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The Board of Zoning Appeals (BZA) met on November 14, 2024 at 5:30 pm; a hybrid meeting was held both in the Council Chambers, located in Room 115, at 401 N. Morton Street, City Hall – Bloomington, IN 47404 and remotely via Zoom. Members present in the Council Chambers: Tim Ballard, Flavia Burrell, John Fernandez, Barre Klapper, and Jo Throckmorton.

APPROVAL OF MINUTES: October 17, 2024

Fernandez made a motion to approve the meeting minutes. Ballard seconded. Motion passes 5-0.

REPORTS, RESOLUTIONS, COMMUNICATIONS:

Jackie Scanlan, Development Services Manager, wanted to let the board know that the Planning & Transportation Department hired a new planner, David Brantez. Welcome, David!

PETITIONS CONTINUED TO: December 19, 2024

- AA-17-22 **Joe Kemp Construction, LLC & Blackwell Construction, Inc.**
Summit Woods (Sudbury Farm Parcel O) W. Ezekiel Dr.
Parcel(s): 53-08-07-400-008.002-009, 53-08-07-400-008.004-009...
Request: Administrative Appeal of the Notice of Violation (NOV) issued March 25, 2022. Case Manager: Jackie Scanlan
- V-27-22 **Cutters Kirkwood 123, LLC**
113 E. Kirkwood Ave.
Parcel: 53-05-33-310-062.000-005
Request: Variances from Downtown Character Overlay standards to allow less non-residential area and less large display windows; and a variance from the requirement to align with the front setback of an adjacent historic structure in the Mixed-Use Downtown zoning district with the Courthouse Square Character Overlay (MD-CS). Case Manager: Jackie Scanlan
- CU-31-24 **Tim Henke**
915 & 927 E Miller Drive
Parcel(s): 53-08-09-104-124.000-009, 53-08-09-104-120.000-009
Request: Conditional use approval to allow a "Dwelling, cottage development" in the Residential Medium Lot (R2) zoning district.
Case Manager: Eric Greulich

PETITIONS:

CU/V-26-24 **Elisha Spier**
2110 E. Covenanter Drive
Parcel: 53-08-03-407-027.000-009, 53-08-03-409-002.000-009
Request: Conditional use request to allow a home occupation in the home and variances from use-specific standards related to the number of employees and on-site sales in the Residential Medium Lot (R2) zoning district. Case Manager: Jackie Scanlan

Jackie Scanlan, Development Services Manager, presented CU/V-26-24. The Department recommends that the Board of Zoning Appeals adopt the proposed findings and approve the conditional use and deny the variance request. The following conditions apply to the Conditional Use approval:

1. This home occupation approval is for the use, as described in the petitioner statement, excepting the items for which variances are denied.
2. The entirety of the home occupation shall take place within the structure. If the Bloomington Municipal Code is changed to allow home occupations to occur outside of structures, any required approvals must be met before this property can have a home occupation outside of a structure.
3. The petitioner may not have more than 15 people on site for educational programming.
4. Those utilizing the educational programming at the site must park on improved surfaces or in the garage on the site.

Elisha and Brett Spier, petitioner, presented their request for both a conditional use and variance.

PUBLIC COMMENT:

Johnathan Ainsworth, volunteer for Garden Quest, says this program has given him opportunities to use different tools, work outside, and learn about where food comes from. Ainsworth asks the board to approve the changes in the UDO in order for the Spiers to continue their work.

Traci Jovanovic, nearby resident, spoke in favor of the petition. Jovanovic spoke about a neighbor who lives on Pickwick who couldn't join the meeting tonight. Jovanovic mentioned the neighbors on Pickwick also had issues getting approval for chickens so they could have their own eggs. Jovanovic asks the board to help encourage societal improvements that are in line with city's platform of sustainability and education. Ultimately, a clear policy be developed to prevent the need for hearings and neighborhood divisiveness.

Jennifer Robinson, collaborator of Garden Quest and resident, spoke in favor of this petition.

