

MINUTES OF THE BOARD OF ADJUSTMENT

DATE: February 1, 2022

TIME: 1:30 p.m.

The regular meeting and public hearing of the Board of Adjustment was held on the above date and time via Zoom with the following members and personnel in attendance: Derek Lee (Chair) Bryan Fisher (Vice Chair), Shelby Lawhon, Steve Jackson, and Thomas Kondro. Absent: None. Staff: Daniel Neal, Senior Planner, Jill Burris, Assistant City Attorney, Duke McDonald, Assistant City Attorney, Dwayne Shmel, Director of Building and Development Services, and Bob Hosmer, Planning Manager.

Roll call:

INTRODUCTION OF ZONING ORDINANCE AS EVIDENCE: Mr. Neal introduced the Zoning Ordinance.

APPROVAL OF MINUTES: The minutes of November 2, 2022, were approved.

COMMUNICATIONS: None

PUBLIC HEARING:

Variance 587

1930 East Kearney Street

Applicant: Glen-Kearney Development, LLC

Mr. Derek Lee recused himself.

Mr. Bryan Fisher opened the public hearing.

Mr. Tim O'Reilly, manager of BigShots Golf the application is to raise the pole height on the north and south side of the facility. Originally designed the netting and based on their designs the poles were built to the height recommended and based on the ball types and nets it was not adequate to keep the balls in the golf range. There are several modifications that are being used to enhance the safety and we need the options to raise the pole height in case the other modifications do not work.

Mr. Duke McDonald asked if they would be able to stretch a net across the top.

Mr. O'Reilly said that the engineers looked at it and it would not work and noted that the design would be same, but with taller poles and another line of poles on each side with translucent netting.

Mr. Fisher asked about the previous approval and if a specific height was approved.

Mr. Neal noted that they did not approve of a specific height, but they had completed the improvements on the site.

Mr. Daniel Neal stated that this is a request to vary from Section 36-422(5)(a) of the Zoning Ordinance to allow structures to exceed the 30-degree bulk plane/height requirements in the HC, Highway Commercial District. The applicant constructed a BigShots Golf driving range/eating and drinking establishment on the property with a variance to allow fences to exceed the 30-degree bulk plane provisions. This request was approved by the Board of Adjustment on December 4, 2018. However, since the opening of the facility there have been golf balls hit over the fencing into adjacent properties. The applicant is now proposing additional taller fencing to further exceed the 30-degree bulk plane. They are requesting a variance from Zoning Ordinance section 36-422(5)(a) Maximum structure

height: None, except that all structures shall remain below a 30-degree bulk plane as measured from the boundaries of R-SF, Single-Family Residential District.

A structure is defined in the Zoning Ordinance as anything constructed or erected, the use of which requires permanent or temporary location on or in the ground, including, but without... fences... or any similar item. The bulk plane defines the relationship of the height of the structure and the structures setback. The applicant is requesting a variance to allow 11 golf driving range poles and netting (fencing) that will be in excess of the 30-degree bulk plane requirements from an R-SF, Single-Family Residential District boundary.

- The Growth Management and Land Use Plan of the Comprehensive Plan states that protection of our existing residential neighborhoods is a prime concern.
- It is important to ensure that new land uses are not detrimental to residential areas and to recognize the vulnerability of residential areas to certain adverse impacts.
- This objective does not mean that non-residential land uses are automatically inappropriate in residential areas; it means that design and location criteria must take into account the existing residential areas.
- Where commercial areas are concentrated, they should be sited and designed to have a minimal effect on adjacent lower-intensity development, and the environment.
- The Growth Management and Land Use Plan of the Comprehensive Plan also states that new development should be compatible with existing development in terms of scale, materials, rooflines, setbacks and open space.
- Landscaped transitions should be used between sharply differing types of land use.
- Encourage the effective use of location, design and landscaping of commercial uses to screen and buffer neighborhoods from lights, signs, traffic noise and pollution, and other factors incompatible or conflicting with adjacent land uses.

