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LORI L. AUSTIN
WHITE COUNTY RECORDER

BZA MEETING

September 17, 2020

The White County Area Board of Zoning Appeals met Thursday, September 17, 2020, at 6:00 p.m. in the Commissioners Meeting Room, Second Floor, White County Government Center, Monticello, Indiana.

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

Also attending were Executive Director Joseph W. Rogers, Board Secretary Raquel Reynolds, and Area Plan Attorney Abigail Diener.

Visitors attending were: Erika Martinez, Jim Marvin, Marjean Marvin, Vicki Sickler, Alan Sickler, Jason Rogers, Bill Saltwell, Chris Caston, David Springer, Christian Gross, Jerdian Woltt, Gene Canton, Tim Marvin, Scott Simmons, Diane Suhr, William Suhr, Mike Smolek, Wanda Arvin, Bob Arvin, Mark Mattox, Thomas Ball Sr., Thomas Ball Jr., Janet Jozefa, David Stall, Marlon Ayala

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

Minutes:

There was a motion by Chair Abbey Gross and a second by member Dennis Sterrett to approve the meeting minutes and finding of facts dated August 20, 2020 as written. Motion carried unanimously.

New Business:

Director Rogers recommended Raquel Reynolds as the Secretary for the BZA Board. Jeff Guingrich motioned to appoint Raquel Reynolds as the new secretary, seconded by Randy Conwell. The motion was carried unanimously.

Continued discussion for variance #3007:

Mike Smolek stepped to the podium and asked to see the original citizen complaint that prefaced his variance request. A general discussion was conducted in regards to the placement and surface requirements for the ADA spaces and access routing. Director

Rogers advised Mike Smolek on the features of a proper site plan in order for the site plan to be ADA compliant and acceptable to the office. Jeff Guingrich made a motion to give Mr. Smolek a deadline of November 19, 2020 to provide an acceptable site plan to the office. Randy Conwell seconded the motion; motion carried unanimously. If the site plan is acceptable, the Board will then decide on a timeline to complete the improvements necessary to bring the site into compliance.

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.

Special Exception #3018

Director Rogers stated that Special Exception #3018 is to allow a residential use in a B4 district. Director Rogers read the call log into record. The call log had one entry; Janet Haygood called questioning why she received the letter. Ms. Haygood was neither for nor against the variance request. Director Rogers explained that a special exception is required for a residential use in a B-4 district according to Appendix A: Official Schedule of Uses. The Board should review whether the site is adequate and if the use would create any kind of safety hazards for the residence occupants or the community. The applicant has requested a special exception to bring the current and proposed use of the structure into compliance. Currently, the use for the structure is for a single-family dwelling. The applicant would like to convert the current business portion into an additional dwelling, which would then make it a two-family dwelling or a duplex. Director Rogers read the analysis portion of the Staff Report to the Board and the audience. The main concern is safety to the residents living in the dwelling.

Director Rogers summarized the Staff Report for the Board. Director Rogers then displayed for the Board and audience a series of photos taken at the site showing the area subject to the request along with the surrounding area. Director Rogers stated there is ample parking available for the site as well as adequate yard space for children to play. The surrounding area consists of B-2, General Business, and B-1, Neighborhood Business, zoning assignments which are generally compatible to downtown residential uses.

Chair Abbey Gross asked if there was anyone here representing the application. Mr. Marlon Ayala came forward to the podium. There were no questions for Mr. Ayala.

Chair Abbey Gross asked if there was anyone attending that wished to speak in support of the request. Mr. Thomas Ball Jr, 6077 N 300 E, came to the podium and stated he is in favor of the request.

Chair Abbey Gross asked if there was anyone attending that opposed the request, no one came forward.

There being no further questions or discussion, Attorney Diener provided each Board member with a written ballot.

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

Variance #3018 – 5 votes cast; 5 to grant; 0 to deny;

Petition – GRANTED

Director Rogers explained to Mr. Ayala that he needed to come to the office to apply for the special exception use permit. Then when Mr. Ayala is ready to apply for the construction permit, he will be set to proceed.

Variance # 3020

Director Rogers stated that the applicants, Thomas & Judy Ball, request a variance from Appendix B: Bulk Use Standards of the White County Indiana Zoning Control Ordinance (ZO) to construct a 22' x 27' attached garage. The subject site is located within Boller Lakeview addition subdivision. There are no developmental standards listed on the plat, so county setbacks are applied. Current county developmental standards for an L-1 District are as follows; 30' front (waterside), 20' rear (roadside), and 4' sides. The footprint of the proposed structure is 7.9' from the rear (roadside) property line and at its closest point, 14.4' from the road pavement's edge. Director Rogers summarized the analysis portion of the Staff Report.

