

CITY OF FRANKFORT

Board of Zoning Appeals

May 25, 2022

The City of Frankfort Board of Zoning Appeals met at a Special Meeting on May 25, 2022 in the City Council Chambers, 301 E Clinton St, Frankfort, IN at 5:30 PM.

President Hussey announced that each speaker would be allotted three minutes to speak once public hearing was opened.

President David Hussey was present and called the meeting to order. Upon roll call, the following members were present: Isac Chavez, Mike Nichols and Sam Payne. Not present: Kevin Myers. Staff members present: Don Stock (Zoning Administrator) and Ashlee Bassett (Administrative Assistant).

MINUTES: Minutes of the April 13, 2022 regular meeting were presented for review.

Motion: Approve minutes as presented.

Motion made by: Mike Nichols

Second: Isac Chavez

Roll Call:

- Yay- Isac Chavez, Mike Nichols, Sam Payne, David Hussey

NEW BUSINESS: President Hussey asks members of the board if any board members have any conflict of interest with petition being heard tonight. No comment was made from the board. President Hussey then asks if any ex parte contact has been made with petitioner or other board members about petition being heard tonight. Hearing none, he proceeds with meeting. President Hussey opened the public hearing for Docket# BZA-2022-05 for Gracie Balderas. Gracie is present to represent petition. President Hussey calls on Don Stock to present staff report. Partial staff report was read. Don Stock notes that some neighbors believed this area was zoned agricultural. He says that is not likely because Frankfort does not have an agricultural zoning district. Don also notes development definition in relation to private recreational development. He reads definition as “a drawing or plan that includes a legal/ site description of the real estate involved which shows location/ size of the following: both existing/ proposed buildings/structures, locations/ dimensions of buildings, widths/lengths of all entries/exits, locations of adjacent/ adjoining streets, service facilities, and other improvements including planting areas.” He says that this Special Exception is only for approval of an outdoor soccer field; any other structures (ticket booth, concession stand, etc.) would need to come back before the board for approval. Don says a letter was received stating that a concert venue/ rodeo would be held at this location and that is not going to happen, it will only be an outdoor soccer facility. Don notes that the Drainage Board has allowed a 25’ setback from creek instead of typical 75’. He notes that landscaping will consist of planting 6’ tall by 6’ wide. Don says that Gracie Balderas states that there will be maximum 60 people onsite at one time for the soccer game. Don notes that the position of the soccer field has been adjusted to face North/South instead of East/ West. Don notes he has spoken with Dan Sheets (Surveyor) and Jim Spears (Sewer Maintenance). Don informed the board that there will be no gravel laid on the lot, but if in the future a building is considered to be built then a parking lot would be required. He notes that because the field will stay completely grass, it should cause no drainage issues. Don notes he spoke with Jim Spears regarding sewer pipe under the land, Jim is not concerned with parking on top of grass. Don also notes that Jim was asked about field tile. Jim Spears says it’s not a concern as long as the property is dry, if the property gets very wet there is a concern that tires could rut the ground and potentially damage field tile. As long as the ground is relatively dry, there is no issue. Don notes that it would be an unrealistic condition to place on Gracie Balderas that they must cancel in a major rain event. Don says that the games are expected on Saturdays only per Gracie Balderas. Don Stock notes map of right-of-ways in areas. He says that Hillis St is still on the map as 31’ and runs behind properties on West side of Walsh Ave. The access to this street comes from a 7.5’ wide alley off of West side of Walsh Ave. The alley is all grass right now and lies directly across from alley on East side of Walsh Ave. Mr. Stillwell’s home is 50’ wide, alley is 7.5’ wide, and there is another 25’ property owned by Mr. Stillwell, to the South of the alley. Gracie owns 50’ entrance off of Walsh Ave directly South of Mr. Stillwell’s property. Don says a survey has been requested to verify where Gracie’s property begins. Findings of fact were read in its entirety. Don notes that he recommends approval with the following conditions: parking requirements as determined by BZA, no outdoor signs/ advertising/ artificial lighting, final time for all games to be finished, no sale of alcoholic beverages

