

MINUTES OF THE
JEFFERSONVILLE BOARD OF ZONING APPEALS
May 25, 2021

Call to Order

Chairman Mike McCutcheon calls to order the Board of Zoning Appeals meeting. It is Tuesday, May 25, 2021. It is 7:00 PM in the Mayor's Conference Room, Jeffersonville City Hall, 500 Quartermaster Ct., Jeffersonville, Indiana. The meeting was held online via the Zoom web platform and Facebook Live.

Roll Call

Members present were Mike McCutcheon, Rodger Clarke, David Stinson, Christopher Fox and Duard Avery. No members were absent. Also present were Chad Reischl, Planning & Zoning Director; LesMerkley, Planning & Zoning Attorney; Shawn Dade; Planning and Zoning Long Range Planner; and Shelby Walsh, Secretary. Mike McCutcheon was in the mayor's conference room. All others present via Zoom.

Approval of Minutes for Meeting

Approval of the minutes from April 27, 2021. Chris Fox made a motion to approve the April 27, 2021 minutes, seconded by Duard Avery. Roll call vote. Motion passed 5-0.

Approval of Findings of Fact

Approval of the Findings of Fact. David Stinson made a motion to adopt the Findings of Fact for the April 27, 2021 docket items, seconded by Mr. Fox. Roll call vote. Motion passed 5-0.

Oath

Les Merkley administered the oath. He then asked when you speak, please state your name and acknowledge you took the oath.

Approval of Docket

Mike McCutcheon asked for approval of the docket, noting that BZA-21-35 has been withdrawn by the applicant and the resolution, R-21-01, has been added.

Chris Fox made a motion to approve the docket with the amendments. Dave Stinson seconded the motion. Roll call vote. Motion passed 5-0.

Public Hearing Docket

OLD BUSINESS

BZA-20-13 Administrative Appeal

Speedway, LLC filed an Administrative Appeal regarding the Planning and Zoning staff decision that a Special Exception is required for the use of a gas station at this property, 1701 Veterans Parkway. This was originally on the docket in January 2020. The Docket Number is BZA-20-13.

Joe Calderon acknowledged he took the oath as a representative of Speedway, 11 Southern Meridian, Indianapolis. He stated that other representatives are also present from Speedway to help with any additional questions. He asked Chad Reishl to share the powerpoint submitted for this case. This specific request has been on the docket since March 2020, but the general case of a Speedway gas station at this site has been ongoing since 2013. Les Merkely sent an email to Speedway representatives' office on January 27, 2020 notifying they needed a special exception. They submitted an administrative appeal within 30 days of this decision.

Originally Speedway went through the development plan process in 2013. No mention of a special exception was mentioned at all throughout this process. The development plan application was withdrawn because it was denied and then a judicial review plan was submitted by Speedway. Through mediation and working with the City of Jeffersonville Plan Commission, a better plan was submitted by Speedway. This was to be heard by the Plan Commission on January 28, 2020 before notice of special exception was given. Several other gas stations in the same zoning district have been approved without a special exception being required. Speedway believes since no other gas station has been required to obtain this, as well as the length of time of eight years that Speedway has had this ongoing with the Plan Commission and the Planning and Zoning office, when a Special Exception was never mentioned, they should not be required to obtain a Special Exception.

Joe Calderon referred to Zoning Ordinance 12-4 where a special exception is required. He said this was never brought up throughout the Plan Commission, the Planning Office, and the mediation process.

Joe Calderon brought up Article 4-15 and the ambiguity of the Ordinance that it's both permitted and a required Special Exception. Joe Calderon stated that judicial courts side on the side of free land use when there are ambiguities to prevent restrictions of property.

