

MINUTES OF THE
JEFFERSONVILLE BOARD OF ZONING APPEALS
July 28, 2026

Call to Order

Board President Mike McCutcheon calls to order the Board of Zoning Appeals meeting. It is Tuesday, July 28, 2026, it is 6:30 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

Board President Mike McCutcheon and board members Duard Avery, Kelli Jones, David Stinson, and Dennis Hill were present in the City Council Chambers. Also present were Planning & Zoning Attorney Les Merkley, Secretary Shane Shaughnessy, and City Engineer Andy Crouch.

(Secretary's Note: All plat maps, public letters, photos, etc. presented before the Plan Commission on this date can be found in the office of Planning & Zoning.)

Approval of Minutes

Approval of the minutes from June 30, 2026. Mr. Stenson made a motion to approve the June 30, 2026 minutes, seconded by Mr. Hill. Roll Call vote. Motion passed 5-0.

Approval of Findings of Fact

Approval of the Findings of Fact from June 30, 2026. Mr. Stenson made a motion to approve the June 30, 2026 findings of fact, seconded by Mr. Hill. Roll Call vote. Motion passed 5-0.

Approval of the Docket

Motion to approve the agenda made by Ms. Jones, seconded by Mr. Stenson. 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

None

New Business

BZA-26-28 Special Exception

Jerry Mills filed a Special Exception application for the property at 1412 Charlestown-New Albany Road. The applicant is requesting to build six residential townhome-style apartments. The zoning is C2 (Commercial – Large Scale). The Docket Number is BZA-26-28.

BZA-26-29 Development Standards Variance

Jerry Mills filed a Development Standards Variance application for 1412 Charlestown-New Albany Road. The applicant is seeking variances associated for setbacks to build six residential townhome-style apartments. The zoning is C2 (Commercial – Large Scale). The Docket Number is BZA-26-29.

Jon McCoy with JLM Engineering affirmed the oath and stated he is on behalf of Jerry and Jeff Mills, the owners of the property. He said the property is an oddly shaped piece of property and with it being zoned C2, there is a limited number of things that can be done with the property. He said the applicants are proposing to build 6 attached townhomes that are 3 stories with tuck under garages and with a roof patio on the units and will be adding guest parking to the east of the building.

Mr. Shaughnessy stated that staff has significant concerns with the proposed development. He clarified that the applicant is requesting a Special Exception to establish multifamily apartments, not townhomes that will be for sale. They are also requesting a front setback variance from the required 30 feet to 10 feet to allow rear access to the garages. He said that both cases will be discussed at the same time. He said that putting the building that close to the road would stick out and is not in keeping with the existing development pattern and that there may be some safety issues putting a building that close to an intersection on a major arterial. He said that there is not any residential uses on Charlestown-New Albany Road until you get to the Mystic Falls subdivision. Staff also has issues with the fact that these residences are near an active rail line and that there are high power electric lines in the front of the rear of the site which may cause issues with the long term value of the property. He also said that because they are requesting a Special Exception, one of the criteria for approval is that all other development standards would be met which isn't happening because they are asking for a setback variance and likely would not be able to meet the landscaping standards.

Mr. McCoy said that the owners are open to having these as for-sale units. Mr. Shaughnessy said that doing that would require a plat.

Open public comment

No comment

Closed public comment

Ms. Jones asked if the parking would be encroaching into the required setbacks along the sidewalk which Mr. Shaughnessy said that they did not ask for a parking setback variance so they may need to modify their plans. She asked how many spaces are in the garage which Mr. McCoy said that there are 2 spaces in the garage and 1 guest parking space per unit. She asked if they had any discussions with utility companies regarding the overhead power lines which Mr. McCoy said that he had not had a discussion with the rear lines but did talk to a utility about the lines at the front of the property which Ms. Jones said that these types of lines typically have large easements that may hamper development of this site.