Director Rogers stated that under the 1995 ordinance, it was permissible for a lake property to build a garage within 6' of the property or road right-of-way line, whichever is most restrictive. Prior to adoption of the 2008 Ordinance, the Board faced some difficulty with safety due to garages being placed too close to the roadway. The Board was not allowed to force garages to be moved further back because the standard at the time allowed for a 6' setback. At the time the 2008 ordinance was adopted; it was decided by the legislative bodies that the setback needed to be changed to 20'. That ordinance differential is why you will see garages around the lake much closer than 20' to the roadway.

Director Rogers summarized the Staff Report for the Board. Director Rogers then displayed for the Board and the audience a series of photos he had taken at the site showing the area subject to the request along with the surrounding area. Director Rogers made note of a utility pole which had not been called out on the survey. Based on Director Rogers' site measurements, the pole sits about 11' from the proposed garage location, which is a visibility concern for people entering and exiting the property.

There was no communication from the community in regards to this request.

Chair Abbey Gross asked if there was anyone here representing the request. Mr. Thomas Ball Jr came forward to the podium on behalf of his father, who is the owner of the property, Thomas Ball Sr.

Thomas Ball Jr stated the reason for the garage is to allow his elderly parents the ability to access the house safely in the winter. The main concern is the danger of slick conditions when entering and exiting the home. Director Rogers stated there is a county ordinance which prevents parking within 5' of a county roadway. In this case, any vehicle would be illegally parked while in front of the garage.

Chair Abbey Gross asked if there were any questions; Director Rogers asked if the safety concern could be eliminated with an open sided carport instead of an enclosed garage. Mr. Ball Jr. stated that the applicants are also in need of storage, which is why they would prefer the enclosed garage. Mr. Ball Jr. stated that they would be willing to change the dimension of the garage to 20' instead of the proposed 22', in order to assist in addressing the Board's safety concerns.

Director Rogers also pointed out that the County Commissioners recently approved a resolution to make the stretch of road adjoining the applicant's property part of a designated bike route. Director Rogers stated a concern that this would create a potentially unsafe road condition anytime a biker(s) traveled this route.

Chair Abbey Gross asked if there was anyone attending in support of the request, no one came forward.

Chair Abbey Gross asked if there was anyone attending that opposed the request, no one came forward.

There being no further questions or discussion. Attorney Diener provided each Board member with a written ballot.

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

Variance #3020 – 5 votes cast; 1 to grant; 4 to deny;

Petition - DENIED

Thomas Ball Jr. asked how they were to proceed; Director Rogers advised the applicants that they would need to come up with an alternative plan in order to be heard by the Board again.

Variance #3021

Director Rogers stated that the Idaville Fire Dept has requested six variances, all to be heard on one ballot.

1. A 4' west side set back off of Main St vs the 30' required.
2. A 2' east side set back off of the residential property line vs 5' required.
3. A height allowance of 21'9" vs 19'
4. To locate a driveway 0' from the residential district vs 25' required.
5. A variance from the landscaping requirements of Table 9.1
6. A variance to allow employee parking area to be gravel material vs a dust free concrete or asphalt material as required by subsection 8.6.3(A)

Director Rogers stated that the office did not receive any community correspondence prior to the meeting. The applicants did bring in a petition on September 16th which consisted of 143 signature lines; 8 lines were blank; 24 were incomplete; which leaves a total of 111 legitimate petition signatures. All petitions can be audited by the Board, if so desired. Director Rogers entered the petition into the record.

Director Rogers summarized the Staff Report for the Board. Director Rogers then displayed for the Board and the audience 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. The original plat of Idaville shows a platted 12' alley north of the proposed building. That alley is not shown in our GIS, but the Staff could not locate any record of the alley being vacated. Director Rogers asked that whoever was going to speak on the applicant's behalf address the alley.

