and commitments from the property owner if the Board were inclined to approve the requested use, those being that the accessory dwelling unit will not be rented; the accessory dwelling unit will have the same address as the existing primary dwelling unit; and the accessory dwelling unit will be used only by the property owner(s) or guests of the property owner(s) for short-term use.

In discussion with Petitioner and with Staff, the Board expressed significant concern with respect to the ability to enforce any restriction on the structure being used for permanent or long-term use, and no real ability to limit use. How will room use be known after the construction? After building permit, it would be hard to know.

Is there a driveway/garage? Yes, the garage is large enough for lawn equipment.

Can it be rented? Yes it could, but it would be an enforcement issue.

**Mr. Ferrucci asked for a Motion for VA-21-15. The Motion to DENY was made by Mr. Stevenson and seconded by Mr. Grinslade. The Motion to DENY was approved, 3-1.**

**Findings of Fact:** 1) Approval of this variance could be injurious to the public health, safety, morals and general welfare of the community as although the Petitioner stated that the proposed building would only be used by the property owner or guests and would not be used as a rental residence or business or permanent residence and the primary use will be a garage for housing personal vehicles and other personal property and temporary living space for short-term guests, there would be no real method of enforcing such restrictions and the potential for additional residents in the neighborhood could introduce issues causing potential problems with the general welfare of the remaining community.

(2) The use and value of the area adjacent to the property included in the variance could be affected in a substantially adverse manner because the accessory structure and the potential of such use thereof as an additional, personal residence or a rental residence could have an adverse effect on the property values of adjacent properties and would not be in harmony with the surrounding properties.

(3) The Petitioner did not allege facts that showed the strict application of the requirements of the UDO on the use of the structure caused any hardship to the Petitioner other than thwarting a desire for additional residential space.

**IT IS THEREFORE the decision of the City of Fishers – Board of Zoning Appeals that the variance request and application for Docket VA-21-15, as filed by Joy Skidmore, on behalf of property owner F&M Real Estate Office LLC, is hereby DENIED.**

**e. Case #VA-21-16 Mattingly Flower Market (Continued to May)**

Consideration of a Variance of Use and Development Standards from the City’s Unified Development Ordinance (UDO) to allow for a seasonal flower market and associated site improvements at 13573 E 116<sup>th</sup> St, generally located on the south side of 116<sup>th</sup> St, west of Olio Rd.

**f. Case # VA-21-17 First Merchants Bank ATM**

Consideration of a Variance of Use and Development Standards from the City's Unified Development Ordinance (UDO) to allow for a stand-alone bank ATM and associated site improvements at 7272 Fishers Crossing Drive, generally located in the south-west corner of the retail parking lot by 116th Street and Fishers Crossing Drive.

Scott Clark, First Merchants Bank, presented the variance request for an ATM, parking lot, and site improvements.

Mr. Ferrucci opened the meeting to Public Comment. Seeing none, he closed the Public Hearing.

Jonah Butler presented the Staff Report. The variance of use and Development standards allows for an accessory structure. One comment has been received from the Public which noted increased traffic and noise. Staff suggests additional trees as buffer. Staff recommends approval.

**Mr. Ferrucci asked for a Motion for VA-21-17. Mr. Fain made a Motion to approve with the recording of the BZA letter on the property, seconded by Mr. Stevenson. The Motion was approved, 4-0.**

As there was no other business, the meeting was adjourned at 6:59 p.m.

Respectfully Submitted by:

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Kay Prange, Recording Secretary