

MINUTES OF THE
JEFFERSONVILLE BOARD OF ZONING APPEALS
March 26, 2024

Call to Order

Chairman Mike McCutcheon calls to order the Board of Zoning Appeals meeting. It is Tuesday, March 26, 2024, it is 6:30 pm in the City Council Chambers, Jeffersonville City Hall, 500 Quatermaster 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, and Kelli Jones. Also present were Planning & Zoning Attorney Les Merkley, Planning and Zoning Director Chad Reischl, and Secretary Zachary Giuffre. David Stinson was absent at the time of roll call.

(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.)

Approval of Minutes

Approval of the minutes from February 27, 2024. Ms. Jones made a motion to approve the February 27, 2024 minutes, seconded by Mr. Avery. Roll call vote. Motion passed 4-0.

Approval of Findings of Fact

Approval of the Findings of Fact. Ms. Jones made a motion to adopt the Findings of Fact for the February 27, 2024 docket items, seconded by Mr. Hill. Roll call vote. Motion passed 4-0.

Approval of the Docket

Approval of the Docket. Ms. Jones made a motion to approve the docket, seconded by Mr. Hill. Roll call vote. Motion passed 4-0.

Oath

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

Old Business

None

New Business

BZA-24-13 Development Standards Variance

Shelley Gast filed a Development Standards Variance for the property located at 1605 Nole Drive. The applicant requests a variance from the standard for maximum lot coverage. The property is zoned R1 (Single Family Residential – Large Lot). The docket number is BZA-24-13.

Shelley Gast stated she took the oath and the following:

- I would like to put a pool on my property.
- I have checked with 811, surveyors, the pool company, and everything seems to be good.

Chad Reischl stated the applicant's house and property is already over our maximum lot coverage. Adding the pool will expand the coverage from 46% to 48%. A large portion of this property is undevelopable due to a ditch. Staff does not feel that this is hurting the nearby community in any way.

Open public comment

No comment

Closed public comment

Mr. Avery stated there is an entire lot dedicated to drainage next door. There is plenty of open space.

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 26th of March, 2024

BZA-24-14 Development Standards Variance

Sajid Chaudhry filed a Development Standards Variance for the property located at 3900 block of Town Center Boulevard. The applicant requests a variance from the standards for maximum primary structure height, minimum front yard setback, and parking lot setback. The property is zoned PD (Planned Development). The docket number is BZA-24-14.

Pete Getzig stated he took the oath and the following:

- I am an engineer designated to complete the site design and seek these variances.
- This project will be a 4-story, 108-room Residence Inn within the Jeffersonville Town Center Planned Development.
- We are asking to extend the building height allowed from 50ft to 52ft. 4-story hotels tend to be in the 50-60ft range. This allows for more building efficiency and guest efficiency.
- This development will match nearby hotels.

- The second variance is to have a 12ft front yard setback instead of a 25ft front yard setback. We worked with the land owners and their engineers to situate the building in a way that met the setbacks; however, this did not allow for the fire code to be met. The idea was to flip the L-shaped building. The leg of the hotel is now closer to Town Center Boulevard. This variance meets a modern trend to bring buildings closer to the road which Planning Staff supported.

Chad Reischl stated Staff also noted that there is one more setback that we have to address which is the parking setback. The shared parking needs a variance for crossing the lot line. Staff does not see any huge issues with the parking variance as it is unlikely to detract from the commercial character of the area. In working with the applicant, we did not have an issue with flipping the building around, especially as the proposed orientation gives the building more presence relative to the highway. The height variance is very minimal.

Pete Gezig stated we are looking to share about 20 parking spaces.

Open public comment

No comment

Closed public comment

Ms. Jones stated I wanted to confirm that the 0ft setback is for the parking only.

Chad Reischl stated yes it is just for the parking.

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 26th of March, 2024

David Stinson logged in remotely via the Zoom application at 6:48pm.

BZA-24-15 Development Standards Variance

D.R. Horton - Louisville filed a Development Standards Variance for the property located at 3000 block of Middle Road (aka Middle Road Commons Subdivision). The applicant requests a variance from the standard for minimum side yard setback. The property is zoned R2 (Single Family Residential – Medium Scale). The docket number is BZA-24-15.