Chair Abbey Gross asked if there was anyone representing the request; Bill Saltwell stepped to the podium. Mr. Saltwell stated the concerns and the reasonings for needing a new and bigger fire station. Mr. Saltwell explained the alleyway has never been usable and that before they tore down the building and leveled the lot, there was a steep drop off making the alley unusable. Member Guingrich asked about the utility poles and powerlines running through the alleyway area; requesting the applicant assure there would still be utility access to any improvements in that area. Chair Abbey Gross asked if there were any underground utilities in the alleyway. Mr. Saltwell stated that he is not aware of any. Chair Abbey Gross asked if the structure was going to encroach into the alley. Mr. Saltwell stated that it would not. Mr. Saltwell stated that 2 houses down from the lot there is an alleyway providing NIPSCO access to the utility poles and power lines if needed. Member Guingrich asked for confirmation of the structure not being on the alleyway. Mr. Saltwell stated no, it would stop right on the property line. Director Rogers stated that the Fire Department was proposing a 90'x90' building with a 35' setback from the front property line. The lot is platted with a 125' depth which means the foundation of the building will be right at the alley right of way line. The building is designed to incorporate a 2' overhang, which means the 2' overhang would encroach into the alley right-of-way. Jason Rogers stepped to the podium to discuss the lot lines and building lines. Member Guingrich again stated his concern that the power companies be able to get through and access the poles and utility lines. Mr. Jason Rogers stated that they now have better access to the lines and poles since the fire department has filled and graded the area. Chair Abbey Gross asked if the fire dept had obtained a letter from the neighboring residential property owner stating that they understood the variances being requested and that they support the request to allow them. Mr. William Suhr stepped to the podium. Mr. Suhr is the neighboring residential property owner in question. Chair Abbey Gross stated the variances being requested and asked Mr. Suhr if he had any issues with any of the requests. Mr. Suhr stated he had no issues and that he would be willing to put his agreement in writing. Member Guingrich wanted confirmation that Mr. Suhr understood the fire trucks would be entering and exiting with sirens at any given time; along with the possibility of causing him issues when he goes to sell the home in the future. Mr. Suhr stated he had no concerns. Vickie Sickler stepped to the podium. Mrs. Sickler stated how dependent the community is on the fire department and that she supports the request.

Chair Abbey Gross asked if there was anyone else who wanted to speak in favor of the request, no one came forward.

Chair Abbey Gross asked if there was anyone attending in opposition to the request, no one came forward.

Director Rogers asked for the site plan again be displayed. Director Rogers then discussed the setbacks from the property lines. Director Rogers reiterated the fact that the front of the building will be 35' from the property line and that the building is designed to have a 90' square footprint. Director Rogers stated the lot is 125' long, which means the rear of the building will be right on the back-property line with at least a 2' overhang and encroach into the alley right-of-way. Director Rogers asked the Board for formal action on this matter so that when the Fire department comes for the building permit, the office will have authorization to proceed even with the alley encroachment. Chair Abbey Gross asked about vacating the alley. Attorney Diener stated the alley should be vacated. Attorney Diener asked if there was a timeline for construction? Mr. Saltwell stated construction was to begin on Monday September 21, 2020. Attorney Diener stated it would take at least 30 days to vacate the alley. Jason Rogers asked if it would be possible to change the front set back to 30' instead of 35'; which would then leave 5' in the rear. Chair Abbey Gross asked if the fire department would need to apply for another variance. Attorney Diener stated no. Director Rogers stated the Fire Department needs to get an official action of the Board accepting the change from 35' to 30'. Member Guingrich made a motion to change the set back from a 35' front set back to a 30' front set back. Member Denny Sterrett seconded the motion to allow the 30' front set back from US Highway 24 vs the proposed 35' front set back, motion passed unanimously.

Member Sterrett asked a question regarding the operational procedure for the trucks to enter from the north and exit out the south. The fire department was asked to make that a permanent operating procedure. Member Denny Sterrett made a motion for a standard operating procedure to be that the emergency vehicles will enter the building from the north and exit to the south. Member Minnick seconded the motion, motion passed unanimously.

Chair Abbey Gross asked if there were any other questions or discussions, no one came forward.

Attorney Diener provided each Board member with a ballot.

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

Variance #3021 – 5 votes cast; 5 to grant; 0 to deny;

Petition - GRANTED

Business:

Director Rogers initiated a general discussion with the Board on Variance #3007. Director Rogers and the Board discussed Director Rogers's concerns on enforcement and follow through on violation issues.

There being no further business, Jeff Guingrich motioned to adjourn the meeting, with a second from Denny Sterrett. Motion was passed and meeting adjourned at 8:10 p.m.

Respectfully submitted,



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



Prepared by: Raquel Reynolds, 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."



