



City of Carmel

Carmel Board of Zoning Appeals Regular Meeting Minutes Monday, August 27, 2018

Location: Carmel City Hall Council Chambers, 2nd Floor, 1 Civic Square, Carmel, IN 46032

Members Present: Alan Potasnik – President
James Hawkins – Vice President
Leo Dierckman
Brad Grabow
Kent Broach

Staff Present: Angie Conn, Planning Administrator
Joe Shestak, BZA Administrative Assistant

Legal Counsel: John Molitor

Time of Meeting: 6:00 PM

Approval of Minutes of Previous Meetings:

On a Motion made by Brad Grabow and seconded by Kent Broach to approve the minutes from the July 23, 2018 meeting.

Approved 5-0

Reports, Announcements, Legal Counsel Report, and Department Concerns:

John Molitor: A BZA Executive Session will occur immediately following the conclusion of this BZA meeting.

John Molitor: There was a hearing last week at the State Legislature about AirBnB short term residential rentals and if they should pay sales taxes on their transactions. There was a state law that was drafted and this would clarify they would need to pay sales tax, but the State Legislature have delayed this hearing. So the law is somewhat uncertain at this point.

Alan Potasnik: Explained the Rules of Procedure for the BZA public hearings

Public Hearings:

1. **WITHDRAWN - (A) Lucas Estate Appeal: Docket No. 17120006 A.**

~~The applicant seeks to appeal the 11/09/2017 Determination Letter written by the Carmel Department of Community Services' Director. The site is located at 1143 W. 116th Street. The site is zoned S1/ Residence and partially lies within the West 116th Street Overlay Zone and the Floodplain Zone. Filed by Timothy Ochs of Iee Miller LLP, on behalf of The Lucas Living Trust.~~

(UV) 861 N. Rangeline Rd. Outdoor Storage.

The applicant seeks the following use variance approval:

2. **Docket No. 18070004 UV UDO Section 3.66: Prohibited Uses, Outdoor Storage requested.**

The site is located at 861 N. Rangeline Rd. It is zoned I1/Industrial, B1/Business, and Range Line Road Overlay, with some Floodplain. Filed by Pat Combellick of 526 Group LLC and Hoosier Portable Restrooms.

Petitioner: Pat Combellick:

- We store our Penske rental trucks and portable restrooms outside on our lot
- They are stored on the rear side of our lot

- We have been asked to put a fence up on the north side of the building to hide them
- We have been requested to put in additional landscaping in the front yard
- We have been asked to put in a sidewalk along the front border of the lot

Public Comments:

John McRill, Lives directly south of the site: My driveway runs the whole length of the property. I wasn't sure what they are proposing to do. Will there be a fence all around the property? What kind of fence will it be? Will there be a fence along my driveway?

Rebuttal to Public Comment: Pat Combellick:

- The fence will be a dog-eared fence and will be on the north side of the property. The floodplain is on the south side and it's a wooded area. We will not store anything on the floodplain area. There will be not a fence along the driveway. The wooded area along your driveway will block your view. **John McRill:** During the winter months, I will be able to see the area where you store your portable restrooms and trucks.

Department Report: Angie Conn:

- Staff sees this use proposal as a temporary interim use before the site is redeveloped
- We suggest to propose a time limit so the site can be redeveloped eventually
- The petitioner is working with the City Engineering Dept. to install a sidewalk along Rangeline Rd. and to have this sidewalk connect to their building entrance
- We recommend positive recommendation with these conditions

Board Comments:

Jim Hawkins: The Staff has recommended a time limit on this? Is that acceptable? **Pat Combellick:** We understand at some point this area will be owned by the City for redevelopment. We would like this variance as long as we are there.

Jim Hawkins: What's the purpose of moving them from Rangeline to further north? **Pat Combellick:** The area we are at is considered Mid-Town, and that area will be eventually taken by the City.

Brad Grabow: What's the zoning of the house that borders this subject property and the cemetery? **Angie Conn:** There's a driveway that runs east/west and is located between the subject property and cemetery. It is owned by Mr. John McRill. It's zoned R-1 with the Rangeline overlay.

Brad Grabow: Where on the map is the wetlands area? **Pat Combellick:** *Refers to the map.* We were told not to park anything in this area. **Brad:** Where on the map would you be storing your materials and trucks? **Pat:** *Refers to the map.* We will store our materials in the south east corner of the property and will stay out of the wetlands area. The trucks are Penske rental trucks, and the portable restrooms will be on trailers.

Jim Hawkins: Where is the fence going to be located? **Pat Combellick:** *Refers to the map.* The fence will be on the north side. **Alan Potasnik:** Is this a privacy fence? **Pat:** Yes

Alan Potasnik: Where would you be parking your work vehicles? **Pat Combellick:** *Refers to the map.*

Alan Potasnik: Is it possible that you can store the portable restrooms behind the building and park the trucks in the other area? **Pat Combellick:** It doesn't matter. I'm open to suggestions and willing to work with you. **Alan:** Mr. McRill's concern is seeing the portable restrooms when there are no leaves on the trees. **Pat:** We can store most of them in the rear portion of the property. **Alan:** Is there any odor associated with the restrooms? **Pat:** I have not smelled anything. They are dumped at the hazards waste dump on the north side of the property.