permitted on premises, and trash containers/ portable toilets must be in place. Don also reads that the amount of portable toilets required would be one toilet seat and one urinal for between 20 and 190 attendees. He also notes that there should be at least one handicap accessible toilet. He says that if one portable toilet has a urinal and toilet seat, then that would be acceptable. She would also be required to have the handicap restroom in addition to the other regular portable toilet. Don reads complaints received from neighbors as follows: How is the property being classified? Don says as a private recreational development allowed in all zoning districts by Special Exception only. Next question: Will there be fencing to keep players/balls out of neighbor's yards? 6'x6' planting is required by ordinance. Next question: Will there be artificial lighting? The BZA will address this with no artificial lighting. Next question: What are the hours of operation? How many games will be allowed each day? The BZA will be setting a time for all games to finish, there will only be one day of soccer each week- likely a Saturday or Sunday. Next question: Will the soccer field be available for public use? Since this is a private development, the BZA will address this. Next question: Will horns or whistles be used? If so, at what decibel level? What about music from stereos? This has not been addressed. Next question: Will there be soccer leagues/ revenue being generated? Yes. Next question: What about restroom facilities, will the portable toilets be monitored and where will they be located? The owners have been told to supply enough facilities for the expected peak amount of participants. Don circles back to soccer leagues/ revenue being generated. He believes this is no different than the YMCA using their field for soccer and they charge fees to offset their costs to run the league. Next question: Will there be any rules/ regulations for attendees? We have not requested any other than what has already been stated. Next question: Will there be rules/ regulations posted for participants to follow? This is a question for the owner should this pass the BZA. Next question: What will the maximum capacity of vehicles/ participants be at any given time? The BZA will address this. Next question: What will the distance be from residential homes to the soccer fields? They have to be 25' from the front, 40' from each side, and 25' from the drainage ditch to be considered proper. Next question: Will the field have an easement to be able to maintain power lines? Since this will remain grass, there should be no challenges to the electric maintenance. Next question: What will be the distance from the soccer fields and ditch? Per Clinton County Surveyor, it will be 25'. Next question: Can our tile/ drainage/ sewer lines handle the weight of the parking? According to Jim Spears, yes, as long as there is no major rain. Next question: Will the trash cans and property maintenance be monitored? Since this is a private business, they will be responsible for their facilities. Next question: Has the impact of the Southfork Wildcat Watershed Management Plan been determined? If so, has SWCD given approval for this project? There should be no impact on the watershed since it will remain grass. Don notes he spoke with a few neighbors with concerns that couldn't make it to the meeting tonight and their questions were addressed earlier. Sam Payne asks if this is agricultural. Don Stock says it is zoned B Residential and the city does not have an agricultural zoning district. Sam notes there is some when Williams St was annexed that are zoned R Reserve. Don notes it is county zoning that stayed in effect when annexed and he hopes to address this if UDO's are passed. Mike Nichols asks if the entire property is owned by Gracie Balderas. Don Stock says yes. Sam Payne asks if the subdivision ordinance would be used for this because there are no alleys or streets. Don Stock notes it's not part of any subdivision but abuts Rubright's 1st Addition (to the South) and Hillis Addition (to the East). Sam Payne asks if subdivision ordinance was used to gather these findings. Don says no it is part of the BZA procedures to answer findings. Sam Payne notes that Appendix A is in the subdivision ordinance. Don says he has to follow what the ordinance says to make these decisions. Sam Payne says he doesn't understand why it's coming out of the subdivision ordinance if it's not part of a subdivision. Don Stock says that he has to follow the Special Exception requirements by the ordinance. Isac Chavez asks how far away the Green St Park is from this field. Audience members noted that it was pretty close. Don says that most lots between the two parks are about 100'-150' apart. President Hussey calls for comments from the public. He notes that there are eight neighbors signed up to speak tonight. Tina Gish of 1710 W Green St approaches board. She asks the board to raise their hand if they'd like to live between a park and private residential development. She states that when she comes home there is traffic and lots of noise from the softball games already. She notes that with doors/windows closed and television turned all the way up she is still unable to hear it. She voices concern about her quality of life and whether horns/ whistles will be used. She also notes that if the tile will be damaged due to heavy rain, she is unable to pay for it so who would cover the cost? She feels that the board is asking a lot from the neighborhood. She notes that soccer games go on all night long, especially when second shift is released- they go to the park to play. There's very seldom nothing going on in the neighborhood. She feels it will turn into a mud hole. She asks if the board has any questions for her. Hearing none, she returns to her seat. Loren Murphy of 7685 W Newcastle Rd approaches board and states that he does not live in Frankfort. He notes that he has friends on W Green St and has helped them in researching this. He notes that the City is structured to support someone who wants to change existing usage of a property but there is nobody to help the nearby neighbors create a petition against it. He feels