White County Building & Planning

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FINDINGS OF FACT

FILE #	Special Exception # 3018
APPLICANT	Curtis & Tamara Craig – Owner Marlon Ayala - Applicant
LOCATION	425 N Market St Monon (Suite A & B), IN 47959
REQUEST(S)	The applicant requested a Special Exception Use for a Single-Family Dwelling or a Single and Two-Family Dwelling to be allowed in a B-4, General Business Dense Development, zoned property.
HEARING DATE	September 17, 2020

The Area Board of Zoning Appeals (hereinafter referred to as “Board”) of White County, Indiana, at a public meeting, properly advertised pursuant to IC 5-3-1-2 and IC 5-3-1-4, having heard testimony and reviewed evidence related to the following request(s), does now enter the following Findings of Fact:

- 1) Board Special Exception authority is provided for under Sec. 12.5.1 of the White County Indiana Zoning Control Ordinance;
- 2) The subject site was identified by Parcel ID # 91-84-21-000-066.800-014, Tax ID # 020-90520-00;
- 3) The subject site was further described with a short legal description; OP Monon Market St Lot 7 & 12’ N/S lot 9;
- 4) The property was identified as being located in a B-4, General Business Dense Development district;
- 5) The property was identified as being used for a single-family dwelling which, with Special Exception Use approval from the Area Board of Zoning Appeals, is a legal use as provided for in Appendix A Official Schedule of Uses, White County Indiana Zoning Control Ordinance;
- 6) The Staff documented that surrounding properties are zoned B-4, General Business Dense Development, B-2, General Business and B-1, Neighborhood Business and that the surrounding area is a mix of business & public uses;
- 7) The Staff noted that nearby properties (within 500 feet) also included several R-3 (Multi-Family) and R-2 (Single and Two Family Residential) districts utilized for residential purposes;
- 8) The Staff certified that a Special Exception Use in this district for Single and Two-Family Dwelling Units is authorized by Appendix A of the White County Indiana Zoning Control Ordinance;

- 9) Staff reported that the subject site exceeds all developmental standards of Appendix B for a B-4 district which are restricted to structure heights only;
- 10) The applicant requested a Special Exception Use to provide a Single or Two-Family Dwelling unit at the subject site. The applicant requested the option to continue the Residential/ Commercial use or to convert the facility to a duplex;
- 11) The White County Indiana Zoning Control Ordinance Appendix A; Official schedule of uses, provides for a property to be used as a Single or Two-Family dwelling unit in a B-4 district but only with special exception use approval;
- 12) As required by State Code, the White County Indiana Zoning Control Ordinance and BZA By-laws, the Staff gave proper notice of the variance request by mail to interested parties; by posting a variance request sign on the property and by publishing legal notice in two newspapers;
- 13) Joseph Rogers, Executive Director of the White County Planning Department, presented the Staff Report as well as general information about the site development, the surrounding area, history of the site as well as pictures of the subject property and the surrounding area to the Board. His summary included the following;
 - A) An entry into the record of the Staff Report, the site photos taken by the Staff, and all documents within the petition file pertaining to the request at hand;
 - B) An explanation of the purpose for the special exception request;
 - C) A review of the existing and proposed interior remodel;
 - D) A review of the previous variance and rezone history;
 - E) A detailed analysis of the request from the Staff's perspective;
- 14) Marlon Ayala was present at the meeting and answered questions from the Board;
- 15) Chair Abbey Gross asked if there was anyone attending that wished to speak in support of the request. Mr. Thomas Ball Jr came forward and stated he supported the request;
- 16) Chair Abbey Gross asked if there was anyone attending that wished to speak against the request, no one came forward;
- 17) There being no further questions, Attorney Diener provided each Member with a written ballot.

Special Exception Use Consideration Criteria

- 1) *Appendix A of the Zoning Ordinance does authorize the special exception for this use in this zoning district. The Board concurs that residential units in a B-4 district are authorized as a special exception use in Appendix A of the Zoning Ordinance.*
- 2) *The proposed development, if applicable, will conform to the development standards of the White County Zoning Ordinance. After review of the applicant's development plans, the Board determines those plans to be in compliance with the development standards of the White County Zoning Ordinance.*
- 3) *Granting the special exception will not be contrary to the original purposes served by the White County Zoning Ordinance and will not significantly injure other property or uses in the same zoning district. The Board finds the proposed use compatible with the surrounding area, it fills a general need of the community which will cause no significant injury to other properties or uses; further, the proposed use is very similar to the current use.*