Mr. Shaughnessy clarified that the Special Exception they are requesting is specifically for multifamily. If the applicants want to parcel off the units as townhomes, that would require a separate Special Exception for attached single family residential. Ms. Jones clarified they could still vote on the variance and table the Special Exception until the applicants decide what type of development they want to do. Mr. Shaughnessy agreed and stated that staff recognizes the need for a variance at this location given the property's odd shape, if the applicants chose to do

something more traditionally commercial, they probably would not need such an extreme setback variance.

Mr. Hill asked if the entrance into the lot is lined up with the intersection which Mr. McCoy confirmed. Mr. Avery asked what the variance they are asking for which Mr. Shaughnessy said they are asking for a 10 foot front yard setback rather than the standard 30 feet. Mr. McCoy clarified that it would be 10 feet from the property line so the building would be 15 feet from the road at its closest point and that the building would be staggered away from the road.

Mr. McCutcheon asked if they were at a place to vote on this matter or if the applicants still had work to do which Ms. Jones said that they should vote on the Development Standards Variance first.

Move to findings of the Development Standards Variance

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.
 - Mr. McCutcheon agreed, the rest of the Board disagreed
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.
 - The Board unanimously disagreed
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.
 - The Board unanimously disagreed

Based on the findings described above, the Board does now deny this application. So ordered this 28th of July, 2026.

Ms. Jones said there was little point to voting on the Special Exception as they are going to have to modify their plans because the variance was denied but that they could if the applicant wanted to continue. Mr. McCoy asked what the consequence of denial of the Special Exception would be which Mr. Shaughnessy said that there would be a waiting period if they wanted to do multifamily like their current plan shows but if they wanted to do single family homes, that could be heard without a waiting period. Ms. Jones said she felt they couldn't vote on a Special Exception without a new plan which Mr. Shaughnessy said the Special Exception is just about the use, not a specific plan. Mr. Merkley asked if the applicant can move forward with their plans now that the variance has been denied which Mr. McCoy said they wouldn't and would have to create new plans. Mr. Merkley suggested that they could table the matter or withdraw it until they came up with new plans. Mr. McCoy said they will withdraw the Special Exception application and resubmit at a later date.

BZA-26-33 Development Standards Variance

Kelli Havens filed a Development Standards Variance application for 40 Arctic Springs. The applicant is seeking a variance from the side setback standards. The zoning is R1 (Single Family Residential – Large Lot). The Docket Number is BZA-26-33.

Ed Shindler of Shindler Exteriors affirmed the oath and stated he is going to replace the deck at the location and put a covering over it.

Mr. Shaughnessy said that they are requesting a setback variance as the deck they are reconstructing is already in the required setback and by adding a cover over it, they are increasing a nonconformity which requires Board approval. He said staff doesn't take issue with the minor variance as they are asking for a 4 foot side setback rather than the required 7 feet.

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 unanimously. So ordered this 28th of July, 2026.

BZA-26-34 Development Standards Variance

Brian McNay on behalf of Premier Homes of Southern Indiana filed a Development Standards Variance application for 5103 Charlestown Pike. The applicant is seeking a variance from the front setback standards for a number of lots in the Hilton Farms subdivision. The zoning is R3 (Single Family Residential – Small Lot). The Docket Number is BZA-26-34.

Jason Copperwaite with Primavera and Associates affirmed the oath and said that the applicants are requesting a front yard setback variance for 126 cottage homes in the Hilton Farms subdivision. These cottage homes are smaller lots that have parking in the rear off of alleys. These garages are detached and only connected via a breezeway and the setback variance will allow for more space for the garage and breezeway. All other development standards will be met with these lots including impervious surface coverage. The cottage lots are all internal to the subdivision and will not affect neighboring properties. He said that 6 of the lots have already been recorded but this variance will affect future developed lots.

Mr. Shaughnessy said that the department had initially sent out a letter to adjacent property owners saying that this was for the Legacy Farms subdivision which was incorrect and that they subsequently sent out a second letter clarifying that the variance was only affecting the Hilton Farms subdivision. He said that the requested setback would allow for cottage homes similar to what the developer built in Ellingsworth Commons and that it would allow for additional housing diversity in this subdivision and that staff does not have any issues with the request. Mr. Copperwaite clarified that the lots in Ellingsworth have a 10 foot front setback while these are being requested to have a 15 foot setback.