Leo Dierckman: Can we just ask for a two year limit? **Angie Conn:** They were signing a 5 year lease with the owner of the property. **Pat Combellick:** We have to spend money on the landscaping, sidewalk, and the fence, so we would like to recoup our money.

Leo Dierckman: What was here in the past? **Pat Combellick:** There were different things. A rental company, a playground set company, a storage company, a cement company, and a cleaning company. We plan on cleaning up the whole area to make it look nicer.

Leo Dierckman: Is there any other place to store the restrooms? **Pat Combellick:** There is no other place to put them. If the problem is for Mr. McRill, we can put up a fence.

Jamie Hunter, Hoosier Portables: This area has been a variety of things. It was also portable restroom storage. Mr. Runyon stored portable restrooms on this site for a long time. We've had the business for over a decade. We are willing to work with you.

Jim Hawkins: How long is the current lease? **Jamie Hunter:** 5 years. When the City wants to purchase it, we are willing to relocate. **Jim:** Any options to purchase? **Jamie:** The owner, Mr. Runyon does not want to sell at this time.

Kent Broach: Is screening possible? Can you put the restrooms inside the shed and park the trucks on the outside.

Jamie Hunter: We are willing to work with the City and our neighbors. We want to minimize the impact of Mr. McRill.

John Molitor: The Board has the right to put a term limit on the length of this Variance.

On a Motion made by Jim Hawkins to approve Docket No. 18070004 UV and seconded by Kent Broach, with the Conditions of a time limit of 5 years (8/27/23 expiration date), location of portable restrooms be stored on the north side of the building/property, and location of the rental trucks be stored on the east side of the building/property.

Approved 4-1, Grabow

(UV, V) 5836 E. 116th St. Landscape Maintenance Business.

The applicant seeks the following use variance and development standards variance approvals to operate a business on a residentially-zoned site:

3. **Docket No. 18070006 UV UDO Section 2.03: Permitted uses, Non-permitted business use proposed.**
4. **Docket No. 18070007 V UDO Section 5.28.E: Paved/curbed parking lot required, Gravel requested.**
5. **Docket No. 18070008 V UDO Section 5.19.F.1: Reduced north/east/west bufferyards requested.**
6. **Docket No. 18070009 V UDO Section 5.19.F.4.b: Reduced parking lot plantings requested.**
7. **Docket No. 18070010 V UDO Section 2.04: Max. 35% lot cover required, 49% requested.**

The site is located at 5836 E. 116th Street. It is zoned S1/Residential. Filed by Joel Kempson, owner.

Petitioner: Joel Kempson:

- Provide services to 600 residents in Carmel over the past 5 years
- Acquired the property in 2010. The previous owner was using the site as a landscaping business.
- I purchased property knowing the use as a landscaping business would be grandfathered in
- I am now going through the proper steps to gain the variances to operate as a landscape maintenance business
- The use of this site will remain the same and I will not be increasing any activity
- *Shows site plan of the subject property*
- We will be improving the existing tree buffer yards with additional landscaping
- *Shows views of the site from all directions*
- We will install a 6' privacy fence
- We have written support from all the neighbors
- This has been an existing use for 20-25 years
- Parking will not be allowed in front of the residential house on the subject property
- The City Urban Forester approved the landscape plan

Public Comments:

Jeff Worrell, City Council Southeast District: I'm here in support for the variance. I was contacted by Mr. Kempson's neighbor to the east. I spent some time on property to see how it is used and this plan makes sense.

Bill Zelibor, President of the Brighten Wood HOA: I am here in support. We own the 3 acres north of the subject property. We have not had any issues with the subject property. I didn't realize this was being operated as a landscape business. I walked through the property to get a better idea on what's going on with this. We are in favor the landscape plan and we are fine with him adding landscape on the northern part of the subject property.

Department Report: Angie Conn:

- Staff is in support of these variances
- They will contribute to the thoroughfare plan and have the existing sidewalk upgraded to a multi-use path
- We have requested to have no one park in front of the house and the petitioner agreed to this

Board Comments:

Brad Grabow: Is there any possibility to locate the future dumpster on the west end of the property? **Joel Kempson:** We can locate it on the northwest side of the property. **Brad:** That would be a good location

Brad Grabow: Can we put a commitment in that any non-resident of the home on the property cannot park in front of the house, whereas residents can park there. **Joel Kempson:** Yes I can agree to that

On a Motion made by Leo Dierckman to approve Docket No. 18070006 UV and Docket Nos. 18070007-10 V and seconded by Jim Hawkins.

Approved 5-0

Meeting adjourned at 6:49 p.m.

Alan Potasnik – President

Joe Shestak – Recording Secretary