Didi Kerler, friend and purchaser of the Spiers', spoke in favor of this petition. Kerler stated she has learned so much about nutrition and says this is such a great opportunity for kids.

Nancy Goswami, nearby neighbor, stated her and her husband would walk around the neighborhood and would often stop by the Spiers house to look at their garden. Goswami, being relatively new to gardening, learned how to organically amend her soil, fertilize crops, and how to combat an invasion of squash bugs. Goswami asks the board to support this petition.

Kathleen Boggess, retired school counselor, has known Ellee Spier since she was a little girl. Boggess stated it would be a real shame if this motion would be denied. Kids need more access to programs similar to the Spiers and to use less social media.

Daphne Clark spoke about the need to have internships. Clark is a professor at IU's O'Neill School of Public and Environmental Affairs. Clark stated that there are only 15 universities that offer internships in urban farming, and Indiana University is not one of them. To be the number one program in the country and not have a partnership with a local urban farm to offer an internship, is an opportunity that's being missed.

Sophia Paulson, mentee and unpaid intern with Garden Quest, spoke in favor of this petition. Paulson gained knowledge in this past year, not only in the growing and production of plants, but in nonprofit management. Facilitating educational opportunities and community-based organizing has been an extremely valuable supplement to her education that she would not otherwise gain in a classroom setting.

Austin Spier, son of Elisha and Brett Spier, asked the board to approve this request. Spier spoke to how his mom's urban farm has provided multiple opportunities to the Bloomington community. Spier also mentioned how some of the opportunities no longer exist due to the overly restrictive zoning code in the UDO.

Madison Spier, daughter of Elisha and Brett Spier, read a letter from Jane St. John that reads:

"Dear members of the Board of Zoning Appeals, Thank you for your service, and for your attention to this matter. I am writing to request that you grant Ellee Spier permission to teach indoors in her home with one or more people at a time. I request this for the following reasons. Ellee has demonstrated the purpose of her work as she actively supports the city's goals as outlined in her own climate action plan and sustainable urban gardening plan. We are a city with plans of many kinds; well researched and well written. Sometimes when actions are required to implement these plans, it makes us uncomfortable and we tend to want to go back and revisit the plan. Let's not do that. Let's keep the good work that Ellee and her family have substantially invested in moving forward. The zoning ordinances are specifically called out. Finally, you will not find the work that Ellee is doing, done better anywhere else. Her systems of home composting, waste reduction, and sustainable gardening are exemplary. She has been and will continue to be thoughtful about the needs of her neighborhood. My best advice to her neighbors is to get closer and learn more. Change in our neighborhood is hard. I have lived in Bryan Park neighborhood for 32 years. I hated losing the giant sycamore tree down the street last week due to the new construction of a duplex. We all are having to

accept challenges. This particular zoning request is one that will improve our city. Please support it. Thank you.”

Spier reads a letter from Julie Pfister, first grade teacher at Marlin Elementary. “Good evening, Board of Zoning Appeals. My name is Julie Fisher. I teach 1st grade at Marlin Elementary. Marlin sits right at the edge of a neighborhood off of Bethel Lane. Last fall, my class visited Ellee’s farm to try to get ideas on designing our school garden. Not only did our students enjoy hugging, decorating, and measuring the circumference of huge 70 pound pumpkins but we were able to see how much space we would need to grow these amazing Cinderella specimens. It would have been very difficult for me to figure this out without visiting, and seeing how to creatively grow large pumpkins within a confined amount of space. We even changed our garden design grant application after our field trip to incorporate items that we discovered were vital for protecting the garden. Allowing classes, teachers, and students access to see urban gardening examples in person, is invaluable. I hope that you, as a board, will consider how important organizations such as, Garden Quest, are to our community. Thanks for your time.”

Lastly, Spier read a letter from John O’Reilly, Biology Teacher at Bloomington South High School.

