

MINUTES OF THE
JEFFERSONVILLE BOARD OF ZONING APPEALS
January 30, 2024

Call to Order

Chairman Mike McCutcheon calls to order the Board of Zoning Appeals meeting. It is Tuesday, January 30, 2024, it is 6:32 pm in the City Council Chambers, Jeffersonville City Hall, 500 Quartermaster Ct., Jeffersonville, Indiana. The meeting was held in person and streamed live on the City's website and City's Facebook page.

Roll Call

Chairman Mike McCutcheon was present. Other members present were Duard Avery, Dennis Hill, Kelli Jones, and David Stinson. Also present were Planning & Zoning Attorney Les Merkley, Planning and Zoning Director Chad Reischl, and Secretary Zachary Giuffre.

(Secretary's Note: All drawings, letters, photos, etc. presented before the Board of Zoning Appeals on this date can be found in the office of Planning & Zoning.)

Election of Officers

Mr. Avery made a motion to elect Mike McCutcheon as Board of Zoning Appeals Chairman, seconded by Ms. Jones. Roll call vote. Motion passed 5-0.

Mr. McCutcheon made a motion to elect Duard Avery as Board of Zoning Appeals Vice-Chair, seconded by Ms. Jones. Roll call vote. Motion passed 5-0.

Approval of Minutes

Approval of the minutes from November 28, 2023. Mr. Hill made a motion to approve the November 28, 2023 minutes, seconded by Mr. Stinson. Roll call vote. Motion passed 5-0.

Approval of Findings of Fact

Approval of the Findings of Fact. Mr. Stinson made a motion to adopt the Findings of Fact for the November 28, 2023 docket items, seconded by Ms. Jones. Roll call vote. Motion passed 5-0.

Approval of the Docket

Approval of the Docket. Ms. Jones made a motion to approve the docket, seconded by Mr. Stinson. Roll call vote. Motion passed 5-0.

Oath

Les Merkley administered the oath. When you speak, please state your name and acknowledge you took the oath.

Old Business

BZA-23-42 Use Variance

Larry T. Watson filed a Use Variance application for property located at 4113 Coopers Lane. The applicant requests a variance to allow for a contractor's office and open-air storage of vehicles. The property is zoned R1 (Single Family Residential – Large Lot). The docket number is BZA-23-42

Larry T. Watson stated he took the oath and the following:

- We moved what was in question with the fuel tank and the storage shed that we had delivered.
- This property is an extension of our main office in Louisville, KY.
- The person before us was doing the same thing and this property has been this way for over 20 years.
- There is a huge rock quarry nearby. We have trucks that are contracted for the quarry.
- We did not understand we would have an issue. I am here today to ask if we can at least have an office there without any issues.

Chad Reischl stated I would like to say that, in some cases, we can legitimize business uses within a residential area, especially when adjacent to other residences. The business should function in that it should be similar to other residential uses in the neighborhood. We need to think critically about what conditions we put on the property. I drove by today and there were 3 cars parked on a gravel lot in front of the house. We feel that, if approved, there should be a maximum limit of vehicles that could be parked there, all dumptrucks should be parked in the rear of the house so as not to be seen from the road or neighbors houses, landscaping should be done in front of the house – a minimum of 5 deciduous trees to be consistent with our buffer yard D standards, the gravel in front of the house be removed and returned to grass, and that any storage tanks and other commercial material should be screened by fencing or buildings.

Mr. McCutcheon stated we are going to allow public comment even though this item was heard at the previous meeting.

Ms. Jones stated the 4th condition is confusing about the gravel being removed. Can you clarify this?

Chad Reischl stated that the gravel should be removed, if there is parking in the front, it should be paved. Also, I have letters from Bill and Pam Kimmel, Herbert Just, Marry Ann Just, and Tim Just.

Open public comment

Curtis Tilford stated he took the oath and the following:

- I own the property directly next door and on both sides of this property.
- I was told before I bought my property that there would be no more commercial uses in this area. I wanted to put apartments in and was told no. Now there is an electrical company and this business near me. I do not want dumptrucks to be there when I am trying to sell residential housing.
- These are tri-axel dumptrucks that will result in mud all over the road.

- This man is already on my property. I paid \$50,000 to have my property to be rezoned. Now there is blacktop and trash on my property. The blacktop has impacted the stream as it has run down the hill. The houses we have laid out will go right up to the property line.
- The applicant did not seek permission for this use.

