

MINUTES
CHURUBUSCO BOARD OF ZONING APPEALS
REGULAR MEETING
THURSDAY, JUNE 15, 2017
7:30 P.M.

CHURUBUSCO TOWN HALL

MEMBERS PRESENT

David Crabill
Paula Grawcock
Alan Malcolm
Miles Wilson

STAFF

Nathan Bilger

MEMBER ABSENT

Jason Bartl

VISITORS

There were eighteen visitors who signed the guest list at the June 15, 2017, regular meeting of the Churubusco Board of Zoning Appeals. A guest list is included with the minutes of this meeting.

CALL TO ORDER

Ms. Grawcock called the meeting to order at 7:30 p.m.

ROLL CALL

Mr. Bilger read the roll with those members present and absent listed above.

CONSIDERATION AND ADOPTION OF THE FEBRUARY 16, 2017, REGULAR MEETING MINUTES

Mr. Bilger asked if there were any corrections or additions to the February 16, 2017, Churubusco Board of Zoning Appeals minutes. Mr. Malcolm motioned to adopt the minutes, Mr. Crabill seconded the motion, and the Board voted unanimously to approve the minutes as presented.

ADMINISTRATION OF THE OATH TO WITNESS

Witnesses who wished to speak were sworn in by Mr. Bilger.

OLD BUSINESS

There was no old business.

NEW BUSINESS

17-CH-VAR-1

Stahlhut Yarde, LLC, requested an approval of a Use Variance to allow for a slaughterhouse and meat processing facility and a Special Exception for outdoor storage in the GB, General Business District at 3640/3660 N. US 33, Churubusco. Mr. Bilger gave the Staff's Report. This property was formerly occupied by a lumber yard business but has been vacant for several years. The petitioner is proposing to have a retail store for meat sales, which is a permitted use in this district, and meat processing/slaughtering on the same property. The Zoning Code only permits processing/slaughtering in the I-2, Heavy Industrial District. Rezoning the property to I-2 would allow much more intense uses than may be appropriate for this area, thus, a use variance has been applied for that might allow this use while preserving the GB zoning. The proposed Special Exception is for an exterior storage area, screened by a 6' privacy fence, which is to hold waste containers. Approximately 15 animals will be on site per day, delivered by truck to an enclosed holding area. The business will employ 5 full-time and 4 part-time employees with a maximum shift of 7 employees. Mr. Bilger stated that sufficient parking for both employees and customers is provided. Sanitary sewer is not available at this site. This property and the property to the south share a septic system, but the petitioner has indicated he will construct a new separate system for his property.

Regarding the review criteria for the variance, Mr. Bilger stated that because of the limited amount of animals and the fact that the business is fully enclosed, the use would not likely be injurious to the public health or safety. The small scale of activity, as proposed, would likely be indistinguishable from other commercial activity permitted in the GB district. If in any way it is not indistinguishable, however, the general welfare may be injured and the use and value of the adjacent areas may be affected. There does not appear to be any condition with respect to this property that would cause a need for a variance, but other areas, such as within town limits, could be viewed as a less desirable location for this use. The Ordinance does imply that a slaughterhouse and rendering plant are one use and on an industrial scale. The proposed slaughterhouse could be considered a commercial use if it is shown to be consistent and compatible in appearance, performance and operation as other uses permitted in the GB district. Under this determination, the proposed business would not interfere with the Comprehensive Plan.

Mr. Bilger continued and described Staff's comments on the review criteria for the Special Exception request. The by-products of the meat processing operation could be considered noxious, odorous, or otherwise injurious to the surrounding area depending on the amount of materials contained, screening, and proximity to other landowners. Conditions set in place by the Board may be able to minimize the impact. The applicant has indicated he plans to enclose the storage area with a 6' privacy fence which is typical and could be considered consistent with the neighborhood as long as materials are kept below the height of the fence. It is unlikely that the proposed outdoor storage area would have any impact on vehicular access or parking. And, finally, because outdoor storage is listed in the Ordinance as a Special Exception use, the proposal does appear to be

compatible with the intent of the Ordinance. Mr. Bilger also noted 11 suggested conditions for the Board to consider should they feel the proposal met the requirements for approval.

The Board had no questions for Mr. Bilger, so the petitioner was asked to step forward. Roger Stahlhut and Terry Yarde, co-owners of the proposed business, addressed the Board along with their architect, Lucas Konger. Mr. Konger stated that the information presented in the meeting packets accurately described the business. He pointed out that the meat market, along with waste generated by that use, is already permitted in the GB District and several other such markets exist within Churubusco. The petitioners do intend to screen their property to the north and east. The new septic system would be located to the east. Both Homeland Security and the Department of Health will need to approve the septic design. The size and location of the outdoor storage area, consisting of 50 gallon enclosed steel drums, is yet to be determined. The outdoor barrels would be empty and clean, ready for use. Barrels containing waste would be kept within the building, on site only during business hours, and removed, by a licensed contractor, each slaughter day which would be only 2-3 days per week. For the record, Mr. Bilger asked if the 11 conditions proposed by Staff were acceptable to the petitioner. Mr. Konger replied that they were. With no further questions from the Board, Mr. Bilger invited the public to voice their comments.

