

# Board of Zoning Appeals

MEETING DATE: December 19, 2023

TIME: 7:00 p.m.

LOCATION: Pendleton Town Hall

100 W. State Street Pendleton, Indiana

## **ORDER OF BUSINESS**

### **I. CALL TO ORDER**

Meeting was called to order by Kyle Eichhorn at 7:00 p.m.

### **II. ROLL CALL AND DETERMINATION OF QUORUM**

Board members attending in person: Kyle Eichhorn, Jenny Sisson, James King, Rob Williams, Robert Jones. A quorum was established. Individuals representing the Town in person: Assistant Planning Director Denise McKee, Felix Rippy representing the Town. Representing the Town via Zoom: Planning Director Hannahrose Urbanski. Also attending in person: Austin and Morgan Feipel of 120 Blue Spruce Drive

### **III. OATH OF OFFICE**

Felix Rippy performed the swearing in of new BZA member Robert Jones

### **IV. APPROVAL OF PREVIOUS MEETING MINUTES**

**Kyle Eichhorn requested a motion to approve Meeting Minutes from the September 2023 Meeting, motion made by Jenny Sisson, seconded by James King. Roll call vote, with the exception of new BZA member Robert Jones, was taken and all other members voted in favor of said motion. Motion carried.**

### **V. OLD BUSINESS**

Denise McKee presented a summary of the following Findings of Fact

- V08152023-01: 0 W. County Road 700 S – Thomas & Pamela Watson via Moench Engineering P.C. and Star Lite Leasing Inc.
- V08152023-02: 213 N. East Street – Thomas Wehner
- V09192023-01: 740 W. Henderson Way – Preet & Preet, LLC via T-E Incorporated
- V09192023-02: 104 Reformatory Road – Jeffrey Jones
- V09192023-03: 8843 W. County Road 700 S – RALEYWAK, Inc. via Frederic Lawrence

### **VI. NEW BUSINESS**

A. CU11192023-01: Conditional Use request to allow applicant to keep a maximum of six (6) ducks on the property in the Single-Family Residential – Small Lot District (SF-

3)– 120 Blue Spruce Drive, Austin Feipel.

Denise McKee presented Current Use / Site Details: (Images on Google Drive)

- Zoned: Single-Family Residential - Small Lot District (SF-3)
- Property is .22 acres, including .01 sliver of land in rear deeded from D.R. Horton
- Property used for primary residence within Pines at Deerfield Subdivision, not subject to homeowner's association
- Backyard borders large detention pond/common space of Carrick Glen Subdivision as developed by D.R. Horton

Denise McKee presented the proposed Conditional Use requested by Petitioner to allow the following:

- Permission to keep a maximum of six (6) chicken/poultry (ducks) on the property
- Petitioner has complied with all requirements of the request

Denise McKee provided Chicken/Poultry keeping information per the Unified Development Ordinance (UDO):

- Definition (Chapter 10; page 216) - No more than 6 total hens, poultry, fowl, turkeys, pheasants or similar type animals per allowable chicken/poultry residences. No roosters. Odor, noise and unsightly properties shall comply with the town's applicable ordinances
- Land Use Matrix (Appendix A; page 242) - Permitted - R/OS, A-1, A-2, RR, SF-1, SF-2; Conditional Use - SF-3, SF-4, RC; Not Permitted - MF-1, MF-2, I, DB, NB, GB, HB, LI, HI, FWO

Austin Feipel, Petitioner, provided a thorough presentation on the duck breed and characteristics. The Indian Runner duck breed is known for being flightless, quiet, docile, and have no need for water area such as a pond. His intention is to raise these ducks as pets, not only for personal enjoyment but also educational use and a gardening aide. He indicated that proper management of these ducks can be a net positive for the environment. Feipel also stated he has received verbal approval from his neighbors.