Herbert Just stated he took the oath and the following:

- I live at 4012 Coopers Lane.
- Amen to everything Curtis said.
- This is not a permitted use. I do not understand this as it goes against the goals written by the City of Jeffersonville.
- This man has no interest in pleasing at anyone at all.

Tim Just stated he took the oath and the following:

- I am directly across the street from the property at 4108 Coopers Lane.
- I would like to reiterate that the need for this variance is self-imposed.
- The future land use plan is marked as an inaccurate location in the staff report. This property is zoned for single-family residential small lot.
- This area is mainly residential and Mr. Watson is not a resident here.
- Mr. Watson has not communicated with the neighbors about this project. There is no reason to accommodate this variance when the issue is self-imposed.

Chad Reischl stated that yes there is an error in staff report as Tim Just stated.

Pam Kimmel stated she took the oath and the following:

- I live at 4104 Coopers Lane.
- The prior owner had a couple of dumpstrucks but it looked residential.
- We are in a residential area; there are many new subdivisions.
- The wear and tear on Coopers Lane is great due to construction.

Mary Ann Just stated she took the oath and the following:

- I live at 4108 Coopers Lane.
- Tim passed around pictures of images that show other tanks on the property
- The use variance sign that was put on the property has not been kept up. It was laid on the ground.

Bill Kimmel stated he took the oath and the following:

- I live at 4104 Coopers Lane.
- I hated to see the electric company go in.
- The commercial development in this area has to stop somewhere. The property values are not like they were without those companies in there.

Close public comment

Larry Watson stated the following:

- The remaining tank is a water tank. The other tanks were double-barreled. I understand concerns that they were visible from the road and the gravel.
- We are not here to make noise. The trucks start early in the morning and come back around 5pm.
- The previous owner started with two trucks and then had up to five at a time.
- There is a quarry that is not more than 500ft from the property.
- We do ask that we can run an office there in the worst case.
- This does not have to be a permanent thing. We can put a cap on the number of trucks. We are talking about at most five trucks on the property.

Ms. Jones asked do you have a boundary survey that shows where the property lines are?

Larry Watson stated we do not have a survey. We stripped the backyard as it was in bad shape.

Ms. Jones stated that, in the photos handed out by someone who submitted public comment, there is junk and asphalt shown pushed down into the stream. Was this already there or was that something you did after owning the property?

Larry Watson stated that was after we got to the property.

Ms. Jones asked have you put together a plan for what you want the site to look like? I am having trouble getting on board with the use variance without more details. Did you make any efforts to talk to the neighbors?

Larry Watson stated I am new to this. My wife stated that there were residents that were angry. It is not in my nature to go knock on doors. I figured we would meet them here and talk about the request. With the trucks parked in the back, you will not see them.

Candice Watson stated she took the oath. Last time I was here, there was no discussion of talking to the neighbors.

Mr. Avery stated we were not told that there was additional residential zoning.

Chad Reischl stated that the property that surrounds this property was split-zoned at a hearing. The owner of that property was here about 2 years ago to do a smaller residential development.

Mr. McCutcheon stated that do we need to make conditions before we vote just in case it gets approved?

Ms. Jones stated I would like to change the fourth condition to say that the gravel parking be removed period. Can we also make a condition that the applicant contacts the drainage coordinator to have a conversation of what needs to be done on the site to avoid pollution of the downstream system? I do not know if I can require him to get a survey, but he should get one.

Mr. McCutcheon asked what is your recommendation for the maximum number of vehicles?

Larry Watson stated that there would be 8 cars total. There would be 5 large trucks.

Ms. Jones stated that is a lot of trucks. I was thinking around 3 trucks and 6 passenger cars.

Chad Reischl stated there probably also needs to be a time limit to deal with the issues. In the last meeting, we gave the Carrilos 6 months to correct the issues.

Ms. Jones stated I think that works.

Chad Resichl stated I feel that we are starting to get into a commercial operation that is getting a little more involved.

Mr. Avery stated, if we allow this, we are putting a commercial-spot zoning parcel in a residential area. We seem to be harming this area.

Ms. Jones stated these conditions are just a safeguard for if this request passes.

Move to findings

The Board of Zoning Appeals of the City of Jeffersonville, having heard the application for the variance described above, and all opposition from parties claiming to be adversely affected thereby, does now enter the following findings:

1. The variance of use will not be injurious to the public health, safety, morals, and general welfare of the community.
2. The use and value of the area adjacent to the property will not be adversely be affected.
3. The need for the use variance does result from conditions unusual or peculiar to the subject property itself.
4. The strict application of the terms of the Jeffersonville Zoning Ordinance would result in an unnecessary hardship in the use of the property.
5. The approval of the variance would not contradict the goals and objectives of the Comprehensive Plan.