Brenda Johnson asked how many total animals were allowed to be butchered. Mr. Bilger responded that based on the applicant's proposal, only 15 live animals were permitted to be on site each day. Ms. Johnson asked what type of cooling system would be used. Mr. Konger stated that engineering would be needed to determine this, but that the coolers and freezers used would be compliant with the guidelines of the Indiana Department of Homeland Security.

Jim Johnson asked whether or not this business would be allowed to expand if the Variance were approved. Mr. Bilger explained that a condition of the approval would state "as presented," meaning that any expansion of the business beyond what is discussed at this meeting would require additional consideration from the Board.

Ms. Johnson asked how often the facility would be inspected. Mr. Stahlhut stated that a State Board of Health inspector would be on site each kill day to inspect the processing area and kill floor. The County Board of Health is in charge of inspecting the retail area. Federal inspections are once a year.

Mr. Crabill asked Mr. Bilger who would enforce the conditions of approval. Mr. Bilger said that being a zoning condition, his office would investigate as needed. Mr. Konger added that based on the limits of the facility and staff, what is being proposed is the maximum amount of business that could be operated.

Ms. Johnson requested to know how far from the property line the proposed fence would be constructed. Mr. Konger answered that it is planned to be located as close to the property line as possible. Mr. Bilger explained that the Ordinance allows fences to be located inside the property line with no specific distance required. Typically, fences are placed several feet from the line, and Mr. Bilger recommended the petitioner consider such a distance so that the fence and yard could be maintained from the petitioner's property.

Tom Duiser addressed the Board and introduced himself as the owner of the property to the south where Dollar General is located. He referenced a comment letter he had written to the Board and additionally asked how far towards his property the proposed fence would be constructed. He also questioned how far from his property would animals and outdoor storage be located. Mr. Konger said they plan to fence the asphalted area and a portion of the stone area to the east of the building being removed. He also described that animals are proposed to be loaded from the south, directly into the building. Mr. Duiser appreciates the petitioner's proposed efforts to make their business fit in with the area, but he is concerned about the impact that the business might have on his relationship with his tenant (Dollar General). Although the petitioner is proposing a nice facility, he is not convinced that this location is appropriate for this use.

A member of the public who did not give his name added that he feared this type of business would hurt property values because people do not want to live by a slaughterhouse. Mr. Konger voiced his understanding of that concern. He described that the petitioner had made a substantial investment in the property which, in his opinion, demonstrated Stahlhut & Yarde, LLC's commitment to their proposal and desire to be as compatible with the area as possible. Mr. Konger then took a moment to point out that although the properties being considered and the neighboring property to the south are zoned GB, aside from the residential properties to the north and two properties directly west, the properties surrounding this area are zoned A-1, Agricultural District. Under the A-1 zoning, obviously many animal related uses are already permitted, and a slaughterhouse is listed as a use allowed with a Special Exception approval. His point was that surely the slaughterhouse use could not be too out of place on this property if it could be considered by an exception on an adjacent property. Mr. Konger also noted that the GB District permits zoos, so animal holding, although for a different use, is already allowed in this district.

Nancy Wright wanted to report that she had spoken with the person who installed the current septic system and was told that the system only has enough capacity to allow for hand washing and toilet use. She asked if the proposed business could operate on the existing system or if a new system would need installed. Mr. Konger replied that the State requires a new system which will likely be located on the far east side of the property. The system would be engineered and approved by the County. Ms. Wright then asked how many animals the proposed holding area would be able to hold. Mr. Konger responded that it would only hold 15 animals since that is the maximum amount the facility would be capable of handling. Ms. Wright wondered what the cleaning process would be for the holding pen. Mr. Konger explained that the waste would go into the 50 gallon drums contained inside the building. The area would be rinsed, and the water would go down a drain and into the septic system. Ms. Wright commented that she did not feel a 6' fence would be capable of containing the smell, flies, and rodents she expected to come from this business, even though the business is enclosed. She is also concerned about her property value and the effect that this business would have on the existing meat markets. Addressing her concerns, Mr. Konger stated that rodent and insect inspection by the State Inspector is required monthly. Also, both existing meat markets have a similar waste component that leave their facility, as this is a nature of the business.

A member of the public who did not give his name expressed that the buildings on this site are very close to his backyard, and he felt the animal sounds and smells from this operation would be unpleasant. Betty Bonar added that she too was concerned about animal noises and property values. Aaron Mathieu voiced his agreement with the comments that had been made and did not feel that the 6' privacy fence would protect his small children from the sounds and smells of the business.

Mr. Konger wanted the Board to know that the reason the holding area was proposed to be located 50'+ from the property line was because this would be the required setback if the property were zoned I-2, Light Industrial, where the slaughterhouse would be permitted. A woman who did not give her name felt that animals would escape while being unloaded and would endanger the public. Mr. Konger explained that the 6' fence would enclose the loading area and would be secure before unloading would begin. He also pointed out that Columbia City has a facility almost identical to what his client is proposing. Krider's Meat Processing, Inc., is a slaughterhouse located on a property zoned R-1, Single-family Residential. Properties to the east are zoned R-3, Multi-family Residential, while the west is GB. Ms. Wright responded that she did not feel this proposal was the same because she believed Krider's was established before the surrounding residences.

