

**MINUTES**  
**CHURUBUSCO BOARD OF ZONING APPEALS**  
**REGULAR MEETING**  
**SEPTEMBER 19, 2024**  
**7:30 P.M.**

**CHURUBUSCO BOY SCOUT BUILDING**

**MEMBERS PRESENT**

Jason Bartl, Chairman  
Brandon Johnson  
Alan Malcolm  
Brenda Saggars, Vice Chair

**MEMBERS ABSENT**

Miles Wilson

**STAFF**

Nathan Bilger

**ATTORNEY**

*absent*

**AUDIENCE MEMBERS**

Ten visitors signed the Guest List, which is included with the minutes of this meeting.

**CALL TO ORDER/ROLL CALL/INTRODUCTIONS**

Mr. Bartl called the meeting to order at 7:30 P.M. Mr. Bilger read the roll with members present and absent listed above.

**CONSIDERATION OF PREVIOUS MEETING MINUTES**

Mr. Malcolm made a motion to approve the January 18, 2024, meeting minutes, as presented. Mr. Johnson gave the second; motion passed 4-0.

**ADMINISTRATION OF OATH**

Mr. Bilger administered the Oath to visitors planning to speak at the meeting.

**OLD BUSINESS**

There was no old business.

**NEW BUSINESS**

**1. 24-CH-VAR-2**

Megan and Jeremy Rollins requested approval of a Variance of the maximum height of a fence located in the required front yard at 830 N. Wheatfield Court. Mr. Bilger summarized the Staff Report and stated the proposal was for a 6' privacy fence along the frontage of Thresher Run. Mr. Bilger explained this area was considered a second front yard, and a platted Building Line additionally defined the required front yard, within which, the Zoning Ordinance specified a privacy fence can only be 3' tall. He pointed out that there were other fences in the Thresher Ridge subdivision that may not comply with the Code; they may have been installed prior to the time that fence permits became required, and others may have failed to obtain permits. (Staff note: The proposed fence was constructed without a permit. The owner was notified of the need for a permit and discovered that a Variance approval would also be required.) Mr. Bilger stated that in the past, a corner lot, having two front

yards, had been viewed as being a practical difficulty. He added that an elevation change in the eastern corner, caused by a drainage swale, increased the height of the fence to 8' in that area, keeping the top of the fence level. Mr. Bilger stated that the slope was also a practical difficulty, and keeping the top of the fence level had a more appealing aesthetic than otherwise. Mr. Bilger explained that Staff had contacted the Town to seek comment on the fence being located in the Utility Easement, and because of problems with blocked easements in the area, the Town expressed that the fence was not permitted in the easement and would need to be relocated. There were no questions for Mr. Bilger, and Mr. Bartl requested to hear from the petitioner.

Jeremy Rollins was present and asked if the 8' section of the fence was too high. Mr. Bilger explained that 6' was the maximum allowable height, so the Board would consider the difference. Mr. Rollins testified that several people had complimented him on the appearance of the fence and asked who built it. Mr. Rollins asked if the Board was also considering the fence being located in the easement. Mr. Bilger explained that the Town reviewed easement encroachments and had declared that his fence could not be located within this space.

Mr. Bilger answered Mr. Rollins' questions regarding the use and width of the easement. Mr. Bilger stated that he was unsure of why the 20' width was chosen. Mr. Malcolm added that the developer planned the design and once approved, the lots and easements were established. Mr. Rollins planned to relocate the fence but was concerned that he would not be able to clear the easement entirely because of a tree being in the way. Mr. Bilger said there may be allowance to go around a tree, but Mr. Rollins would need to discuss with the Utility Department. The Board had no questions for Mr. Rollins, and Mr. Bartl asked if anyone else wished to speak.