that the city helps a newcomer change the neighborhood but not the neighbors nearby. He's unsure how the board will enforce one game day each week. He says he's also unsure how owner will afford to set portable toilets on the property all week but only use them on Saturday. Loren also says that he thinks if this is approved the owner will come back wanting more- buildings, structures, etc. He feels this is a stepping process for more in the future. He feels that pending issues should be resolved- pending drainage, pending survey and that there should be a continuance until these are addressed. He also asks who decides if the rain is major and is concerned with who would pay for damaged tile. Loren asks how neighbors will know the established rules, will the BZA establish them. Don Stock says yes. He feels that when the notice is received there is no answers in the certified mailings but most of his questions have been answered tonight. Loren returns to his seat. Shannon Campbell of 1900 W Green St is here to represent his parents (owners) and he approaches board. He notes that their property lies on the Southwest section of this development. He says that there is not an easement on this end of the lot and is concerned with them using the vacant lots to the West to access the lot. He also expresses concerns about the landscaping. Shannon notes he lives at 852 E Wabash St and says he was very aware of the soccer fields at the old Riley site. He says that there were no neighbors that enjoyed the soccer games that went on there. He notes loud music/ trash left onsite/ people urinating outside their cars. He says he does not want to look over and see someone using the restroom. He notes that Suncrest Elementary School was once used for the same thing and trash was left there, loud music was played, and that's why they're no longer allowed to play on that field as well. Main concerns are traffic, how it's going to be taken care of, and he voices that he would like this to be continued. Shannon returns to his seat. Nathan Haskins of 1658 W Green St approaches board. He notes he just moved in March of this year. He voices concern for the landscaping until they reach mature size. He notes that his fence is only 3'-4' and not reinforced. He says he will have soccer balls coming into his backyard and he doesn't want anyone on his property. He also notes concern for the trash left onsite and feels it will get worse with people coming back to the field. He voices concern for the noise as well in addition to the softball games. There is also concern for parking when soccer and softball games are both going on. He says people play basketball at the park all night. He echoes concerns made by earlier speakers. Nathan returns to his seat. Dave Lewis of 1752 W Green St approaches board. He notes that three pages of signatures were obtained to stop this development. He asks if the board received a copy. President Hussey says yes. Dave notes that Walsh Ave is already congested because of the school and voices concern for the traffic since he feels it is almost a one lane street. He also notes concern for property values in the area. He says that Circle Park, Green St Park, and now this park will all be within a three block area. He asks where all the traffic will go. He asks if the trees will be removed from the ditch. He notes lots of birds, deer, and rodents live back there. He says he enjoys the wildlife. Dave returns to his seat. President Hussey asks for Don Stock to respond to trees in ditch. Don Stock says the ditch is a county ditch and says that he's unsure of all regulations regarding the ditch. He says there has been a 25' setback granted in this case. Don says he's unsure if the trees will be removed. President Hussey clarifies that the ditch is owned by the county. Don says yes. Jason Strode of 952 Walsh Ave approaches board. Jason voices concern for drainage on the field. He asks if this will be built up for the soccer field. Don Stock says no it will be left alone. Jason notes he doesn't want to look at portable toilets through the week. Jason returns to his seat. Steve Stillwell of 1000 Walsh Ave approaches board. Steve says his family has owned his property for 59 years and he notes that the entrance to this property has been maintained by his family, as well as the Hillis St property. He notes concern about how he can get to his barn if Gracie owns the property. He says this is unnecessary. He says that the past two weeks there have been six kids playing on the field. Steve says that he only bought his property because of the field in the back of the home. He says that this neighborhood is more like a family. He says that he's not against the kids having fun on the lot, but there's an issue with the gravel drive. He voices concern again for accessing his property, trash, and disturbance while sitting in the back of his property. He says he stayed in Frankfort because he cares about his neighborhood and his neighbors. He asks Sam Payne how he's supposed to access his garage. Sam Payne says that's a good question. Steve returns to his seat. Clarence Warthan of 1607 W Green St approaches board. He notes he's the City Council representative for this area. He notes concern for trash and noise. He says he came to the meeting to hear both sides of the argument. He says he's not against kids having a place to play but is concerned with traffic, trash, and noise. Clarence returns to his seat. Don Stock approaches board. He notes that he spoke with Les Bergum (City Attorney) and this docket may be tabled tonight if the board feels the need. President Hussey asks if there are other questions for the public. Steve Stillwell asks to approach board again. President Hussey says that his time limit has expired and he wants to be respectful of everyone's time. Steve Stillwell urges that this is important. President Hussey allows 30 additional seconds. Steve Stillwell alleges that the Principal of Suncrest Elementary came to his house and said that the reason the soccer teams are not allowed to practice on their property is because they were not following the rules and now the same thing will be moved into these neighbors' back yards. President Hussey closes the public hearing.