Larry Murphy asked what type of fence is planned to be installed. Mr. Konger replied that the fencing does yet need to be approved by the Planning & Building Department, but the petitioner intends to construct a minimum of a 6' wood or vinyl privacy fence.

A gentleman who did not give his name asked if the doors to the processing area would be open or closed during operation. Mr. Konger stated that loading and receiving would be the only times the doors would be open.

Beverly Bisher spoke and voiced her agreement with the other neighbors' comments. Mr. Konger took a moment to point out that C & A Tool owns property just north of many of the present residents, and the factory's land is zoned I-1, Light Industrial, which would allow far more intense uses than the small operation that is being proposed. Several of those present voiced that the nearby I-1 properties (located just 450 feet north of the proposed location, towards town) would be a more acceptable location.

The public portion of the meeting was closed, and the Board began to discuss. Mr. Crabill stated that he was concerned about the impact that slaughtering would have on the neighborhood. He also wasn't sure if this use was consistent with the recommendations of the Comprehensive Plan. He felt the Board should consider the concerns of the adjoining property owners. However, he did visit two slaughterhouse earlier in the day and reported that there was no smell at either business. Mr. Crabill addressed an unknown man in the audience and asked him if he was aware of smells. The man replied that there were none. The man also took a moment to indicate that taking the vote of the majority of residents is not always the right decision. He wanted the Board to recognize that farmers are being pushed out of areas because of inconvenience. He understands the concerns of the neighbors, but the petitioners are trying to create a business that supports the farmers and the community.

Mr. Wilson verbally summarized the proposal to make sure he had a full understanding of the operation. A new clarification arose as Mr. Konger now stated that the waste barrels are not removed and cleaned, but that a contractor takes the waste from the barrels which are then cleaned by the staff. He said if the Board wanted to make a provision that only cleaned barrels would be stored outside, the petitioners could agree to that term. Mr. Konger voiced that all of Mr. Wilson's description was accurate.

Mr. Bilger read through the list of suggested conditions from the Staff Report with some minor amendments based on information received during the meeting. Mr. Crabill asked how many barrels

there would be. Mr. Stahlhut said there would be approximately 10 barrels. Normally barrels would be kept inside. They cannot be stacked when they are full which is why clean barrels would need to be placed outside. Mr. Crabill reread through the review criteria for the Use Variance and voiced that he was still unable to decide whether or not this use would fit in the GB district. He had no issues with the Special Exception. Mr. Malcolm motioned to approve the Use Variance with the 12 conditions Mr. Bilger had listed. Mr. Wilson stated he did not feel educated enough to make a decision. Mr. Malcolm withdrew his motion and instead motioned for a continuance. Mr. Wilson gave the second, and the members voted 3-1 to pass the motion, with Mr. Crabill voting against. Mr. Bilger clarified that the petition would be continued to the July 20th regular meeting date.

OTHER BUSINESS

There was no other business.

ADJOURNMENT

There being no further discussion, Mr. Crabill motioned to adjourn. Mr. Wilson seconded the motion. With a unanimous vote, the meeting was adjourned at 9:02 p.m.

GUEST LIST

1. Lucas Konger ----- 8205 Lima Road, Fort Wayne, IN 46818
2. Roger Stahlhut ----- 9626 W. Washington Center Road, Fort Wayne, IN 46818
3. Terry Yarde ----- 0523 CR 54, Garrett, IN 46738
4. Whitney Stahlhut ----- 9626 W. Washington Center Road, Fort Wayne, IN 46818
5. Rex Barrett ----- 12104 Hand Road, Fort Wayne, IN 46818
6. Tom Duiser ----- 10361 Windemere Boulevard, Carmel, IN 46032
7. Reneé Dammeyer ----- 7129 E. Dogwood Lane, Churubusco, IN 46723
8. Brenda Johnson ----- 9304 E. 375 North, Churubusco, IN 46723
9. Jim Johnson ----- 9304 E. 375 North, Churubusco, IN 46723
10. Beverly Bishir ----- 3671 N. US 33, Churubusco, IN 46723
11. David Bishir ----- 3671 N. US 33, Churubusco, IN 46723
12. Nancy Wright ----- 3599 N. US 33, Churubusco, IN 46723
13. Betty Bonar ----- 9334 E. 375 North, Churubusco, IN 46723
14. Aaron Mathieu ----- 9250 E. 375 North, Churubusco, IN 46723
15. Jan Ernst ----- 9280 E. 375 North, Churubusco, IN 46723
16. Allen Zeller ----- 5801 N. 450 East, Churubusco, IN 46723
17. Larry Murphy ----- 3635 N. US 33, Churubusco, IN 46723
18. Denise Murphy ----- 3635 N. US 33, Churubusco, IN 46723