Joe Calderon believes issues are occurring behind scenes issues in regards to complaints to the city that have not been present until the past year. He said the mediation was negotiated in good faith and Speedway made a much better plan that Plan Commissioners and neighbors were comfortable with, with no development standards variances required. Joe Calderon alleged that a third party asked that a special exception be investigated, a day before the Plan Commission meeting, when there has been no history of this in the past. In conclusion, nothing had been asked of Speedway until January 27, 2020 as both parties seemed satisfied with the mediation. Speedway believes upholding the requirement for special exception would be unfair, inappropriate, and illegal. Speedway asks that board members vote to overturn the decision of the Planning and Zoning department and

Mike McCutcheon opened the discussion to Chad Reischl. No director comments.

Public comments opened for anyone in favor of the docket item. No public comments in favor.

Public comments opened for anyone not in favor of the docket item. Chad Reishl stated he has letters to be read into the docket.

These letters are on file with the Planning and Zoning department. These letters are from:

Charles and Susan Callahan – 2308 Kingsfield Street

Jenny Ott – 2109 Kingsfield Street

Marjorie and Randy Potts – 3107 Crums Lane

Duane, Amy, and Alex Macaluso – 2400 Dunbar Drive

Rick Schneider – Meadows subdivision resident

Shawn Dade stated he had people attending the meeting in person against the docket item.

Larry Harris spoke via Zoom in person and stated he had taken the Oath. He wants to focus on items not addressed yet including financial impact. 40 plus homes will abut this Speedway property and the plans do not reflect that. He has spoken with realtors and believes residential properties will

property value, depending on proximity. Value lost in these combined homes is \$1.3 million, at Zillow value. Many residents are elderly and many have health concerns and cannot afford these changes. Nobody can pack up and move when this gets built. Larry Harris said that something should not be appropriate to build if it adversely affects neighboring properties. Second, the new hotel has just been built. Visitors that stay at this hotel will often be families and this road has a lot of truck traffic. The busy road is dangerous for neighbors and the hotel. It is a heavily-trafficked road and already extremely unsafe. Thirdly, he referenced Joe Calderon's mention of the other gas stations that were not required to get a special exception. Larry Harris states none of those properties are adjacent to residents—only vacant properties and other businesses. He believes the decision for a special exception by the Planning office should be upheld.

Shawn Dade stated there were additional phone calls in opposition. These calls are on record with the Planning office:

Nancy Davis – Resident of Crums Lane
Mrs. Conn – Hamburg Pike neighbor

Chelsea Stanley spoke ~~virtually from Zoom~~ and stated she had taken the oath and that she is attorney representing the Selby & Jackson, LLC and Sav-A-Step Food Mart, Inc. She asked the BZA to review her letter on file before making any decisions.

She asks that the Board of Zoning Appeals uphold the decision to require Speedway to file for a Special Exception for two reasons:

1. Speedway did not properly initiate this appeal.
2. Speedway did not provide the BZA with any ground to overturn the Planning and Zoning department's decision.

She stated there is no evidence that a special exception was not stated as required.

She asserts the three claims Speedway made fails:

- 1- Speedway claims Nathan Pruitt, a previous planning director, stated a special exception was not required. There is no evidence of this. Regardless, an administrative staff may correct the errors of its staff under Indiana law.
- 2- Speedway claim ambiguity. She believes that this ordinance is not ambiguous. Article 4.15 does in fact list that a gas station with pumps is a special exception. If you look at land matrix, this is shown as a typo because a convenient store without pumps is permitted by right, while a convenient store with gas pumps is a special exception, as is this case.
- 3- Speedway claims they should not have to follow this requirement as no one else has had to enforce this. She referred to Indiana Supreme Court in that the government can uphold code even if it previously has not enforced this issue in the past.

In conclusion, she stated the Planning office did the correct thing and believes Speedway should have to apply for a Special Exception.

No additional calls, letters, or representatives present. Public Comments closed.

Mike McCutcheon asked if Joe Calderon had a response. Joe Calderon said that most letters and comments were passionate but did not address the matter at hand. Regarding Chelsea Stanley, he stated she represents a company that is in the C2 zoning district and received a permitted use for a gas station in 2018. As a quasi-judicial board the Board is allowed to vote on these types of questions. Is it fair to allow other stores during the same time frame to open without a Special Exception? Speedway believes it is not and believes the BZA should overturn the decision.