“To City Council members and concerned residents, I am writing to express my strong support for the Spier’s garden and agriculture initiatives. As a high school teacher, I love the idea of classes visiting a local urban garden for hands-on learning experience. I believe this property offers immense value. Not only for the students, but also for our community as a whole. By engaging in garden-based projects, collecting data, and experimenting with environmental science, students gain practical, real world knowledge that compliments this classroom education. They have the chance to learn about sustainable agriculture, urban ecosystems, and the critical role of biodiversity, all while connecting with the local environment in a meaningful way. As a neighbor, I also see the tremendous value in their sharing of information about neighborhood beekeeping. I really enjoyed spending time at the hives with Ellee and her family. Understanding the essential role that pollinators play in our food systems and local ecology is an invaluable lesson that can inspire future generations to engage with and protect our natural world. I would love to be able to share this with my students. I am confident that such experiences available through the Spiers urban garden, can foster a deeper connection to the neighborhood and promote environmental stewardship amongst neighbors and students alike. I really appreciate all the amazing projects that they have going on there, and I’m happy to support it in any way I can. Sincerely, John O’Reilly, thank you.”

Orlee Spier, daughter of Ellee and Brett Spier, read a letter on behalf of Beth Smith.

“Good evening, my name is Beth Smith, and I am a STEM educator for MCCSC. Friend of the Spiers, and advocate for school gardening. I have worked with Ellee Spier for over 10 years on various projects at Childs Elementary School. Helping students learn more about life, science, plant, biology, composting, healthy eating, and more. The Spier family has created a beautiful learning environment that has no impact on the residential area. Yet, it harnesses the most positive impact for the community from an educational outreach and equity standpoint. Garden Quest has provided many learning opportunities for students at the farm. Childs Elementary Construction Club walked down after school to learn about the eco-friendly construction of the Spier’s conservatory. Then the Marlin

School group visited Garden Quest for a morning field trip. During that time, Kindergarten and 1st grade students had the opportunity to learn about how worms and other decomposers break down our food for the ultimate act of recycling. By the way, this is really important for 3rd grade through 6th grade science standards. Why not teach them young? Learn more about bees at the beehive beekeeping area, and how to safely interact with them. Not to mention, there are so many outdoor experimental learning stations throughout the urban farm. Young people need to realize that you don't have to live in the country or on 100 acres to be a farmer. Every square foot of yard space can be harnessed for food production to increase sustainability. Ellee is a scientist, and her methodologies for experimenting in her backyard illustrate her intelligence, curiosity, and energy. It is vital to have hands-on experiences for students because they are such an important aspect for learning. The type of hands-on experience with Ellee, is invaluable. The opportunity for public schools to partner with organizations like Garden Quest would be extremely valuable. Opportunities like this add a lot of value to public teaching. I'm grateful to be able to partner with Ellee and Garden Quest. I would like to express my gratitude for what the Spier family does for our community. I would hope our zoning commission would create a variance to allow the good work to happen at Garden Quest. The Spier family is helping our community in the most positive of ways. Sincerely, Beth Smith”

Spier also wanted to express the importance of gardening and how it has positively affected her friend's life, as well as her own.

Bob Austin read a letter from Josh David, Board Chair of Bloomington Community Orchard.

“Garden Quest provides an incredibly valuable resource for the community. Most farms operate outside of city limits, where access and education is limited to those with the capacity to travel. Much like the Bloomington Community Orchard, Garden Quest values community access, and education. It wants to create more resources for community members to benefit more easily, thus growing our collective influence and impact. Recently, we were hoping to hold our fall retreat at Garden Quest, including an educational farm tour, but it is no longer allowed by current city codes. Ultimately, if they were just individuals doing this for a group of their friends that would be allowed but, because of our organizational statuses, we were told that is not permitted. Moving forward, we need to reshape policies in a way that supports the long-term sustainability of our vibrant community. A community of educated home growers that can support hunger and poverty related initiatives. Garden Quest is actively doing this despite the current policy challenges, and we encourage the city to help support more opportunities like theirs, to help our community grow and thrive together.”

