

MINUTES OF THE  
**JEFFERSONVILLE BOARD OF ZONING APPEALS**

March 28, 2023

**Call to Order**

Chairman Mike McCutcheon calls to order the Board of Zoning Appeals meeting. It is Tuesday, March 28, 2023, it is 7:30 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**

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 & 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.)**

**Approval of Minutes**

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

**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 28, 2023 docket items, seconded by Mr. Stinson. 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**

None

**New Business**

**BZA-23-07 Special Exception**

Koetter Five Star Properties Indiana filed a special exception application for property on the 4400 block of Hamburg Pike. The property is zoned PD (Planned Development). The current use is vacant land; the applicant requests to use the property for a landscaping business. The Docket Number is BZA-23-07.

Courtney Aguilar stated she took the oath and the following:

- This property is located near Menard's.
- We seek to construct a commercial landscaping distribution center of 15,000 square feet.

Chad Reischl stated Staff feels that this use is consistent with adjacent land uses and assists in filling in an empty parking lot. This seems to be a very reputable landscaping company.

Open public comment

No comment.

Closed public comment

Letter from Sherwood Investments.

Chad Reischl stated we had one call from a local realtor who was concerned about how this might impact local property values. A drainage ditch will be relocated off-site.

Ms. Jones asked are there any plans for a fence to keep people from coming onto the property to the neighboring property?

Courtney Aguilar stated we would be willing to entertain that request; however, right now we are seeking to align with the relevant development standards.

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 approve this application. So ordered this 28th of March, 2023.

### **BZA-23-08 Special Exception**

New Hope Services, Inc. filed a special exception application for 1302 Wall Street. The property is zoned C1 (Commercial: Medium-Scale). The current use is professional office; the proposed use is dwelling: multi-family 7-12 units. The Docket Number is BZA-23-08.

Alan Applegate stated he took the oath and the following:

- I am on the board of New Hope Services.
- We seek to convert this building to provide housing for those aged 55 and older.
- This property is on  $\frac{3}{4}$  of an acre and is adjacent to Claysburg Towers.
- Historically, New Hope has focused on children with disabilities; however, we have since expanded our scope to offer other community services.
- The average square footage of the apartments would be 800 square feet or more.
- We do not anticipate altering the exterior of the structure.

Chad Reischl stated that there are no significant changes happening on this property. This is a simple substitution of one use for another. This may be a benefit to the community.

Open public comment

Carol Moon, President of the Claysburg Neighborhood Association, stated she took the oath and that we want the community to stay clean. We want this project to be reserved only for people that are aged 55 years and older. We do not want this to turn into a mental health institution.

Lavern Vaughn stated she took the oath. Putting units in this building will require exits and windows. This is not a good fit for the building.

Dustin White stated he did not take the oath.

Les Merkley administered the oath.

Dustin White stated New Hope has been a very good neighbor on the properties that it manages. To protect the community, I would ask that you not limit those aged 55 and over to this property permanently.

Closed public comment

Alan Applegate stated we have no control over Claysburg Towers. We have been a good neighbor for this property. The exterior façade plans are not in place yet. This property, if approved, would be limited to affordability. Rent would be required to be paid for these units.

Ms. Jones asked can we even put a condition that this housing is restricted to those 55 years and older in perpetuity? Is part of the bond for this project age-regulated?

Alan Applegate stated I do not know for sure if there is a covenant in the state and federal rules regarding age regulation.

In response to Lavern Vaughn, Ms. Jones stated that building permits will be required in the future; however, that is not something we are dealing with tonight.

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 approve this application. So ordered this 28th of March, 2023.

#### **BZA-23-09 Development Standards Variance**

Lary Ritter filed a development standards variance application for 1630 Veterans Parkway. The applicant requests a variance from the development standards for accessory structure location, wall sign quantity, and parking location. The property is zoned PD (Planned Development). The Docket Number is BZA-23-09.

Julie Radcliff stated she took the oath and the following:

- Our first variance is for a masonry trash enclosure that faces Veterans Parkway. We will be over 60ft from the Right of Way.
- The second variance is to allow parking within the setback. We are proposing to have parking within 5ft of the property line along Hamburg Pike.
- The third variance is to allow the McDonald's arches and wordmark which would be considered two separate signs on the same façade.

Chad Reischl stated this PD is more restrictive than our base code in terms of signage. Anywhere else, in the City, the requested signage would be approved.

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 28th of March, 2023.