- 4) *The proposed use will be consistent with the Comprehensive Plan and the character of the zoning district in which it is located. The Board finds the subject property is located in a mixed-use area which includes a substantial number of properties used for residential purposes; the site features typical amenities associated with residential use such as ample yard space, a garage and residence parking.*
- 5) *The proposed use will be designed, constructed, operated and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and will not change the essential character of the same area. The structure was constructed as a residential structure which later incorporated a dental office (general business use) and is harmonious and appropriate in appearance. The facility has a typical, residential design and is completely compatible with the character of the area.*
- 6) *The proposed use will not be hazardous or disturbing to existing neighboring uses. The Board finds the property is currently being used as a Single-Family residence, the special exception is to allow use as a duplex which is a minimal expansion of its current use and should pose no hazard or disturbance to the neighbors.*
- 7) *The proposed use will be served adequately by essential public facilities and services such as highways, streets, police and fire protection, drainage structures, refuse disposal, water and sewer, and schools; or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately any such services. The facility is located in an area designed to accommodate general business and residential uses and provides adequately all infrastructure and services necessary for residential use.*
- 8) *The proposed use will not create excessive additional requirements at public expense for public facilities and services and will not be detrimental to the economic welfare of the community. The Board finds no need for additional public facilities and services as all such requirements are already in place; thus, it has no negative impact to the economic welfare of the community.*
- 9) *The proposed use will not involve uses, activities, processes, materials, equipment and conditions of operation that will be detrimental to any persons of interest, property, or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare, odors or other related factors. The Board determines that the proposed use of add one single family dwelling unit poses no type of nuisance or impact which would be detrimental to the general welfare of the community. In addition, the Board received no resistance from the community or community leadership on the proposal.*
- 10) *The proposed use will have vehicular approaches to the property which shall be so designed as not to create an interference with traffic on surrounding public thoroughfares. The Board finds the location currently has a garage, an on-street parking allocation and ample off-street parking incorporated as an integral part of the site to which the Board received no indication of creating any type of traffic interference.*
- 11) *The proposed use will not result in the destruction, loss, or damage of a natural, scenic, or historic feature of major importance. The Board determines that there will be no exterior changes to the location; the location is not listed as an historic site so there will be nothing that would adversely affect any natural, scenic or features of historical importance.*

The Board finds that the Special Exception herein authorized and granted are not so typical or recurrent in nature as to make need for the formation of a general regulation under an amendment of the Ordinance for the above said condition or situation of the above said specific piece of property; the Board additionally finds that the determination of the above said Special exception is based on the findings of fact and that said findings of fact support and create a fact situation that warrants authorization of the above said variances as allowed for the White County Indiana Zoning Control Ordinance.

For all the foregoing reasons, the Board APPROVED the request for a Special Exception Use for a Single-Family Dwelling or a Single and Two-Family Dwelling to be allowed in a B-4, General Business Dense Development, zoned property. The applicant would like the option to continue the Commercial use or convert to a duplex September 17, 2020.

Area Board of Zoning Appeals



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



**Raquel Reynolds, Secretary
Board of Zoning Appeals**



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FINDINGS OF FACT

FILE #	Variance # 3020
APPLICANTS	Thomas M Ball Sr & Judy D Ball
LOCATION	6777 N 300 E Monon, IN 47959
REQUEST(S)	The applicants requested a 7.9' rear (roadside) setback to construct a new attached garage to the existing dwelling.
HEARING DATE	September 17, 2020

The Area Board of Zoning Appeals (hereinafter referred to as "Board") of White County, Indiana, at a public meeting, properly advertised pursuant to IC 5-3-1-2 and IC 5-3-1-4, having heard testimony and reviewed evidence related to the following request(s), does now enter the following Findings of Fact:

- 1) Board variance authority is provided for under Sec. 12.4.1 of the White County Indiana Zoning Control Ordinance;
- 2) The subject site was identified as Parcel ID # 91-84-25-000-000.600-013, Tax ID# 010-17080-00, Monon Township;
- 3) The subject site was further described with a short legal description of Boller Lakeview Addition Lot #26;
- 4) The property was identified as being located in an L-1, Lake, zoning district and being used as a year-round residential dwelling;
- 5) The applicants requested a 7.9' rear (roadside) setback to construct a new attached garage to the existing dwelling with continued use as a single-family dwelling;
- 6) The Staff noted that there were no setbacks listed within the Boller Addition plat so county setbacks were applied to the site for development purposes; County setbacks are 30' front (waterside), 20' rear (roadside) and 4' to each side property line;
- 7) The applicant's survey established that the proposed structure would be setback over 30' from the front property line (waterside), 7.9' from the rear property line (roadside) and more than 4' from each side property line;
- 8) The applicant submitted a survey dated 8/24/2020. (see file for survey);
- 9) The survey included definition of lot boundaries, placement of the proposed structure, multiple location dimensions and other pertinent details for the proposed development;
- 10) As required by State Code, the White County Indiana Zoning Control Ordinance and BZA By-laws, the Staff gave proper notice of the variance request by mail to