Joe Calderon asked two other Speedway representatives speak under oath.

Eric Carter and Mike Bergman. Mike Bergman, the construction project manager with Speedway, stated he took the oath. Back on May 23, 2013, he met with Planning Staff and asked about a special exception and was told by then planning manager it would not be required.

Eric Carter stated he took the oath and also said he spoke to then planning director Dan Matson on that date and was told they did not need a special exception.

Joe Calderon stated that Speedway's response had concluded.

Duard Avery said he was a part of the all-day mediation with many lawyers and a full agreement were established with many points thoroughly written. He stated the Special Exception was never brought up during this legal decision and was never a point of contention.

Mr. McCutcheon asked if the Board would be willing to make a motion to take this under advisement.

Chris Fox said there has been a diverse type of comments. He made a motion to take this item under advisement and that Speedway provide official Findings of Facts within ten days.

Mike McCutcheon asked Les Merkley's opinion. Les said if he understood the motion correctly, he would ask that it include any other opponents or in favor to also submit Findings of their own within the allotted timeframe.

Mike McCutcheon asked Joe Calderon asked if he was amenable to the timeframe provided.

Joe Calderon and Chelsea Stanley stated they would get that in within this time period.

Chris Fox would like to amend his motion and motions that the BZA take this item under advisement and requests that any party wishing to submit their Findings of Fact in conclusions of law be submitted within the next ten days. Duard Avery seconded. Roll call vote. 4-1 motion carries with Roger Clarke against.

NEW BUSINESS

BZA-21-25 Development Standards Variance

Mark Stoll with Gypsy Ridge Barns filed a Development Standards Variance application for the property at 5801 Highway 62. The proposed property is a temporary roadside sales of sheds. The variance requests are regarding the length of temporary sales, expansion of gravel, the quantity of accessory structures, and commercial signage. The property is zoned C2 (Commercial). The Docket Number is BZA-21-25.

Mark Stoll stated he was present and had taken the oath. He represents a local, backyard shed company that would like to sell their sheds in the area at this property. Sheds will be on display and for sale on this property.

Chad Reishl stated that there are a lot of variances for this project to move forward. Staff is on edge when there are 6 variances being requested. However, given the location, between the highway and the railroad, and the nature of the business as temporary, staff does not find it unreasonable.

Public comment opened. No public comments. Public comments closes.

Board comments opened. Roger Clarke stated this development is a little extreme. Normally temporary sales are 14 days, and this is much longer. Not only will he use gravel, he will expand it. They will have way too many signs. This is throwing our Zoning Ordinance out. Roger Clarke would not like new River Ridge developers to see this development when considering our city.

Mr. Clarke made a motion to move to vote on all findings together. Mr. Fox seconded the motion.

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 25th day of May, 2021.

BZA-21-27 Development Standards Variance

Bonnita van der Spuy and Jennifer Welch filed a Development Standards Variance application for the property at 4014 Williams Crossing Way. The variance request is for the location of a privacy fence at a corner lot. The property is zoned PD (Residential Planned Development). The Docket Number is BZA-21-27.

Bonnita van der Spuy stated she was present and had taken the oath. She said her and her wife had this house built and went through the fence approval process through the HOA and developer. After built, applicants received a hanger violation at their property that it was in violation and called the office to learn it also needed a permit and the fence was not in accordance to code. She said it was only 6' and not 10' from the sidewalk as it should be. She asked the board to approve this variance.

Chad Reischl stated this is in a PUD and their book does not mention fence location which means it reverts it back to the City's Zoning Ordinance and that the developer likely did not realize this and told the applicant it was in accordance with the PUD. Chad said it's a nice looking fence and not a safety hazard.

Open public comment. Chad Reischl stated he had a number of letters in support of the docket item. These letters are available in the Planning and Zoning office. These letters are from:
Jamacus & LaToya Turner – 4176 Heitz Avenue
Kenneth & Susan Galluch – 4016 Williams Crossing Way
Close public comment.