If the variance is approved; the proposed poles and netting will be allowed to exceed the 30-degree bulk plane requirements Section 36-422 (5) and as determined by Section 36-321 Definition of height, height limit and bulk plane and as shown on the proposed site plan. The board of adjustment may impose such conditions and restrictions upon the premises benefitted by a variance as may be necessary to comply with the standards set out in this article to reduce, minimize, or mitigate the effect of such variance upon other property in the neighborhood, and better to carry out the general intent of the article.

If the variance is denied; the applicant must design the site to comply with Section 36-422 (5), Section 36-321 Definition of height, height limit and bulk plane and all other applicable Zoning Ordinance requirements.

Mr. Fisher asked if any written comments were supplied.

Mr. Neal said that he had one person call and noted that he had approximately 400 golf balls in his yard.

Ms. Sherry Kuhn, 1920 E. Turner and noted that BigShots is an eye sore and believes that adding more poles would be a problem and noted that there have been lawsuits. The noise has been toned down, but still get golf balls in her yard and asked if BigShots would purchase the houses in the neighborhood.

Mr. Fisher stated that the Board of Adjustment BOA is not here to discuss those options (buying homes).

Mr. Mohan Patel, owner of the Resthaven hotel and noted that balls are going in there parking lot and roof and want to make sure the improvements are done now – additional poles on the northeast side to prevent the balls from going into the area. Mr. Neal pulled up the location of the Resthaven property

Mr. O'Reilly said that they are not adding poles to that side and believes the issue was addressed and corrected regarding the hotel area.

Mr. Bryan Fisher closed the public hearing.

Mr. Fisher stated that he was part of the original variance application and is attempting to correct various issues and will vote for the variance.

Member Action:

Mr. Shelby Lawhon motioned to **approve** Variance 587 (1930 East Kearney Street). Mr. Steve Jackson seconded the motion. Motion carried as follows: Ayes: Fisher, Lawhon, Jackson and Kondro. Nays: Alden. Absent: None. Mr. Derek Lee recused himself.

Variance Findings of Fact and Conclusions of Law for Variance 587

Approved: 4/0 The variance requested arises from such condition which is unique to the property in question, and which is not ordinarily found in the same zoning district and is not created by an action or actions of the property owner, the applicant, or predecessors in title. That condition is as follows: *City had initially proposed the property to be laid out differently, however they had to develop this way due to golfing into the sun. (Layout of property). Uniqueness of use, only one in Springfield.*

Approved: 4/0 The granting of the variance will not adversely affect the rights of adjacent property owners or residents. *Variance is being granted to protect property owners and residents.*

Approved: 4/0 The strict application of the provisions of the Land Development Code from which a variance is requested will constitute unnecessary hardship upon utilization of the property. *Granting this new variance is addressing a necessary hardship caused by the inability to change the pole height.*

Approved: 4/0 The variance desired will not adversely affect the public health safety, morals, order, convenience, prosperity, or general welfare. *No comments/response.*

Approved: 4/0 Granting the variance desired will not be opposed to the general spirit and intent of the Land Development Code. *No comments/responses*

Other Findings: *No comments/responses.*

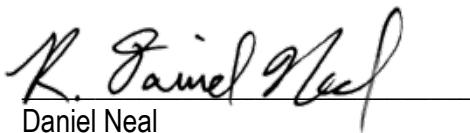
OTHER BUSINESS:

2022 Election of Board of Adjustment Chair and Vice Chair

Member Action:

Shelby Lawhon motioned to nominate Derek Lee as **Chair**. Bryan Fisher seconded the motion. Motion carried as follows: Ayes: Lee, Fisher, Lawhon, Jackson, and Kondro. Nays: None. Absent: None

Derek Lee motioned to nominate Bryan Fisher as **Vice Chair**. Shelby Lawhon seconded the motion. Motion carried as follows: Ayes: Lee, Fisher, Lawhon, Jackson, and Kondro. Nays: None. Absent: None


Daniel Neal
For Executive Secretary