- interested parties; by posting a variance request sign on the property and by publishing legal notice in two newspapers;
- 11) The Staff advised the Board that they had not received any communications from the public either in favor or against the request;
 - 12) Joseph Rogers, Executive Director of the White County Planning Department, presented the Staff Report as well as general information about the site development, the surrounding area, history of the site as well as pictures of the subject property and the surrounding area to the Board. His summary included the following:
 - A) An entry into the record of the Staff Report, the site photos taken by the Staff, and all documents within the petition file pertaining to the request at hand;
 - B) An explanation of the purpose for the variance request;
 - C) A review of the property location in accordance to the curves in the road and visibility with the garage so close to the road pavement edge.
 - D) Photos of the site, which included the location of a utility pole and cable box that were not delineated on the submitted survey;
 - E) A detailed analysis of the request from the Staff's perspective;
 - F) An advisement to the Board that the County had designated this strip of road a component of a multi-county bike trail which will be followed by bikers moving between Chicago and Indianapolis;
 - 13) Mr. Thomas Ball Jr represented the request for the home owners; Mr. Ball stated the reason for the request was to provide the owners a safe means of going to and from their vehicle during winter and inclement weather conditions;
 - 14) Chair Abbey Gross asked if there was anyone in the audience wishing to speak in favor of the request, no one came forward;
 - 15) Chair Abbey Gross asked if there was anyone in the audience wishing to speak against the request, no one came forward;
 - 16) Being there were no further questions or commentary on the matter, Attorney Diener provided each Board Member with a written ballot;

Ordinance Consideration Criteria

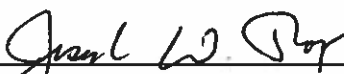
- 1) *The granting of this variance will be injurious to the public health, safety, morals and general welfare of the community. The Board finds that the proposed development would be too close to the roadway and, as such, create an identifiable nuisance and safety condition which would be detrimental to the safety or general welfare of the community.*
- 2) *The use and value of the area adjacent to the property included in the variance request will not be affected in a substantially adverse manner. The Board concluded that the proposed structure would not adversely affect the value of the surrounding area, but safety of the neighbors would be affected due to the limited sightline which would be created by the location of the proposed structure.*
- 3) *The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property. The Board concludes that the size and topography of the lot would unreasonably prohibit the ability to conduct an activity associated with the use of the site that is common with surrounding properties.*

- 4) *The granting of a variance would be a minimal departure from the strict application of the provisions of the zoning ordinance. In other words, granting the variance will be the minimum necessary to permit a reasonable use of the land and building. The Board determines that the garage could have been designed smaller which would reduce the amount of setback variance needed.*
- 5) *The variance requested does not essentially alter the character of the surrounding area. The Board concludes that the proposed construction and use is typical for a residential area, but that the building would create visibility issues for traffic and residents in the area.*
- 6) *The granting of the variance is not necessary for the preservation and enjoyment of a substantial property right possessed by other property owners in the same vicinity and district but which is denied to the property in question. The Board concludes that it is common for small lots which were developed prior to zoning ordinance standards to need setback relief in order to allow reasonable development and use of the land. The site was previously equipped with a garage but the garage was later converted to living space thereby creating the environment which resulted in this request.*
- 7) *The variance request is not the result of an act or action, or lack thereof, of the applicant, property owner, contractor or any party affiliated with the property to which the variance is being sought. The Board finds it is the size and topography of the lot that created the need for setback relief, and that this condition is not the result of any action by the current owner. However, an extenuating circumstance is the fact that the site once had a garage and that the original garage was converted to living space at the option of the property owner even though there was room on the lakeside to add living space.*
- 8) *The need for the developmental standard variance is not based on a perceived reduction of, or restriction on, economic gain. The Board finds the request unrelated to a positioning for economic gain and is strictly related to a proper utilization of the site.*


The Board finds that the variance herein authorized and granted is not so typical or recurrent in nature as to make need for the formation of a general regulation under an amendment of the Ordinance for the above said condition or situation of the above said specific piece of property; the Board additionally finds that the determination of the above said variance is based on the findings of fact and that said findings of fact support and create a fact situation that warrants authorization of the above said variances as allowed for in the White County Indiana Zoning Control Ordinance.

