

BZA MEETING

March 19, 2020

The White County Area Board of Zoning Appeals met Thursday, March 19, 2020, at 6:00 p.m. in the Commissioners Meeting Room, Second Floor, White County Government Center, Monticello, Indiana.

Present: Randy Conwell, Abbey Gross, Stan Minnick, and Jeff Guingrich.

Absent: Denny Sterrett.

Also attending were Executive Director Joseph W. Rogers and Board Secretary Erika Martinez.

Visitors attending were: None (White County Government Center conducted this meeting with telephonic communications between the Board and public available. There was no general public at the meeting).

The meeting was called to order by Chair Abbey Gross at 6:00 p.m.

Note: All the applicants were contacted and advised to be available by phone.

Minutes:

There was a motion by Stan Minnick and a second by Jeff Guingrich to approve the meeting minutes and finding of facts dated January 16, 2020 as written. Motion carried unanimously.

Note: At the introduction of each case hearing, Director Rogers entered all documents provided to the Board in their pre-meeting packets, the Staff Report and all other file documents into the official record of the meeting. All documents entered into the record along with all hearing testimony and completed ballots will be used in establishing the Findings of Fact for each hearing.

Variance #3008

Director Rogers read four emails into the record. The emails were from Ashley Medley, Mitch and Lillie Cooper, Pastor Dawn Wild, and Larry and Linda Mc Leland. All the emails submitted to the Staff were in support of the variance request.

Director Rogers stated that the Staff recommends that the subject variance be considered with the condition that, if approved, the porch will not be enclosed nor will there be incorporated within the visual clearance area any additional visual restrictions, unless authorized by the Area Board of Zoning Appeals. If in agreement, Director Rogers advised the Board that it would take an official action of the Board to attach this condition as a requirement for variance approval. Such action being provided for in IC 36-7-4-1015. The Staff wants to make the record clear that if a building permit comes into the office to enclose the porch it will be prohibited and will need approval from the Board of Zoning Appeals.

There was a motion by Jeff Guingrich and a second by Randy Conwell to attach the condition that, if approved, the porch will not be enclosed nor will there be incorporated within the visual clearance area any additional visual restrictions, unless authorized by the Area Board of Zoning Appeals. Motion carried unanimously.

Director Rogers stated that the subject dwelling was constructed in 1900 as a single-family residence approximately 2,428 sq. ft. in size. In 1984, a detached garage approximately 1,280 sq. ft. was constructed. The subject property is located in the Original Plat of the Town of Sharron. The plat was recorded on August 10, 1873. There are no call-outs listed on the plat, so current county developmental standards apply. Current setbacks for an R-2, Single and Two-Family Residential, zoned property are 30' front, 20' rear and 4' side for a principle structure. However, in this case, the front setback off of Main Street is 16' as established by grandfathering rights. The Staff found no history of any rezone or variance requests for the subject property. The Staff found history of one building permit for the subject property. Building Permit # 5041 was issued on June 3rd, 1986 for a 30' x 17' room addition to the dwelling. A Certificate of Occupancy was not issued for Building Permit # 5041 which was not unusual for Area Plan departmental practice at the time.

Director Rogers stated that when the applicants replaced the existing roof, they decided to extend the roof over and beyond the existing porch location. The applicants are now requesting a 6' front setback vs the 30' required for the roof extension to bring the structure into compliance. The applicants will also be replacing the current slab and mortar porch with wooden floor decking enclosed with a railing. The applicant is requesting a 6' front setback vs 30' req and a variance from the vision clearance triangle.

Director Rogers then displayed for the Board a series of photos he had taken at the site showing both the area of the site as well as the surrounding area to the property.

The Board had no questions for the applicant and no need to call the applicant. With no further questions the Board proceeded to cast their ballots.

After tabulating the ballots, Chair Abbey Gross read the following results into the record:

Variance #3008 – 4 votes cast; 4 to grant; 0 to deny;

Petition GRANTED

Variance # 3011

Director Rogers read the call long into the record. The call log included two entries, Mike Leaman called to get clarification of the variance request and Ginger McGuin called the office to request information on the location of the subject property and the purpose of the request. Neither Mike Leaman and Ginger McGuin expressed a favorable or unfavorable opinion of the request.