Questions / Discussion

- Jenny Sisson asked:
  - Will the ducks be free range when no one is home? Feipel said they would be in the coop when they are gone and at night
  - How do they get along with other animals? Feipel stated they are very docile animals and not aggressive
  - What is the waste like? Feipel said it is comparable to goose waste and less watery; his plans are to compost the waste, but he will bag it and dispose of it if it becomes too much
  - If something happened with the ducks while the residents were not there, how would that be handled? Denise McKee answered that it would be similar to any other stray animal, and that either the police or

county animal control could be called; or dead animals on the street and the Street Dept would be notified

- Kyle Eichhorn asked
  - If smell becomes a nuisance is there a way to address that? McKee said the Town Ordinances would cover that
  - Can the conditional use be revoked if any violations are uncorrectable, since it runs with the land? Hannahrose Urbanski stated it would not be revoked, but would be continued to be cited and work towards remediation
- Jenny Sisson asked if the DNR has any guidelines or requirements regarding these ducks, and would the Town be in line with the State? McKee replied that her research was from websites that gave information about the breed, and proper living spaces, any relevant concerns, but did not consult DNR
- Felix Rippy stated there are many ways to work with the “runs with the land” premise, including potential lawsuits if a problem cannot be rectified; he also said there is likely nothing contrary to issuing this conditional use in the Indiana Statutes and the DNR would not prohibit owning flightless ducks
- McKee informed that this request does not fall into the standards for a Hobby Farm, which has specific space requirements
- Kyle Eichhorn asked if bees and chickens are permitted by right in SF-3; McKee said bees, chickens and poultry are permitted by conditional use in SF-3, SF-4 and RC
- James King asked what is the life span? Feipel said 8-12 years
- Bob Jones asked are there any transmittable concerns? Feipel explained the ducks would receive veterinary care much like any other pet
- Kyle Eichhorn asked what if the ducks can go higher than the estimated 36 inches? Feipel said he would be open to exploring other fencing options.
- Rob Williams asked has there been any feedback from any of the residents that received the notices? McKee replied there has been no feedback

Denise McKee presented the Staff Analysis based on analyzing the petition against approved/relevant plans and ordinances, as well as any existing conditions and/or variances placed upon the site:

- Conditional Use will not pose endangerment to public health, safety, morals or general welfare. Indian Runner Duck known for docile temperament and social nature. Petitioner’s interests for educational and garden aid purposes
- Petitioner commits to proper care, maintenance & waste disposal, housing females only with no future plans for reproduction
- Flightless ducks to be contained in backyard, fully enclosed by existing six (6) foot privacy fence with intent to convert existing shed to suitable roosting area
- Conditional Use does not impact traffic flow and/or require additional utilities or public facilities

- Keeping to maximum of six (6) ducks does not qualify as Hobby Farm nor subject to Hobby Farm Use and Operational Standards

Denise McKee reviewed the criteria to consider, based on Indiana Code and the Town's UDO:

- The establishment, maintenance, or operation of the conditional use will not be detrimental to or endanger the public health, safety, morals, or general welfare
- The conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted
- The establishment of the conditional use will not impede or substantially alter the normal and orderly development and improvement of surrounding property for uses permitted in the district
- Adequate utilities, access road, drainage, and other necessary facilities have been or are being provided
- Adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion on the public roadways
- The conditional use will be located in a district where such use is permitted and all other requirements set forth in this UDO that are applicable to such use will be met

BZA can vote to: Approve (w/wo conditions or commitments), Deny or Continue

Kyle Eichhorn reviewed the criteria against the information provided by the Petitioner and found all acceptable. The petition was well-thought out, considerate to neighbors, and no negative feedback has been received. The following commitments were recommended: ducks are to be female Indian Runner ducks only, with a maximum of 6

**Kyle Eichhorn requested a motion to approve CU11192023-01 as presented with the commitments of the ducks being female Indian Runner ducks only, with a maximum of 6. Motion was made by Jenny Sisson; seconded by Rob Williams. Roll call vote was taken and motion approved by all. Motion carried.**

## **VII. ADJOURNMENT**

Meeting was adjourned by Kyle Eichhorn at 7:47 p.m.

Next meeting January 16, 2024 at 7:00 pm.