For all the foregoing reasons, the Board DENIED the request for a 7.9' rear (roadside) setback vs 20' required, September 17, 2020.

Area Board of Zoning Appeals



 Joseph W. Rogers, Executive Director
 White County Area Plan



 Raquel Reynolds, Secretary
 Board of Zoning Appeals



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FINDINGS OF FACT

FILE #	Variance # 3021
APPLICANTS	Idaville Volunteer Fire Dept
LOCATION	101 E US Hwy 24 Idaville
REQUEST(S)	<p>The applicants requested the following variances from the White County Indiana Zoning Control Ordinance developmental standards to construct a new volunteer fire station;</p> <ol style="list-style-type: none"> 1. A 4' west side setback off of Main St vs 30' required; 2. A 2' east side setback off of a residential property vs 5' required; 3. A height allowance of 21'9" vs 19'; 4. To locate a driveway 0' from a residential district property line vs 25' required; 5. A variance from the landscaping requirements of Table 9.1; 6. A variance to allow the employee parking area to be gravel material vs a dust free concrete or asphalt material as required by subsection 8.6.3(A).
HEARING DATE	September 17, 2020

The Area Board of Zoning Appeals (hereinafter referred to as "Board") of White County, Indiana, at a public meeting, properly advertised pursuant to IC 5-3-1-2 and IC 5-3-1-4, having heard testimony and reviewed evidence related to the following request(s), does now enter the following Findings of Fact:

- 1) Board variance authority is provided for under Sec. 12.4.1 of the White County Indiana Zoning Control Ordinance;
- 2) The subject site was identified as Parcel ID #91-72-28-000-023.000-012; Tax ID # 009-05920-00; Lincoln Township;
- 3) The property was identified as being zoned B-2, General Business and is currently the location of the Idaville Volunteer Fire Dept; although, the proposed facility location is on ground previously occupied by a regional convenience store;
- 4) The applicant requested the following variances from White County Indiana Zoning Control Ordinance developmental standards to allow construction of a new volunteer fire station; a 4' west side setback off of Main St vs 30' required; a 2' east side setback off of a residential property vs 5' required; a height allowance of 21'9" vs 19'; to locate a driveway 0' from a residential district property line vs 25' required; a variance from the landscaping requirements of Table 9.1; a variance to

- allow the employee parking area to be gravel material vs a dust free concrete or asphalt material as required by subsection 8.6.3(A);
- 5) The Staff determined the proposed building to be an accessory structure subject to setbacks of 30' front, 20' rear, 5' sides with a 19' height maximum (grade to peak);
 - 6) The applicant submitted a site plan which included definition of lot boundaries, placement of the proposed structure, multiple location dimensions and other pertinent details for the proposed development;
 - 7) As required by State Code, the White County Indiana Zoning Control Ordinance and BZA By-laws, the Staff gave proper notice of the variance request by mailing notice to all interested parties by posting a variance request sign on the property and by publishing legal notice in two newspapers;
 - 8) The Staff advised the Board that they had not received any communications from the public either in favor or against the request;
 - 9) The Staff presented a petition received from the applicant; the petition was submitted into the record; the petition contained 143 signature lines; 8 lines were blank and 24 lines were missing required information which left a total of 111 legitimate petition signatures, all in favor of the request;
 - 10) Joseph Rogers, Executive Director of the White County Planning Department, presented the Staff Report as well as general information about the site development, the surrounding area, history of the site as well as pictures of the subject property and the surrounding area to the Board. His summary included the following;
 - A) An entry into the record of the Staff Report, the site photos taken by the Staff, all documents within the petition file pertaining to the request at hand;
 - B) An explanation of the purpose for the variance request;
 - C) A review of the drawings submitted by the applicants;
 - D) A review of the previous variance and rezone history;
 - E) A detailed analysis of the request from the Staff's perspective;
 - 11) Chair Abbey Gross asked if there was anyone in the audience representing the requests to which Mr. Bill Saltwell stepped to the podium;
 - 12) Mr. Saltwell described the project and the reasonings for their requests;
 - 13) Director Rogers drew the Board's attention to the original plat. Chair Abbey Gross questioned how the plans addressed the platted alley. A discussion pursued. Attorney Diener suggested the alley be vacated. Member Guingrich asked if utilities were located within the alley and if the project would impact the utility infrastructure. Director Rogers indicated that the proposal as written would encroach into the alley right-of-way. Director Rogers pointed out that the building was designed with a 90' square perimeter and a 2' eave. He pointed out that the lot area is 100' wide by 125' deep before it reaches the alley. He then calculated that a 90' building with a 35' south end setback to the foundation extends the entire length of the lot which, at a minimum puts the eave into the alley right-of-way. An audience member, without introduction, suggested the building be moved to the south 5 feet to make sure the building doesn't encroach into the alley right-of-way. Member Guingrich made a motion to amend the front set back to 30', which would then place the building 5' from the rear lot line; Member Sterrett seconded the motion; the motion passed unanimously;