Director Rogers stated that the Staff recommends that the subject variance be considered with the condition that, if approved, the applicant shall install a 6' tall, opaque, vinyl privacy fence along the property line abutting Rolling Hills Ct. to prevent future access and that said fence is hereby authorized to be located within the front yard setback by the Area Board of Zoning Appeals. Said fence shall extend along the entire length of all property lines which abut Rolling Hills Ct. In addition, that Staff also requests the Board to approve a restriction to the use of the site to prohibit any and all outdoor storage of boats, trailers or vehicles of any kind. If in agreement, Director Rogers advised the Board that it would take an official action of the Board to attach these conditions as a requirement for variance approval. Such action being provided for in IC 36-7-4-1015. These recommendations are based on providing an appropriate visual environment which is most compatible with the abutting residential uses.

Abbey Gross asked Director Rogers to clarify the location of the fence and the construction of the fence. Director Rogers visually demonstrated the location of the fence utilizing the provided survey as a guide. The fence would be required along any property line abutting Rolling Hills Ct. The primary purpose of the fence is to prevent access from Rolling Hills Ct.

There was a motion by Randy Conwell and a second by Stan Minnick to attach the two conditions as written and proposed by the Staff (see file Exhibit B). Motion carried unanimously.

Director Rogers stated that the applicant is requesting a 9' front setback from Rolling Hills Ct. vs 30' required and a waiver from the parking lot construction and developmental standards to allow for construction of a boat storage facility. The intention is for this to be the first of three buildings. Part of the subject property is located within the Original Plat of MT Walleston Addition (Lots 11, 12, 13, 14 and vacated alleyway) which was platted as 96 lots and recorded on March 13, 1847. There are no developmental standard call outs listed on the plat, so current county setbacks are applied. Current setbacks for a B-2, General Business, zoned property, are 30' front, 20' rear and 5' side. The other part of the subject site is located within the Schlegelmilch Addition (Lot 2) which was platted as 2 lots and recorded on April 3, 2003. The setbacks listed on the Schlegelmilch plat are 25' front, 50' rear and 0' side. The applicant is intending to construct two other buildings, three in total, which will comply, where applicable, to the Schlegelmilch Addition 50' rear setback. The Staff found no history of building permits, variance requests or rezone requests for the subject property. The

subject site is bordered by roadway on the north and south. On the north is Rolling Hills Court which is a dead-end street with no posted speed limit. There is no cul-de-sac provided to accommodate redirection of public traffic. There is approximately 21 foot of paved surface through most of the right-of-way. Franklin Street, which would be the most likely route taken to get to Rolling Hills Court, is subject to a 15-mph speed limit. The street is subject to very limited vehicular or pedestrian traffic. The Staff believes it to be desirable to prevent access to this facility via Rolling Hills Court. Francis Street is subject to a moderate 35 mph speed limit, it is constructed with approximately 21 feet of black top surface. Currently, the proposed driveway location will provide good visibility for entering or exiting Francis Street in either direction.

Director Rogers informed the Board that ADA requirements are driven by parking requirements. The only way that the Board can waive ADA requirements is if the Board establishes there are no parking requirements for the site. Once the site is required to have one parking space, ADA requirements are triggered.

Director Rogers explained to the Board that the applicant had stated that customers would visit the site and never get out of their vehicle. They would pull in and drop off their boat and never park and that the only time the customers would exit their vehicles would be to disconnect or reconnect the boat and trailer.

Director Roger stated that the Staff suggested, and the applicant is proposing, at a minimum, a maneuvering area which, they believe, is necessary for the intended use of the site. The area would be a 60' maneuvering area on the site.

Director Rogers then displayed for the Board a series of photos he had taken at the site showing the area subject to the request along with the surrounding area of the subject property.

Abbey Gross asked Director Rogers that if the Board approves the request for no parking requirements and a customer with a disability slips and injures themselves because of the surface not being an even, hard surface, would the Board be held liable. Director Rogers answered that this type of liability comes at a time when there are ADA requirements for a site and surface requirements are not followed.

The Board had no questions for the applicant and no need to call the applicant. With no further questions the Board proceeded to cast their ballots.