Adam Weaver stated he took the oath and the following:

- We purchased 54 lots in the Middle Road Commons subdivision.
- Going through negotiations, we realized a few of our homes were 39ft wide. Currently, we can only make 38ft fit.
- We would like to take the side yard setback from 6ft down to 5ft as this would give a diversity of housing options to those in the community.
- Planning Staff stated it would be easier to seek a variance than go through the rezoning process.

Chad Reischl stated this variance will only be needed on a few lots. This will not impact anyone outside of Middle Road Commons. We feel that this is a warranted request that will create a greater diversity of housing styles and options.

Open public comment

Mark Adams, who lives across the street, stated I took the oath and that I am not against changing the side yard setback from 6ft to 5ft. Though, the development plan we were shown a year ago is different than what is being built. There was supposed to be a black aluminum fence, a berm, and different building materials implemented. I guess Mr. Johns sold the property. Mr. Johns stated he would meet with me around a month ago. One-story would be great. I am interested in landscaping and how close will this stick to the original plan that was promised to the neighbors.

Closed public comment

Adam Weaver stated we asked Mr. Johns if there was anything required from Planning and Zoning and nothing was said. If we missed something, please let us know. We will be more than happy to work with the community to make sure that the neighbors are happy.

Chad Reischl stated we have a minimum numbers of trees required to be planted along the public street.

Mr. Avery stated we have already approved this development. Side yards can be a waste.

Ms. Jones asked are all the homes meeting the 6ft requirement?

Adam Weaver stated yes.

Ms. Jones stated the comments that the gentleman raised do not pertain to the decision we are making today. The applicant will have to work with Chad to sort out any possible commitments that may or may not have been made.

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 26th of March, 2024

BZA-24-16 Special Exception

Robert Yoshioka filed a Special Exception for the property located at 117 Cherokee Drive. The applicant requests a special exception request to allow for Home Occupation #2. The property is zoned R1 (Single Family Residential – Large Scale). The docket number is BZA-24-16.

Robert Yoshioka stated he took the oath and the following:

- Our family would like to run a home occupation #2 commercial kitchen to sell freeze-dried candy.
- There would be table-top freezers with small vacuum pumps and heating pads. There may also be an oven.
- These machines cannot be heard outside of the house. A licensed electrician and plumber will pull all of the necessary permits to implement the required plugs.
- The health department requires there to be a 3-compartment sink, hand washing station, and mop sink. A licensed plumber will run the water service and vented drains after pulling the permit from the Building Commission.
- Two doorways will be plugged with stud walls to comply with the Health Department's requirement not to open the kitchen up to a living space.
- The existing front door will be the only entry/exit point from the kitchen.
- This will not have any impact on the neighbors and all the work will occur within the residence.
- We would ship candy through online sales and attend events such as the Jeffersonville Farmer's Market.
- There will be no storefront, increase in cars, foot traffic, and no signage.
- We hope to donate some of our products to local organizations and churches.
- We hope this business will teach our kids work ethic.
- We have reviewed the home occupation standards and will adhere to the rules.

Chad Reischl stated let us hear from the community first. There have been a number of letters and a number of phone calls. At least 5 letters were provided in the staff packet.

Open public comment

Jake Vissing stated he took the oath. I am speaking on behalf of my parents who live at 118 Cherokee Drive. My parents are long-term residents of this neighborhood. On page 22 of the Comprehensive Plan there are talks about preserving the character of neighborhoods. It states

that care should be taken when incorporating non-single-family projects in the neighborhood. This process is not consistent with the general land use goals. This is a heavier alteration of the home that will limit the property to a specific buyer.

Mike Moore, who lives at 52 Arctic Springs, stated he took the oath. Councilperson Amy Semones is here. We have done a good job of building a commercial district in the City of Jeffersonville. As a city that is growing like no other, it is important that we respect our neighborhoods. This is a quiet, well-established, and easily-walkable neighborhood. I ask this board to reject this special exception. This neighborhood should not be exposed to manufacturing and distributing. This is a family neighborhood. We do not need to blend our commercial and residential districts together.

Phil Bartelt stated he did not take the oath.

Les Merkley administered the oath.