Based on the findings described above, the Board does now deny this application. So ordered this 30th day of January, 2024.

New Business

BZA-24-02 Development Standards Variance

Form G Holdings filed a Development Standards Variance Application for the property located at 4106 Utica-Sellersburg Road. The applicant requests variances from the standards for parking location, maximum parking count, and entrance proximity to other entrances. The property is zoned I1 (Business Park/Light Industrial). The docket number is BZA-24-02.

Eric Merten stated he took the oath and the following:

- We are with Jason Copperwaite to request three variances from the development code.
- Watson Water services over 7,000 locations in Clark County.
- The existing office building was built in 1979 and now it is time for an upgrade.
- Watson Water's public operations in the existing building will stay in place until the new building is constructed.

Jason Copperwaite stated he took the oath and the following:

- The first variance for entrance proximity allows us to separate the industrial part of the property from the customer side.
- The second variance for parking location is complicated by utilities and the topography.

- The third variance is warranted as the number of board members at a meeting matches the number of parking spaces being requested.

Mr. Hill stated I must abstain from voting. Mr. Hill left the room.

Chad Reischl stated Staff feels these requests are relatively minor. We do not have any major issues.

Open public comment

No comment

Closed public comment

Ms. Jones stated thank you for a through presentation. You answered all of my questions already.

Move to findings

The Board of Zoning Appeals of the City of Jeffersonville, having heard the application for variance described above, and all opposition from parties claiming to be adversely affected thereby, does now enter the following findings:

1. The variance of the development standards will not be injurious to the public health, safety, morals, and general welfare of the community.
2. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner.
3. The strict application of the terms of the Zoning Ordinance will result in a practical difficulty. This situation shall not be self-imposed, nor be based on a perceived reduction of or restriction of economic gain

Based on the findings described above, the Board does now approve this application. So ordered this 30th of January, 2024.

BZA-24-03 Development Standards Variance

Johnathan Browne filed a Development Standards Variance Application for the property located at 2806 Coopers Lane. The applicant requests variances from the standards for maximum accessory structure size and minimum rear yard setback. The property is zoned R2 (Single Family Residential – Medium Lot). The docket number is BZA-24-03.

Johnathan Browne stated he did not take the oath.

Les Merkley administered the oath.

Mr. Hill reentered the room.

Johnathan Browne stated the following.

- I got a permit years ago for a pole barn. I did not realize I could not build a pole-barn with a lean-to.

- When I spoke to Zach, I realized that I was okay with the main pole barn. But now with the extension I need several variances.
- I am going to be tearing down my old 12'x13' shed.

Chad Reischl stated I drove by this and the roof is very beefy. This is one of those funny issues where our code allows a larger structure on a large lot; however, the setbacks change when you go to a larger structure. We are working on a really large property and I do not know that this will be a large impact to those in the community.

Johnathon Browne stated there is one letter in support from Derek Ingersole who is my neighbor.

Open public comment

No comment

Closed public comment

Move to findings

The Board of Zoning Appeals of the City of Jeffersonville, having heard the application for variance described above, and all opposition from parties claiming to be adversely affected thereby, does now enter the following findings:

1. The variance of the development standards will not be injurious to the public health, safety, morals, and general welfare of the community.
2. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner.
3. The strict application of the terms of the Zoning Ordinance will result in a practical difficulty. This situation shall not be self-imposed, nor be based on a perceived reduction of or restriction of economic gain.

Based on the findings described above, the Board does now approve this application. So ordered this 30th of January, 2024.

BZA-24-04 Development Standards Variance

Jennifer Brummett/Brummett Pools filed a Development Standards Variance Application for the property located at 3126 Blue Sky Loop. The applicant requests variances from the standards for maximum lot coverage. The property is zoned R1 (Single Family Residential – Large Lot). The docket number is BZA-24-04.

Jennifer Brummett stated she took the oath and we filed the permit and we realized that the lot coverage was already over on the house. We are also here for a patio.

Chad Reischl stated our calculations have shown that the house is already over the maximum lot coverage. Moving the figure from 46% coverage to 49% is unlikely to be detrimental to the community.