Open public comment

Karen Foster of 5821 Charlestown Pike affirmed the oath and said that she wasn't sure if they are for or against the proposal. She said she is with many of her neighbors and have been having issues with drainage. She said they are concerned with adding more concrete to the area and that they are already having issues with drainage and they haven't built any homes near them yet. She said that parts of her neighbors' properties are being destroyed by the water.

Chris Huffmon of 5026 King Road affirmed the oath and stated that he isn't for the variance because he has had significant drainage issues since they started work on the subdivision that haven't been resolved yet. He said that he's never had issues with standing water but now he has water on his property for weeks on end. Mr. McCutcheon said that they are not asking for any additional lots, but are just seeking to move the houses up on the properties. Ms. Jones said that the City's Engineer is in the room and has been made aware of these issues and concerns but that the Board's purview isn't over drainage issues.

Closed public comment

Mr. Copperwaite said that they have been on site with Mr. Crouch to resolve these issues. He said that they designed the drainage systems in accordance with the City's drainage regulations and in order to keep silt from draining from the site, they have installed a floating filter that holds back more water. He said that the developer has been very cautious in not wanting to erode the neighboring properties but their current solutions are keeping the water back for longer which makes the neighboring properties wetter for longer. He said he is working with Mr. Crouch to find a better solution and said that the developer is committed to implementing updated drainage systems to solve the problem.

Ms. Jones asked if the developer would be agreeable to a condition that no front entry driveways be allowed on the affected lots which he agreed to.

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 unanimously with the condition that front yard driveways are prohibited on the affected lots. So ordered this 28th of July, 2026.

BZA-26-35 Use Variance

Shawn Kost filed a Use Variance application for 3416 Hamburg Pike. The applicant is requesting to establish an adult daycare on the property. The zoning is R1 (Single Family Residential – Large Lot). The Docket Number is BZA-26-35.

Shawn Kost representing Ohio Valley Medics affirmed the oath and stated that the property in question operated as a child day care for almost 20 years and the converting it into an adult day care is unlikely to cause harm to the neighbors as minimal additional work will need to be done to the site.

Mr. Shaughnessy said they are requesting to convert the building into an adult day care and that while the building is obviously built for commercial uses, it is zoned residential. He said that staff had also offered the path of rezoning the property to a commercial zone, but the applicants opted to apply for a Use Variance. He said that staff doesn't have an issue with this request but asked that the board place a condition of approval that the site's landscaping be brought up to code to the greatest extent possible. Mr. McCutcheon asked if the applicant was ok with that condition which Mr. Kost agreed to.

Open public comment

Debbie Wright of 1722 Spring Gate Circle affirmed the oath and said that she and her neighbors in her condo association had questions about the proposal and wanted to know what an adult daycare is. She said they were use to the child day care and wanted to make sure the area remained quiet and peaceful. She said that only one half of the condo association received the letter.

Michael Woehrle of 1721 Spring Gate affirmed the oath and asked what the business hours would be and what would happen with the property if the adult daycare closes.

Closed public comment

Mr. McCutcheon asked Mr. Kost to explain what an adult day care is and how it would affect the surrounding community. Mr. Kost said that Ohio Valley Medics has been in business for 40 years and has numerous locations in Louisville and Southern Indiana. He said they staff nurses, physical therapists, and speech therapists on staff to help the people who go to their facilities. He said that these kinds of day cares help adults who have dependent adults who need care while their caregiver works during the day. He said that they are also a home health agency and can do in home care as well. He said their planned hours of operation are from 7am to 6pm, Monday to Friday.

Mr. McCutcheon asked if the people who go there would be able to wander around the surrounding area which Mr. Kost said was not the case and that they chose that building because security was in place from when it was a child day care. He said that they are operating as a Level 3 facility which will provide physical and speech therapy and also requires 1 staff member for every 4 adults that are there.