Phil Bartelt, who lives at 41 Bennet Avenue, stated he took the oath. This business has the potential to produce a precedent that will deteriorate the nature of the surrounding houses and the neighborhood. Home values will degrade. Two variances on Cherokee drive were given for a two-story type garage with no windows. There is an apartment in the second floor. Similarly, this variance will result in another eyesore.

Nancy Arbeson stated she took the oath. We built when were in our 20s and now we are in our 80s. We have tried to be good neighbors and homekeepers. We have never tried to be bad neighbors. We live next door, and feel that our home and all of the adjoining properties will have a great decrease in property value. The character of the neighborhood would be harmed.

Close public comment

Robert Yoshioka stated that I am not sure how this will impact property values. It would be easy to cut the pipe out and redo the floor if the house was sold. The only difference is that the room would have a lot more electric. There would be no outward appearance change or traffic generated. I am available to the neighbors and I will give out my phone number to anyone who wants it.

Ms. Jones stated I understand that there will be no exterior change or storefront. Where will the door be?

Robert Yoshioka stated the front door of the residence will become the kitchen door and that will be the only way in and out of the kitchen as the kitchen cannot be open to a living space.

Ms. Jones stated where would the entrance for the residential portion of the home be located?

Robert Yoshioka stated that entrance would be through the garage or backdoor of the house.

Chad Reischl asked what is the space right now?

Robert Yoshioka stated it is a living room currently.

Ms. Jones asked are there fire egress issues surrounding that?

Mr. McCutcheon asked is there a man-door accessible in the garage?

Robert Yoshioka stated there are two ways into the garage. The first being the garage door opening itself and a backdoor which could be the front door.

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 special exception will not be injurious to the public health, safety, moral, and general welfare of the community; and
2. The requirements and development standards for the requested use prescribed by this Ordinance will be met; and
3. Granting the special exception will not subvert the general purposes of the Zoning Ordinance and will not permanently injure other property and uses in the same district; and
4. The proposed use will be consistent with the character of the district therein, the spirit and intent of the Zoning Ordinance, and the Jeffersonville Comprehensive Plan.

Based on the findings described above, the Board does now deny this application. So ordered this 26th of March, 2024.

BZA-24-17 Development Standards Variance

Klein Homes, LLC filed a Development Standards Variance for the property located at 1800 block of Charlestown-New Albany Road. The applicant requests variance from the development standards for minimum front yard setback and sidewalk width. The property is zoned C1 (Commercial – Medium Scale). The docket number is BZA-24-17.

Brad Reinhardt stated he took the oath and the following:

- We are seeking a number of variances for the project that was approved earlier tonight.
- The two variances in particular are for a 16ft front yard setback and a minimum sidewalk width of 4ft to match rest of Mystic Falls. We will be tying into the sidewalks on Charlestown-New Albany Pike that are also 4ft.

Chad Reischl stated we have no issues with this request. We have worked with the applicants to get this project as closely aligned with previous Mystic Falls subdivision that was approved under our pre-2021 zoning code.

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 26th of March, 2024

BZA-24-18 Development Standards Variance

Jason Sams filed a Development Standards Variance for the property located at 228 Spring Street. The applicant requests variances from the development standards for cumulative sign area and wall sign area. The property is zoned CD (Commercial – Downtown). The docket number is BZA-24-18.

Jason Sams stated he took the oath and the following:

- The maximum sign area is 125sf; the proposed sign area is 284sf.
- When we installed the sign, we intended the sign to be a mural not a business sign.
- Back in 2019, we always had intention for public art in that location.

Chad Reischl stated this is one of those issues where it is unclear whether this is a mural or a sign. I felt that this was a sign as the SoIN logo is shown. Had the applicant consulted with us before putting the sign up, we could have discussed that. This adds a touch of color to the downtown and is worth allowing the variance for.

Open public comment

No comment

Closed public comment

Ms. Jones stated I like this mural; it looks great. You should have acquired approval beforehand; however, this is not really why this regulation exists. Though, the sign rules have to be enforced evenly.

Les Merkley stated if we do not do this, we open up the possibility for people to call various signs murals.

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 26th of March, 2024

Reports from Director and Staff

None

Adjournment

There being no further business to come before the Board of Zoning Appeals, the meeting was adjourned at 7:32 pm.



Mike McCutcheon, Chair



Submitted by: Zachary Giuffre, Secretary