Open public comment

No comment

Closed public comment

Move to findings

The Board of Zoning Appeals of the City of Jeffersonville, having heard the application for variance described above, and all opposition from parties claiming to be adversely affected thereby, does now enter the following findings:

1. The variance of the development standards will not be injurious to the public health, safety, morals, and general welfare of the community.
2. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner.
3. The strict application of the terms of the Zoning Ordinance will result in a practical difficulty. This situation shall not be self-imposed, nor be based on a perceived reduction of or restriction of economic gain

Based on the findings described above, the Board does now approve this application. So ordered this 30th of January, 2024.

BZA-24-05 Development Standards Variance

Francis M. Hamilton filed a Development Standards Variance Application for the property located at 713 E. Maple Street. The applicant requests variances from the standards for minimum side yard setback and minimum lot area. The property is zoned M2 (Multi-Family – Medium Scale). The docket number is BZA-24-05.

Francis Hamilton stated he took the oath and I live at 705 E. Maple St; it is right next door to 713 E. Maple St. I own both properties.

Chad Reischl stated the applicant is seeking to move the lot lines around. He is wanting to connect the alley to his primary place of residence at 705 E. Maple St. He is also looking to move the lot line closer to the house at 713 E. Maple St. Moving these lines around is causing some minor issues with the code. Though, this is not that big of an issue given that this is in the downtown and that the applicant owns both properties.

Francis Hamilton stated both houses have bay windows that face each other. I want to move the fence over by 3ft so that I can install a driveway and have access to the back of the property. I would like to incorporate the back portion of the parcel to have alley access.

Open public comment

No comment

Closed public comment

Chad Reischl stated that, from a planning perspective, the property outlined in yellow is zoned M2 because it had a number of units in the past. Once he divides this up, he will have a split-zoned parcel which we will want to correct in the future.

Move to findings

The Board of Zoning Appeals of the City of Jeffersonville, having heard the application for variance described above, and all opposition from parties claiming to be adversely affected thereby, does now enter the following findings:

1. The variance of the development standards will not be injurious to the public health, safety, morals, and general welfare of the community.
2. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner.
3. The strict application of the terms of the Zoning Ordinance will result in a practical difficulty. This situation shall not be self-imposed, nor be based on a perceived reduction of or restriction of economic gain.

Based on the findings described above, the Board does now approve this application. So ordered this 30th day of January, 2024.

BZA-24-06 Use Variance

David Nicklies filed a Use Variance application for property located at 1034 Spring Street. The applicant requests a variance to allow for auto sales: limited or no services. The property is zoned C1 (Commercial – Medium Scale). The docket number is BZA-24-06.

John Campbell stated he took the oath and the following:

- We are a 0.18 acre lot with a 1,267 square foot lot
- From a code perspective, this is classified as car sales; however, this will not operate as a typical car sales location. The in-person viewing is by appointment only; the majority of the viewing takes place online.
- These are vintage cars and classic cars. The cars will be unique right-hand drive models.
- The existing use is vacant.
- There were recommendations for conditions by Staff.
 - One of the conditions suggested for the applicant is a 2 year condition to come back to the Board of Zoning Appeals for renewal of the use variance approval. We would like to request that the 2 year limit begin after the building is renovated and operations begin.
 - The second condition is to have a maximum limit of vehicles on the property. We would like to modify this to a maximum of 30 cars on the lot.
 - The third condition is fully understood and accepted as stated in the staff report.

Chad Reischl stated Staff struggles with this request in that the goals in the Spring Street Plan, the Comprehensive Plan, and the zoning ordinance do not call for putting more auto sales on 10th Street. The owner has suggested that this is a temporary use. If we limit this to a temporary use, it probably is not harming anything until redevelopment can occur.

Ms. Jones asked how do we track when the opening date is?

Planner Shane Shaughnessy stated I would like to suggest that the timeline would start 2 years after acquiring the Certificate of Occupancy.

Open public comment

Dustin White stated he did not take the oath.

Les Merkley administered the oath.

Dustin White stated the following:

- We have a number of auto uses in the area that have been approved. There is a place on Mechanic and 10th St. that stated they would put no more than 10 cars on the lot and now there are 20. At Wall St. and Market there is a car lot that is fairly new and we have to deal with complaints there. There is also a car lot on High St.
- As Mr. Reischl stated, this is not thought of anywhere in the plan for Spring Street.
- A few people in Jeff may buy these cars, but no one in the downtown area will buy these cars.
- I would ask that this would not be approved. We were once known for gas stations and car lots.
- This request does contradict the goals and objectives of the Comprehensive Plan.