### **BZA-23-10 Special Exception**

Chad Sprigler filed a special exception application for 350 Eastern Boulevard. The property is zoned C2 (Commercial: Large-Scale). The current use is vacant land; the proposed uses are dwelling: multi-family 7-12 units and dwelling: multi-family greater than 12 units. The Docket Number is BZA-23-10.

Camille Heslen stated she did not take the oath.

Les Merkley administered the oath.

Camille Heslen stated the following:

- The site is currently zoned C2 and is surrounded by various land uses.
- The existing building would be removed.
- There are multiple townhomes, a detention area, two commercial outlots near the front of the site, and the renovation of the Royal Inn into 45 multi-family units.
- The units would be 450-600 square foot units.

Chad Reischl stated we had a similar proposal on the site a few months ago for micro units. The new developer is seeking to create larger units. This is a much better project than the previous one. We are happy to support redevelopment of this site.

Camille Heslen stated we believe our project adds more of a pedestrian feel.

#### Open public comment

Carol Moon, who lives at 1711 National Avenue, stated she took the oath and stated the Claysburg Neighborhood Association spoke to Chad Sprigler about this request. We are 100% in support of this project.

Lavern Vaughn stated she took the oath and that we are in agreement with the redevelopment of this property.

#### Closed public comment

Mr. Avery stated that this infill project looks good. It is great that the developer worked with the neighborhood and the city to design a plan that works.

Ms. Jones stated that this project has sufficient information when compared to the prior request. I applaud that you all worked with the neighborhood.

#### 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 approve this application. So ordered this 28th of March, 2023.

#### **BZA-23-11 Use Variance**

Kenan and Sabina Ahmetagic filed a use variance application for 3015 Middle Road. The property is zoned CO (Commercial: Office Only). The current use is vacant land; the proposed use is auto wash. The Docket Number is BZA-23-11.

Kenan Ahmetagic stated he took the oath and the following:

- Previously, we were granted a special exception to open an auto shop on Hamburg Pike
- This car wash was shut down for several years. We will be keeping a few bays for car washes and then a few bays for detailing.

Chad Reischl stated this is a curious case. This property is strangely zoned CO (Commercial: Office). It has been zoned this way since 2008. The use variance is a simpler method than petition both a rezoning and a special exception for the property for the commercial zone district.

Open public comment

No comment

Closed public comment

Ms. Jones asked will you be there daily to make sure the site is clean?

Kenan Ahmetagic stated we will have full staff to ensure the site is clean.

Mr. McCutcheon asked are you going to enclose any of the bays?

Kenan Ahmetagic stated two bays are already enclosed. I want to build a fence on the back that will connect to the apartment complex.

Mr. McCutcheon asked is it possible to put trees on the property? Implementing greenery on the property would be best.

Kenan Ahmetagic stated that it would be possible to put trees on the side of the property.

Ms. Jones stated that I am glad that this property will have more than just the car wash use.

Mr. McCutcheon asked does this lot give you the ability to organize better? We want to ensure that granting this property is more presentable.

Ms. Jones stated do we need to implement a restriction on the number of cars that can be implemented outside?

Mr. McCutcheon stated that we probably do not have to put the restriction on given that the property will be staffed.

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. So ordered this 28th of March, 2023.

### **BZA-23-12 Development Standards Variance**

Ms. Jones recused herself from the case as her client is selling the developer a piece of property.

Derek Knight filed a development standards variance application for 4010 E. 10th Street. The applicant requests a variance from the development standards for entrance proximity to street corners, sidewalks, maximum lot coverage, and maximum parking count. The property is zoned C1 (Commercial: Medium-Scale). The Docket Number is BZA-23-12.

Roland Solinski stated he took the oath and the following:

- We are proposing a Panda Express restaurant with a drive-thru.
- The driveway proximity standard is complicated by the lot's triangular shape.
- The typical Panda Express has 35-40 spaces on the property; this request is slightly in excess of the parking maximum.

Chad Reischl stated this is an unusual site that is bounded by streets on all sides. The sidewalk variance makes sense for pedestrian safety.

Mr. McCutcheon stated that the concrete divider on Herb Lewis road will likely offset the entrance variances.

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 28th of March, 2023.

Mr. McCutcheon asked do you see busy dockets ahead?

Chad Reischl stated it is impossible to predict the volume of cases.

Mr. McCutcheon stated that we want to be protective of everyone's time.

#### **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 8:40 pm.

*Deward Avery Vice Chair*

Mike McCutcheon, Chair

*Deward Avery, Vice-Chair*

*Zachary Giuffre*

Submitted by: Zachary Giuffre, Secretary