

CITY OF FISHERS
BOARD OF ZONING APPEALS
CITY HALL AUDITORIUM
MINUTES
November 17, 2021

APPROVED

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

A roll call was taken. Members present: Steve Ferrucci, Howard Stevenson, Tom Grinslade.

Member not present: Rick Fain resigned from the Fishers BZA on November 16, 2021.

Others present: Rodney Retzner, Megan Schaefer, Tyler Folk, Kay Prange, Tracy Gaynor, Sonja McClelland, Scott Lumpkin, Chuck Whybrew, John Kisikz, Joel Taylor, Diane de Luca.

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

Mr. Ferrucci asked for a Motion for the approval of the previous minutes. Mr. Stevenson made a Motion to approve, seconded by Mr. Grinslade. The Minutes were approved 3-0. Mr. Ferrucci notified all the Petitioners that since there were only 3 BZA members present tonight, all three would have to be unanimous in their vote. Petitioners have the right to continue to the next meeting. All Petitioners agreed to proceed.

Public Hearings:

a. Case #VA-21-48: McClelland Accessory Structure

Scott Lumpkin with Aspen Outdoor Designs, Inc., on behalf of Sonja and Scott McClelland, is requesting a Variance of Development Standards to allow for the construction of an open-sided roofed structure 7 feet from a side property line, as opposed to the setback of at least 10 feet required by the Fishers Unified Development Ordinance. The site is zoned R2 and is located at 10609 Geist View Drive, generally located on the southeast side of Geist Reservoir and west of Olio Road.

Scott Lumpkin of Aspen Outdoor presented the Variance for an Accessory Structure which is a new pool and patio shade. He presented the site plan. A 10-ft. setback is called for and the amount due to the property line is 7-ft 6 inches.

Mr. Ferrucci opened the meeting to Public Comment. Seeing no one to speak, he closed the Public Comment portion of the meeting.

Tyler Folk, Planner with the City, noted that the impervious surface will be at 25%. There have been no Public Comments and Staff Recommends approval.

Mr. Ferrucci asked for a Motion. Mr. Stevenson made a Motion to approve with the recording of the variance on the property, seconded by Mr. Grinslade. The Motion was approved, 3-0.

b. Case # VA-21-42 & VA-21-45 – 8610 E 106TH ST

Consideration of a Land Use Variance (VA-21-42) from Section 4.2.3.D.8. of the City's Unified Development Ordinance (UDO) to allow a Commercial Sign within the I69-OL District. Consideration of a Development Standards Variance (VA-21-45) from Section 6.17.5.I. & Section 6.17.6.E. of City's Unified Development Ordinance (UDO) to allow a digital sign that exceeds the sign area maximum and sign height maximum.

Chuck Whybrew with Geft Outdoor, LLC, presented the Variance request for the 106th St. location. He noted the right to free speech and that the City has put the Board of Zoning Appeals in a difficult position. The Variance process needs objective criteria. A vote against Geft is unconstitutional. The 2009 study is outdated.

Mr. Ferrucci opened the meeting to Public Comment. It was agreed that the members of the Public present to comment would do so concerning the 131st St. Location, which is next on the Agenda. Mr. Ferrucci closed the Public Comment portion of the meeting.

Megan Vukusich, Director of Planning and Zoning, presented the Variance. This is for a commercial sign that is digital (which is prohibited) and exceeds sign height and size with two sign faces. A Remonstrance letter has been received from Steve Hardin, of Envoy 106 LLC, noting blight and distraction for drivers on interstate I-69. Staff is in agreement with the 3 studies noted.

Staff recommends denial based on:

1. Fishers 2040 Vision
2. I-69 overlay standards
3. Safety Concerns and Aesthetics

In Committee Discussion, Mr. Stevenson asked Mr. Retzner to confirm that the "vote against" is the Gilbert S.C. case. Mr. Retzner confirmed. Mr. Retzner noted the following:

Does the BZA have the ability to make decisions in the state of Indiana?

Does it impact freedom of speech?

Appeals court?

Mr. Ferrucci believes it is injurious to the Public Health.

Mr. Ferrucci asked for a Motion for VA-21-42 and VA-21-45. Mr. Grinslade made a Motion to deny, which was seconded by Mr. Stevenson. The Motion to Deny was approved by 3-0.

c. Case # VA-21-43 & VA-21-44 - 12134 E 131ST ST

Consideration of a Land Use Variance (VA-21-43) from Section 4.2.3.D.8. of the City's Unified Development Ordinance (UDO) to allow a Commercial Sign within the I69-OL District. Consideration of a Development Standards Variance (VA-21-44) from Section 6.17.5.I. & Section 6.17.6.E. of City's Unified Development Ordinance (UDO) to allow a digital sign that exceeds the sign area maximum and sign height maximum.

Consideration of a Land Use Variance (VA-21-42) from Section 4.2.3.D.8. of the City's Unified Development Ordinance (UDO) to allow a Commercial Sign within the I69-OL District. Consideration of a Development Standards Variance (VA-21-45) from Section 6.17.5.I. & Section 6.17.6.E. of City's Unified Development Ordinance (UDO) to allow a digital sign that exceeds the sign area maximum and sign height maximum.

Chuck Whybrew with Geft Outdoor, LLC, presented the Variance request for the 131th St. location. He would restate the same items he presented in the 106th St. presentation.

Mr. Ferrucci opened the meeting to Public Comment.

Joel Taylor (12071 E. !31st St.)- He is concerned about light contamination, property values, and is opposed.

Diane De Luca (12262 Havers Ave.)- is concerned with lighting, height, and her neighborhood of single-family homes. She has submitted a petition and is opposed.

Mr. Ferrucci noted that several letters of remonstrance were received. Mr. Ferrucci closed the Public Comment portion of the meeting.

Megan Vukusich, Director of Planning and Zoning, presented the Variance. This is for a commercial sign that is digital (which is prohibited) and exceeds sign height and size with two sign faces.

Staff recommends denial based on:

1. Fishers 2040 Vision
2. I-69 overlay standards
3. Safety Concerns and Aesthetics

Mr. Ferrucci asked for a Motion for VA-21-43 and VA-21-44. Mr. Grinslade made a Motion to deny, which was seconded by Mr. Stevenson. The Motion to Deny was approved by 3-0.

Old Business None

New Business None

Staff Communication 2022 Meeting Schedules

Board Signatures- Findings of Fact

Adjournment As there was no other business, the meeting was adjourned at 6:44 p.m.

Respectfully Submitted by:



Kay Prange, Recording Secretary