Closed public comment

David Nicklies stated he took the oath and the following:

- There will not be anything newer on the lot; the cars will be 25 years old or older.
- This area desperately needs to be cleaned up.
- We are willing to purchase the parcel in the rear. Once it becomes available for purchase and redevelopment occurs, we will move the cars to a different location.

Mike Liles stated he took the oath and the following:

- I live at 8605 South Dogwood Drive, Charlestown, IN.
- There is a lot of racing heritage here.
- There are many racing events near here such River City Drift and other drift events in Salem.
- This will not be 95 Astrovans and Monte Carlos.
- These will be antique classics. These are high-end cars that no one else has.

Ms. Jones stated what does vintage mean in this context? We want to have some type of assurance that these will be unique cars.

Mike Liles stated I will be traveling to Japan, Germany, and Australia to pick out these cars.

Mr. McCutcheon stated it has been a challenge to get anything developed on this property.

Ms. Jones asked do you know how many of the 30 cars can fit in the building?

Mike Liles stated I plan on putting around 5-7 cars in the building. There will be no way to get 30 cars; we just wanted a high number to be covered.

Mr. McCutcheon asked can we set a number that provides safe ingress and egress while accomplishing good business relations?

Mr. Stinson stated I am thinking 18 cars.

Ms. Jones stated I looked at the plan. I think you could reasonably get about 11 cars on this site while maintaining maneuverability.

Mike Liles stated there is also parking in the back of the building as well.

Chad Reischl stated we do not want to see this become too overcrowded.

Mr. Avery stated Mr. White brings up a good point. The railroad building was a freight office. This is a good move to redevelop.

Ms. Jones stated this is just a temporary use to see if this is a viable business. I think we need to nail down the number of cars outside. It should not be a lot to avoid clutter.

David Nicklies stated we think we can get around 18 spaces on the lot.

Ms. Jones stated would 18 cars work outside? That would leave around 22 total.

David Nicklies stated yes.

Mr. Reischl stated we have rules for garage doors facing public streets. Do you have a specific plan? Our intention in the downtown is also to avoid having commercial-looking fencing.

David Nicklies stated we plan to put a steel wrought-iron fence around the property as the City did with the art center.

Ms. Jones stated that the fencing and architectural features will be a conversation for another day. They will have to come back for other variances if they want to implement those features.

Mr. Stinson stated, the conditions are 18 cars outside, 2 years limitation from date of the Certificate of Occupancy, and that the vehicles are limited to classic cars that are in good condition.

Move to findings

The Board of Zoning Appeals of the City of Jeffersonville, having heard the application for the variance described above, and all opposition from parties claiming to be adversely affected thereby, does now enter the following findings:

1. The variance of use will not be injurious to the public health, safety, morals, and general welfare of the community.
2. The use and value of the area adjacent to the property will not be adversely be affected.
3. The need for the use variance does result from conditions unusual or peculiar to the subject property itself.
4. The strict application of the terms of the Jeffersonville Zoning Ordinance would result in an unnecessary hardship in the use of the property.
5. The approval of the variance would not contradict the goals and objectives of the Comprehensive Plan.

Based on the findings described above, the Board does now approve this application with the condition that there will be no more than 18 cars outside, the use will expire 2 years from the date that the Certificate of Occupancy is issued, and that the vehicles will be limited to classic cars that are in good condition. So ordered this 30th day of January, 2024.

Reports from Director and Staff

Chad Reischl stated you all have a copy of our annual report. Our Planning and Zoning caseload was a little lighter in 2023. That is to be expected given the interest rates and rising development costs. We approved over a million square feet of commercial and industrial space. We have added almost 700 housing units to the pipeline. Over 250 single-family homes, 133 accessory structure permits, 197 fence permits, 66 commercial sign permits, 52 certificates of zoning compliance, and more were approved this year. We have helped OHM advisors, assisted Jeff Main Street, represented a county trails plan, and more. In the future, we will be looking to review the plans for Meta in River Ridge. We will see the build out of many apartment projects that were approved. We are hoping to see a developer for the JeffBoat project be announced in the near future.

Adjournment

There being no further business to come before the Board of Zoning Appeals, the meeting was adjourned at 8:15 pm.



Mike McCutcheon, Chair



Submitted by: Zachary Giuffre, Secretary