After tabulating the ballots, Chair Abbey Gross read the following results into the record:

Variance #3011 – 4 votes cast; 4 to grant; 0 to deny;

Petition GRANTED

Variance # 3012

Director Rogers stated that the applicants are requesting a 20' front setback vs 30' required and a 10' rear setback vs 20' required to construct a pole building to be used for personal storage. The applicants are also requesting for a 0' east side setback to

construct a new driveway to access the proposed building. The office did not receive any communication from the public pertaining to this request. The subject property is part of the Blue Bell Park 1st Addition which was platted as 11 lots and recorded April 20, 1938. There are no setbacks listed on the plat, so current county setbacks are applied. Current setbacks for a R-2, Single and Two-Family Residential, zoned property, are 30' front, 20' rear and 4' side. The subject property is approximately 5,272 sq. ft., which is below today's lot standards of 10,000 sq. ft., but maintains grandfathering status. All lots that have been legally developed, by state law, are grandfather for both lot area and lot width. The Staff found 1 variance request for the subject property. Variance # 1038 requested a 2' west side setback vs 8' and an 18' vs 30' rear setback to build an addition on the dwelling. Variance # 1038 was granted on June 22, 1999. Building Permit # 10636 was issued on June 24, 1999 to construct the addition. No C/O was issued which was not unusual for Area Plan departmental practice at the time. Director Rogers stated that once a structure that has been granted a variance is removed the variance loses its validity. The Staff found no history of rezone requests or violations for the subject property. The Staff located seven variance requests within a 400' radius of the subject site. The variance requests cover a wide array of developmental standards, but the Staff has determined that one of those requests involved a roadside setback variance and is providing information for that file only. Variance #2414 requested a 6' rear (roadside) setback vs the 20' required for an L-1 District to build a new home. This variance was approved on May 19, 2005.

Director Rogers stated that the applicants wish to construct a 39' 3" x 54' 3" pole barn on the subject lot. The Staff determined that principle setbacks are to be utilized since the structure will not be placed in a manner that will preserve the maximum amount of lot area for future lot development. There are certain times that an accessory structure will be placed on a lot and accessory structure setbacks are used. Sometimes it is driven by how close the principle lot is and this site is not close enough to the applicant's principle lot to qualify. Other examples are the size of the accessory structure or whether there is an intention to place a principle structure on the lot at a later date. In the case of, Variance # 3012, due to the size of the structure, due to the location of the accessory structure from the principle structure, and due to the nature of the structure the Staff determined that principle structure setbacks will be applied.

Director Rogers then displayed for the Board a series of photos he had taken at the site showing the area subject to the request along with the surrounding area of the subject property.

A general discussion pursued between Director Rogers and the Board about if the applicants would be able to convert the accessory structure into a dwelling in the future. Director Rogers suggested that the Board attach a condition that the proposed building be used as an accessory structure only and that the owners would need approval from the Board to convert the accessory structure into a dwelling unit.

There was a motion by Jeff Guingrich and a second by Stan Minnick to attach a condition that the proposed accessory structure cannot be converted into a dwelling unit without approval from the Board. Motion carried unanimously.

The Board had no questions for the applicant and no need to call the applicant. With no further questions the Board proceeded to cast their ballots.

After tabulating the ballots, Chair Abbey Gross read the following results into the record:

Variance #3012 – 4 votes cast; 4 to grant; 0 to deny;

Petition GRANTED

Business:

Director Rogers stated that the Governor of Indiana issued an executive order that requires any non-essential public meetings be delayed. If an essential meeting needs to be held only one member is required to be physically present and all other members can participate electronically. The Staff spoke with the County IT Department and there are a lot of road blocks in conducting electronic meetings and the earliest IT would be ready for an electronic meeting would be in May. Director Rogers recommended the Board cancel the April meeting due to the COVID-19 restrictions and then re-evaluate the May meeting further down the road.

There was a motion by Jeff Guingrich and a second by Stan Minnick to cancel the April meeting. Motion carried unanimously.

There being no further business, Abbey Gross motioned to adjourn the meeting, with a second from Jeff Guingrich. Motion was passed and meeting adjourned at 7:21 p.m.

Respectfully submitted,



Joseph W. Rogers, Executive Director
White County Area Plan Commission



Prepared by: Erika Martinez, Secretary

Document Prepared By: White County Area Plan Executive Director Joseph W. Rogers,
"I AFFIRM, UNDER THE PENALTIES FOR PERJURY THAT I HAVE TAKEN
REASONABLE CARE TO REDACT EACH SOCIAL SECURITY NUMBER IN THIS
DOCUMENT, UNLESS REQUIRED BY LAW."