Opened for board comments/questions. Chris Fox asked if a building permit is required. Chad stated if approved, they will still be required to come in and get a fence permit.

Chris Fox motioned to move forward with all variances. Mr. Stinson seconded the motion.

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:

4. The variance of the development standards will not be injurious to the public health, safety, morals, and general welfare of the community.
5. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner.
6. 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 25th day of May, 2021.

Mike McCutcheon asked that the applicants still come in for a fence permit.

BZA-21-28 Development Standards Variance

Mindy Johns with Millennium Builders, LLC applied for a Development Standards Variance application for 810 Pratt Street. The proposed development is a duplex. The property is zoned R3 (Residential). The Docket Number is BZA-21-28.

Victoria Johns with Millennium Builders, LLC stated she was representing the development and has taken the oath. These are two separate homes that are connected, and will be for sale not rent. She showed the Board a rendering of the homes.

Chad Reishl stated this should technically be considered attached single family housing and not necessarily a duplex. There are a number of variances being asked for which raises questions, but there are a number of precedents in the area and some of the variances requested will be updated with the new Zoning Update.

Open public comment.

Chad has two letters against the development. These are on record with the Planning and Zoning office. These letters are from:

Tonya James – 819 Pratt Street

Tracy Oliver – 818 Pratt Street

Birtie Milton at 808 Pratt Street is present in the office and speaking via Zoom and stated she has taken the Oath. She is neighbors with this property and shares the same sewer which has already had issues in the past as well as a driveway. She does not see how two homes, even a duplex, can fit on this property.

If she wants to put in a duplex, I hope she puts her own sewer in.

Closed public comment.

Victoria Johns said new sewer lines will be put in, the driveway will be in the back, and showed a photo of where the housing location will be.

Opened for board comments/questions. Mike McCutcheon said it's not in the city's best interest any longer to share sewer lines and was satisfied with the plans. He also added he would refer to this as an infill project and believes it would be a nice addition.

Duard Avery motioned to move forward to findings with all variances. Mr. Fox seconded the motion.

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 25th day of May, 2021.

BZA-21-29 Development Standards Variance

Chris Schweitzer filed a Development Standards Variance application for his property at 1207 Cedarview Drive. The proposed variance is for the size of an accessory structure. The property is zoned R2 (Residential). The Docket Number is BZA-21-29.

Chris Schweitzer stated he was representing his property and he took the oath. The garage is 900 square feet and it is only 36 square feet larger than his home. The setbacks are all met. Currently there is gravel, but this will be paved over or concreted upon completion. The family needs additional storage.

Chad Reischl stated that this home is a little smaller than other properties on the street and many other neighbors would be able to build a garage of this size and the excess in size is only 36 square feet. Staff does not feel it's a significant size difference and does not have an issue with the request.

Open public comment. No public comment. Close public comment.

Open board comment. No board comment. Closed board comment.

Mr. Clarke motioned to move forward with all variances. Mr. Stinson seconded the motion.

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 25th day of May, 2021.

BZA-21-30 Development Standards Variance

Jason Grubbs filed a Development Standards Variance application for his property at 3006 Bishop Road. The variance request is regarding the location of a privacy fence on a corner lot. The property is zoned R1 (Residential). The Docket Number is BZA-21-30.

Jason Grubbs stated he lives at 3006 Bishop Road, is a city employee, and has taken the oath. When he purchased the home, it had a 4' chain link fence that needed to be replaced. He replaced the fence during the pandemic shutdown and did not call the office. He believed that since he was replacing an existing fence that was 6' or less he did not need a permit or approval. Mr. Grubbs learned it was out of Code because a Code Enforcement officer informed Mr. Grubbs it is required to be at least 10' from the sidewalk. Given the existing fence, family health, and his large dogs, he is requesting a variance to keep the fence as it is.

Chad Reischl reiterates that if Jason Grubbs had reached out to the Planning Office, he would have known before placing the fence. However, given the unique location of his home, staff feels Mr. Grubbs is rightfully seeking a variance.
Open public comment. No public comment. Close public comment.