Austin played a recording from a student, Cody, from Bloomington High School South.

“I chose Garden Quest as my Bloomington High School South Internship. I was initially a bit intimidated by it. It was something I'd never done before. Gardening was never really on my list or plan of things to do. But, I was interested. With Ellee's guidance and leadership, I was able to easily understand most things. I really enjoyed learning about Bokashi. It was pretty nasty, but it was interesting to know how easy it was to make a super fertilizer for plants. Additionally, taking care of chickens was one of the best parts of that entire internship. I loved taking care of chickens. We also learned about

beekeeping. Which is something I would have never experienced anywhere, thanks to Ellee and the location of it. Making outdoor education in a neighborhood setting illegal sounds like a bad idea. It will take away the opportunity for so many people to learn. It's an establishment that has helped people. I don't see what it's doing wrong. It helped me. I bet it can help other people if they want to pursue careers in agriculture. I hope you will reconsider. Thank you for your time and my opportunity to speak to you."

Penny Austin, a retired teacher, and volunteer for the City of Bloomington, wanted to speak about the importance of educating outdoor gardening. Austin has learned so many techniques from Spier and encourages others, too. Austin asked the board to help Ellee continue educating, and helping the community with her knowledge.

Connie Cook Glen, neighbor of the Spiers, spoke about a petition that several of the neighbors put together. Some neighbors who are on Brooks Drive, and a few on Covenanter Drive. Cook Glen's concern is about the fundamental change in residential neighborhoods if this petition were to pass.

Glenn Gass acknowledged that the purpose of this meeting pertains to neighborhood zoning rules, not neighborhood disputes.

James Glen stated he has nothing but respect for outdoor education, as he was a science teacher for 35 years. Glen's concern is with the lack of communication regarding this petition leading up to this meeting. Glen does not support the zoning changes, as he wants to live in a residential neighborhood.

Matthew Austin, brother of Ellee Spier, spoke about how challenging this process has been for him and Spier. Austin said the worst part of all of this, is the impact this has on the students and community members. They have lost the opportunity to work with and learn from Spier on the farm. Austin asks the board to consider the future ramifications of their decision and to vote yes on this petition.

Diamond Mather said there are plenty of books and magazine articles you can find on gardening. Mather said you don't have to have a big place to garden.

Darrell Boggess said the scope of the outdoor portion of this petition has grown and evolved over the years. Boggess suggested the number of 15 people is arbitrary. Boggess asks the board to raise the number to 20 people. Boggess proposed this variance be passed. Boggess also encouraged the board members to reach out to city council members who may have an interest to possibly consider a modification to the ordinance.

BACK TO PETITIONER:

Spier used the remaining of her time to present.

BACK TO BZA:

Ballard made a motion to approve both the conditional use and variance and the following conditions with condition #3 to read striking 15 to put 50 people.

Discussion ensued of amending the findings. Ballard withdrew his motion.

Ballard said this was the most unique and impactful presentation's he has seen since the three years he's been on the board. Ballard believes in this petition, and will help advocate on their behalf to city council.

Fernandez made a motion to approve the conditional use request for a home occupation based on Proposed Findings of Fact and with the four conditions listed in the staff report. Throckmorton seconded.

After further discussion, Fernandez doesn't believe this conditional use request meets the definition of home occupation standards in the UDO. Fernandez did commend the petitioner, but the Board of Zoning Appeals isn't a legislative body.

Motion is denied by roll call – 1:4 (Throckmorton, Ballard, Burrell, Fernandez).

Fernandez stated that based upon the report and findings of fact above, he made a motion to deny the conditional use for home occupation and the variance for the number of employees based on Alternate Findings of Fact, with one amended finding for the General Compliance Criteria. Throckmorton seconded. Motion is denied by roll call – 5:0.

ALTERNATE FINDINGS OF FACT:

General Compliance Criteria: Do not think that this request meets the home occupation standards.

Meeting adjourned at 8:46 p.m.