Mayor Judy Sheets approaches board. She notes concern that there is a lot of controversy over this petition. She urges the board to weigh all things heard tonight and wants the board to table the docket if the board feels uncomfortable making a decision tonight. She also notes that a lot of this information has come in last minute and she was still receiving emails this afternoon with concerns about this petition. She urges that a lot of lives will be affected by this decision. President Hussey thanks public for coming tonight. He then calls for discussion from board members. Sam Payne notes that he feels a good response has been heard from the public. President Hussey reads through the Special Exception findings of fact with board members. President Hussey calls for a motion.

Motion: Table docket.

Motion made by: Sam Payne

Second: Isac Chavez

Roll Call:

- Yay- Isac Chavez, Mike Nichols, Sam Payne, David Hussey

President Hussey asks if this should be reviewed at the next regular meeting. Don Stock notes that there is nothing coming before the board for the next regular meeting on June 8th but the board can still meet. He notes that board members should not consult with other board members or the public regarding this petition. He says that any discussion that goes on needs to go on in front of all board members, not in private. Don Stock notes the June 8th meeting will not be advertised as a public hearing since it has been tabled tonight. Sam Payne asks if the board can have a special meeting with only the board present. Don Stock says he doesn't think that is allowed because all decisions have to be made in front of the public. Sam Payne clarifies that they're not allowed to have a work session with just board members. Don Stock says yes they can have a work session but this petition cannot be discussed. Don Stock says there could be some compromise on this petition if the board so chooses. He also notes that the portable toilets can be moved, they don't have to be placed directly behind peoples' homes. They will still be able to be seen because the site is wide open but they can be moved to accommodate homeowners. Don brings up the comment that was made regarding this petition being a stepping stone for future development. He says the board can place conditions in regards to this petition. He says he will sit down with Gracie Balderas and brief her on the next step in the process. Don Stock also notes that some of the concerns tonight cannot be addressed. For example, Mr. Stillwell's garage has no impact on this petition and the board may not have an answer for such a problem. Don mentions that the most amount of people will be at the changing of games. He says that at the most Gracie expects 60-70 people at a time for a game change, including the 22 players.

President Hussey reiterates that discussion cannot be had regarding this petition outside of the meeting. President Hussey calls for any other business. Mike Nichols asks if board members are allowed to visit property. Don says yes. Mike says he's already visited the site and asks if he's allowed to talk to any of the neighbors. President Hussey says no you're not allowed to talk with any neighbors about this petition. Sam Payne asks audience members who would allow board members onto their property to visit the site. Lots of audience members say they would allow that at any time. Steve Stillwell attempts to speak with board. President Hussey asks him to stop. Steve Stillwell says if Gracie gets him for trespassing, he asks how he's supposed to get to his property. President Hussey urges that the public hearing is closed. Steve Stillwell states that he thought that's what they were here for. Don Stock says that the board is only deciding whether to allow a soccer field on this land.

OTHER BUSINESS: President Hussey calls for any other business. Hearing none, meeting was adjourned.

Respectfully Submitted,

Ashlee Bassett

APPROVED JULY 13, 2022