Mr. Stenson asked what the maximum amount of patients they could have is which Mr. Kost said that is determined by the state based on square footage and that it would be around 70 people, but that it much more than what his organization can staff and support so it won't be that many people.

Mr. McCutcheon asked what would happen if the adult daycare closed which Mr. Shaughnessy said that the R1 zoning would still be in place and that if a different use wanted to go in that building other than what is allowed in the R1 zone, they would have to come back to this board. Ms. Jones clarified that if this adult daycare were to be sold and another adult daycare went into that building, that would also be allowed.

Mr. McCutcheon asked if the people would be screened prior to coming to the daycare which Mr. Kost said that they would and that they have nurses do intakes to know their specific needs and backgrounds. Mr. McCutcheon said that this is a paid service and isn't free.

Mr. McCutcheon asked if this would be a drug rehab facility which Mr. Kost said it wasn't but that medications could be administered if a person needs them and that they are required to have a nurse on staff at all times in case of medical emergencies. Mr. McCutcheon asked what happens if someone isn't picked up at the end of the day which Mr. Kost said they would take them to their home. Mr. McCutcheon said that there is an elderly population in Jeffersonville and that this is a service that is necessary in the community like assisted living is. Ms. Jones asked if only adults would be served there or if other people such as those with disabilities would also be admitted which Mr. Kost said that they are qualified to take care of people of all ages.

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.
 - The Board agreed unanimously
2. The use and value of the area adjacent to the property will not be adversely be affected.
 - Mr. Hill disagreed, the rest of the board agreed
3. The need for the use variance does result from conditions unusual or peculiar to the subject property itself.
 - The Board agreed unanimously
4. The strict application of the terms of the Jeffersonville Zoning Ordinance would result in an unnecessary hardship in the use of the property.
 - The Board agreed unanimously
5. The approval of the variance would not contradict the goals and objectives of the Comprehensive Plan.
 - The Board agreed unanimously

Based on the findings described above, the Board does now approve this application with the condition that the site's landscaping be brought up to code to the greatest extent possible. So ordered this 28th of July, 2026.

BZA-26-36 Special Exception

Marvin Maxwell, Jr. filed a Special Exception application for the property at 3814 Utica Pike. The applicant is requesting to establish an accessory dwelling unit on the property. The zoning is R2 (Single Family Residential – Medium Lot). The Docket Number is BZA-26-36.

BZA-26-37 Development Standards Variance

Marvin Maxwell, Jr. filed a Development Standards Variance application for 3814 Utica Pike. The applicant is seeking a variance from the accessory structure height standards and accessory dwelling unit size standards. The zoning is R2 (Single Family Residential – Medium Lot). The Docket Number is BZA-26-37.

Max Maxwell of 3814 Utica Pike affirmed the oath. Mr. Shaughnessy said that both the Special Exception and Development Standards Variance will be heard together. Mr. Maxwell stated that they want to build an accessory dwelling unit in a grain silo on his property. He said that he had previously come to the board for approval in 2024 but that things came up to where he was not able to construct the structure in the time limit. He said that the space will be for his mother and mother-in-law and eventually himself.

Mr. Shaughnessy said that the BZA had approved the Special Exception a couple of years ago but that Special Exceptions have a time limit so they asked the applicant to reapply for that Special Exception. He said that the applicant is also asking for a couple of variances based on the unusual nature of the building he's wanting to construct- increasing the height to 21 feet rather than 18, increasing the maximum square footage for an accessory dwelling unit to 836sf from 800sf, and adding an additional ½ bath and loft space beyond the 1 bathroom and bedroom that is allowed. He said that staff doesn't take issue with these requests.

Open public comment

No comment

Closed public comment

Move to findings for the Special Exception

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 approve this application unanimously. So ordered this 28th of July, 2026.

Move to findings for the Development Standards Variance

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 unanimously. So ordered this 28th of July, 2026.

Report from Director's and Staff

None

Adjournment

There being no further business to come before the Board of Zoning Appeals, the meeting was adjourned at 7:28 pm.



Mike McCutcheon, Chair



Secretary