Rand Gee stated he was a resident of Thresher Ridge. He voiced support for the fence having a level top and did not have concerns about the setback on the north property line. Mr. Gee asked for clarification of the wording of the Code, such as, what distinguishes a front yard from a back yard. He asked if the ridge line of a house was the guideline. Mr. Bilger explained front setback requirements for corner lots, the definition of frontage, Building Lines, and how these subjects factor into the fence code. Mr. Gee questioned why other fences in the area seemed similar to the proposed fence if the design were not permitted. Mr. Bilger said several other property owners had been contacted to inform them that they needed fence permits, so the Board may see additional Variance requests from this area; meanwhile, some fences were old enough to predate the permit requirement. Mr. Gee asked questions regarding the site plan and the Zoning Code, to which Mr. Bilger replied. Mr. Gee expressed support for the 6' fence as privacy and security for the pool; however, he suggested the fence posts should be cut, as they currently extend above the panels. He added that he would have preferred to see the bottom of the fence (lattice) be the same material as the top (vinyl) but felt both were considered "fencing material" and permitted by the Code. Mr. Gee concluded by stating that he felt the fence should be relocated to be behind the ridgeline of the house, as seemed to be the case for most other fences in the subdivision. He thanked the Board for their service and asked if there were any questions for him. There were none, and Mr. Bartl thanked Mr. Gee for his comments.

Mr. Bartl asked if anyone else wished to speak. Hearing none, he closed the public hearing. Mr. Malcolm made a motion to approve 24-CH-VAR-2, as presented. Mr. Johnson gave the second; motion passed 4-0. Mr. Bilger summarized for Mr. Rollins that his proposal was

approved, but he would need to discuss with the Town to determine what would be acceptable regarding the easement, and then a building permit could be issued.

## **2. 24-CH-SE-1**

Gaerte MHS, LLC, requested a Special Exception for outdoor storage at 210 Home Avenue. Mr. Bilger described that two 40' shipping containers had been placed on the north portion of the property and were planned to be used for storage for the business. He explained that because containers cannot meet the Building Code as permanent structures, the Planning Department has considered them to be storage items, and the Zoning Code requires a Special Exception approval for outdoor storage. Mr. Bilger noted when staff had investigated the property, there were some items (a water chemical tank, a smaller tank, fork truck pallets) being stored in the yard that were presumed to be related to the business. A boat/trailer was also on-site, but Mr. Bilger said this was likely personal storage and therefore permitted. He clarified that the business items needed to be stored indoors, unless the Board wanted to consider permitting them to be stored between the two shipping containers. Mr. Bilger discussed the Environmental Performance Standards and the visual impression of the neighborhood, noting that the Town Hall was also part of the same neighborhood and of the same zoning district. He recommended four conditions of approval. There were no questions for Mr. Bilger, and Mr. Bartl requested to hear from the petitioner.

Jeff Gaerte introduced himself to the Board as the owner of Gaerte MHS, LLC, and Franklin's. He described that he buys bulk, off-season items from other businesses, stores them until the season changes, and then resells the items at low prices. Mr. Gaerte explained that the storage containers he added to the property were essential to the success of his business. He stated that he did not realize he needed a permit since they were placed on the asphalt. Mr. Gaerte said that the tanks in the yard would be returned to the sender as soon as paperwork was resolved. He explained that the distance between the storage containers had been measured in order to accommodate storage of the forklift. Mr. Gaerte stated that he had visited other businesses up the street and saw many had pallets everywhere, forklifts, and storage containers. Some audience members nodded in agreement. There were no questions for Mr. Gaerte.