Mr. Fox motioned to move forward with all variances. Mr. Clarke seconded the motion.

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 25th day of May, 2021.

Mike McCutcheon informed the applicant he will need to come to the Building Commission office to receive the fence permit.

BZA-21-31 Administrative Appeal

Chris Judd filed an Administrative Appeal application for his property at 830 E Maple Street. The owner received notice of a violation regarding the location of his privacy fence after replacing the existing fence. The property is zoned R3 (Residential). The Docket Number is BZA-21-31.

Chris Judd stated he is the property owner and that he took the oath. He received a notice that his fence was not in compliance. He was surprised as the fence was existing in over 20 years. He purchased the home for in September 2020 for its yard and wants to utilize it with privacy for his family. The Zoning Ordinance states all codes must be enforced equally. He has improved this home. From his yard, he can see four properties, three residential, and one commercial that have fences not in compliance. He believes he has precedent to have his appeal approved given that two other corner lot fences were approved earlier by the BZA at this same evening. He shared photos of the neighboring properties that are on file with the Planning office.

Chad Reischl said we have had a number of issues from corner lot fences in the past several years. We usually notice fences as they are being built. Enforcement can be difficult when it does not match a lot of fences in the community, particularly in the downtown. However, permits are required. Chad asked the Board of Zoning Appeals to work with the Planning and Zoning office what they would like to see in regard to corner fence code in the Zoning Ordinance.

Open public comment. Chad has two letters submitted in favor of the appeal. These letters are on record with the planning office. These letters are from:

- Matthew Kuhl – 902 E Maple Street
- Cecelia Pardowski – 824+ 826 E Maple Street

No additional public comment. Close public comment.

Open to board comment. Duard Avery said this should not impact traffic or vision clearance, and it is used as a side yard, and the homeowner has put a lot of work into this home. Chad Reishl responded that it would look better in line with the fence at the adjacent property on Pratt Street, but he understands that the homeowner was utilizing the existing fence line.

Roger Clarke said it is built in a similar style to other neighbors. He understands that meeting the Code would prohibit him from having a yard at all. He asks if the neighbor would consider moving it back a couple feet to compromise. Chad responded that the applicant actually had already moved it back 2' from the sidewalk when the previous fence used to be right up against the sidewalk.

Mr. Stinson made a motion to reverse the administrative decision, seconded by Mr. Fox. Roll call vote. Motion carries 5-0.

BZA-21-32 Development Standards Variance

Eric Hedrick filed a Development Standards Variance application for property at 3110 Riverview Drive. The variance request is to place a carport in the property's front yard along Riverview Drive. The property is zoned R2 (Residential). The Docket Number is BZA-21-32.

Eric Hedrick stated he took the oath and the carport is not in place and will be placed next week, pending the results of the meeting. He says the neighborhood is unique because it has two front yards, the river and the road. He considers the river to be his front yard and that is the only side of the home with a front door and access. He also corrects the size of the carport and says it will be 24 feet by 35' and equal 840 square feet.

Chad Reishl said that a very small percentage of homeowners in the city have this type of property with two front yards. The upcoming Zoning Ordinance update will allow more flexibility for these types of properties. Staff does not have concerns.

Open public comment. No public comment. Close public comment.

Open board comment. No board comment. Close board comment.

Mr. Clarke motioned to move forward with all variances. Mr. Stinson seconded the motion.

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 25th day of May, 2021.

Eric Hedrick stated he will need to come in and get a permit.

BZA-21-33 Development Standards Variance

David Moore filed a Development Standards Variance application for property at 2403 Crums Lane. The variance request is regarding the number of accessory structures and lot coverage. The property is zoned R1 (Residential). The Docket Number is BZA-21-33.

David Moore stated he took the oath and he is present. There was a previous wooden fence that he was fixing up and did not know he needed a permit. He is fixing up the yard to entertain family in the summer.

Chad stated during the inspection we noticed multiple structures built without permits or inspections through the process. The owner has come in to get the fence permit, so that is good to go. There are additional issues with side setbacks for the accessory structure; lot coverage, which is not an uncommon issue in this area; as well as the number of accessory structures, although if the pool and deck which are attached were counted as one accessory structure, they do not exceed the number of structures allowed. It would be great if people came to the Planning office before they built things, but generally speaking, this is not over problematic.

Open public comment. Close public comment.

Mr. Fox asked for clarification on the number of structures. There is a garage, a shed, a pool with a deck with that deck being under construction.

Shawn Dade clarified that there are two decks. One is off the pool and is under construction, as well as an existing deck off the house.

Mr. Clarke motioned to move forward with all variances. Mr. Stinson seconded the motion.

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 25th day of May, 2021.

BZA-21-34 Use Variance

Donovan Crawford and Rigoberto Chapman with Live Ink filed a Use Variance for property at 1446 Gateway Plaza in the Gateway Plaza strip center. The property is zoned C2 (Commercial). The applicants request to have a tattoo shop business at the property. The Docket Number is BZA-21-34.

Donovan Crawford stated he is the representative and he took the oath. They have moved into an old doctor's office to move away from Louisville which does not receive much business and they would like to increase and improve the property. They will not be a

traditional tattoo shop as they will also sell local art. He stated he is a registered nurse and they will have high facility standards.

Chad Reischl stated that a tattoo shop was not in the Zoning Ordinance at all until an update a few years ago which only added the use to one district, which may have been an oversight on the Planning Department's side. The use is commercial and staff does not feel it would be burdensome to this property.

Open public comment. There was one phone call from a neighbor behind the property but she seemed satisfied after learning that the business owner is a registered nurse and did not have any further issue. Close public comment.

Donovan Crawford responded that all needles will be disposed of properly in the same way as a hospital.

Mr. Clarke asked how much of Gateway Plaza will be used for the business as the staff report seems to reflect all of it. Mr. Crawford stated they will only be one tenant and use 900 square feet.

Mr. Clarke motioned to approve the use variance as requested. Mr. Stinson seconded the motion.

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. So ordered this 25th day of May, 2021.

R-21-01 Resolution

Les Merkley, attorney for the City of Jeffersonville, requested a hearing regarding a resolution for meeting policy. The resolution is "A Resolution Adopting an Electronic Meeting Policy". The resolution will allow Plan Commission more flexibility for meetings. The Docket Number is R-21-01.

Les Merkley stated this resolution is a result of new legislation from the state that allows more remote-access for Board of Zoning Appeals meetings. It would allow no more than two members per meeting join the meeting virtually, for instances such as vacation, illness, or

more, as long as the board members do not attend more than 50% of these meetings virtually. Mr. Merkley stated the city's Redevelopment Commission has had this ability for some time and that these rules just allow the Plan Commission these allowances while meeting state requirements. He also added this resolution is similar to what City Council recently passed. This does not affect meetings that are fully virtual based on Emergency Orders by the governor currently.

Mr. Fox made a motion to adopt R-21-01 for the Board of Zoning Appeals. Mr. Clarke seconded the motion. Roll call vote. Motion carried 5-0.

Director's Comments

Chad informed board members of a joint session with Plan Commission and City Council next Tuesday, June 1st, likely at 7 PM, for a presentation of the Unified Development Ordinance and to discuss the changes that have been made since the last discussion. Board of Zoning Appeals members are not required to attend but are welcome and more information will be sent by the end of the week with more information.


Mr. McCutcheon asked for more information on how to move forward with the Speedway docket item. Les Merkley explained that he thought their Board's decision to gather more information and ask for findings allows them to make a more informed decision.

Adjournment

Mike McCutcheon asked whether any board members had any additional comments or questions. There being no further business to come before the Board of Zoning Appeals, he asked for a motion to dismiss. Mr. Avery made a motion to adjourn. The meeting adjourned at 9:07 PM.



Mike McCutcheon, Chair



Shelby Walsh, Secretary