Eric Ramus, neighbor to the east of the subject property, said other businesses may also have obtained Special Exception approval for their containers. He stated that he and other neighbors he had spoken with were dissatisfied with the outdoor storage of items around Town Hall, but he understood that problem was not before the Board. Mr. Ramus expressed that he did not feel the wrongdoings of others should cause the Board to agree to Mr. Gaerte's request. He had provided the Board with a petition, signed by neighbors in the area, who felt Mr. Gaerte's containers should not be permitted due to aesthetics, property values, safety/security, and the zoning and land use. He stated that the petition was specific to the containers and that neither he nor anyone who signed the petition had a problem with Mr. Gaerte or his store. Mr. Ramus said the tanks had been in the yard for 6-8 weeks, and he worried that situation would be a regular occurrence if that was how incorrect shipments were to be handled. Mr. Ramus said that previously, the entire north and south lot was full of pallets, cardboard, and broken glass. He said the pallet shipments arrive wrapped in plastic, and the plastic blows across the neighborhood. Mr. Ramus stated he had picked up from his own yard plastic and shipping labels with Mr. Gaerte's address on them. He said being that

the property was already not well kempt, he worried that maintenance of the property would decline and it would become more of an eyesore.

Joe Pagley, neighbor to the north, agreed with Mr. Ramus' statements and added that Mr. Gaerte did not clean up the property until he was forced to. He stated that he would like to remove his fence but did not want to have a view of Mr. Gaerte's property. Mr. Pagley additionally asked if he, too, could place a shipping container on his property and then ask for permission for it after the fact. He asked if it would be okay if other neighbors did the same.

Randy Geiger, neighbor north of Mr. Pagley, stated that he lives west of Dollar Tree and has their trash blow into his yard, and he picks it up and moves on. He felt that Mr. Gaerte did clean his property quickly after receiving notice of the problem. Mr. Ramus disagreed.

There were no additional comments, and Mr. Bartl permitted Mr. Gaerte to speak. Mr. Gaerte said he felt most of the neighbors' comments were not regarding the request for storage containers. He explained that sometimes there are problems with deliveries, such as one recently where broken glass was left, and he attempted to resolve the matter with the shipping company but did clean up the area on his own once he determined the shipping company would not. He apologized for any plastic and cardboard that had occasionally blown away from his property. Mr. Gaerte also felt that Mr. Ramus' petition should not be considered because it was not certified. Mr. Bilger stated that because the Board was not a court, they could accept the petition at face value. Mr. Gaerte additionally implied that Mr. Ramus' petition seemed excessive and commented that only two residences had a view from their driveway to his property's back yard.

Mr. Bartl closed the public hearing and requested Board discussion. After consideration, Mr. Malcolm made a motion to approve 24-CH-SE-1 with the four conditions listed in the Staff Report. Ms. Saggars asked if Mr. Gaerte's boat would need to be removed. Mr. Bilger stated that because it was registered, he felt it should be considered as a vehicle; however, if it were for sale, that would be different. He added that the lawnmower also was not part of the business and should not be considered as outdoor storage. Ms. Saggars gave the second to Mr. Malcolm's motion. The motion passed 4-0.

## **OTHER BUSINESS**

### **3. 2025 Meeting Schedule**

Mr. Bilger pointed out there was one non-standard date proposed for the 2025 meeting schedule and highlighted three dates for training sessions. The Board conceded that the schedule was acceptable. He reminded the members of the upcoming September training session which would be held in Churubusco.

## **ADJOURNMENT**

There being no further business, Mr. Malcolm made a motion to adjourn. Ms. Saggars gave the second, and by unanimous vote, the meeting was adjourned at 8:21 P.M.

### **GUEST LIST**

1. Eric Ramus ..... 114 Home Avenue, Churubusco
2. Jeremy Rollins ..... 830 Wheatfield Court, Churubusco
3. Nick Strong ..... 829 Wheatfield Court, Churubusco
4. Tara Strong ..... 829 Wheatfield Court, Churubusco
5. Joe Pagley ..... 201 W. Pleasant Street, Churubusco
6. Bruce Davis ..... 8476 E. US 33, Churubusco
7. Debra Pott ..... 310 Greenwood Drive, Churubusco
8. Randy Geiger ..... 202 W. Pleasant Street, Churubusco
9. Rand Gee ..... 827 Thresher Run, Churubusco
10. Cindi Fletcher ..... 4115 Mulberry Street, Churubusco