- 14) Member Sterrett questioned the operational procedure for the fire trucks which is to have emergency vehicles enter the station from the north and exit out the south. Mr. Bill Saltwell stated that the procedure Member Sterrett described reflects the intention of the fire department. Member Sterrett asked if an official action was necessary to assure that the ingress/egress procedure he described was always followed. Director Rogers stated that an official action would be necessary. Member Sterrett made a motion for the standard operational procedure be that the emergency vehicles always enter the building from the north and exit from the south. Member Minnick seconded the motion; motion passed unanimously;
- 15) Chair Abbey Gross asked if there was anyone in the audience wishing to speak in favor of the request. Mr. Jason Rogers stated the alleyway was never usable until the fire department cleared the lot, leveled and graded the lot; now the utility companies have better access than before. Mr. William Suhr stated he was the neighboring property owner and had no concerns regarding the proposed setbacks and was willing to put that in writing and to submit his letter for the official record if requested to do so. Ms. Vickie Sickler stated how dependent the community is on the fire department and said she supports the request;
- 16) Chair Abbey Gross asked if there was anyone in the audience wishing to speak against the petition; no one came forward;
- 17) Being there were no further questions or commentary on the matter, Attorney Diener provided each Board Member with a written ballot;

Ordinance Consideration Criteria

- 1) *The granting of this variance will not be injurious to the public health, safety, morals and general welfare of the community. The Board finds that the proposed development will be an upgrade to the previous site improvements; that a traffic plan has been agreed to which will manage emergency vehicle lines of travel and that neighbors found no objections to the proposal. As such, the Board finds the variance approval will not create any nuisance or safety condition which would be detrimental to the morals or general welfare of the community.*
- 2) *The use and value of the area adjacent to the property included in the variance request will not be affected in a substantially adverse manner. The Board concludes that the use will result in an emergency service improvement to the community and will add value by improving emergency response times and capabilities thereby supporting higher property values.*
- 3) *The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property. The Board concludes that the size, area available and topography of the lot would unreasonably prohibit the ability to construct a properly sized fire department structure unless relief is provided to zoning developmental standards.*
- 4) *The granting of a variance would be a minimal departure from the strict application of the provision of the zoning ordinance. In other words, the variance will be the minimum necessary to permit a reasonable use of the land and building. The Board determined the request to be reasonable and the most minimum allowance which could be granted and still allow for the proposed construction.*
- 5) *The variance requested does not essentially alter the character of the surrounding area. The Board concludes that emergency fire department services are common to a*

community, that fire department facilities are an already active use of the area and common to small community neighborhoods and thus will not alter the character of the surrounding area.

- 6) The granting of the variance is necessary for the preservation and enjoyment of a substantial property right possessed by other property owners in the same vicinity and district but which is denied to the property in question. The Board concludes that it is common for small lots which were developed prior to zoning ordinance standards to need setback relief in order to allow reasonable development and use of the land.*
- 7) The variance request is not the result of an act or action, or lack thereof, of the applicant, property owner, contractor or any party affiliated with the property to which the variance is being sought. The Board finds it is the size of an adequate fire station facility as well as the size, area available and topography of the lot that creates the need for setback relief, and that this condition is not the result of any action by the current owner.*
- 8) The need for the developmental standard variance is not based on a perceived reduction of, or restriction on, economic gain. The Board finds the request unrelated to a positioning for economic gain and is strictly related to a proper utilization of the site.*


The Board finds that the variance herein authorized and granted is not so typical or recurrent in nature as to make need for the formation of a general regulation under an amendment of the Ordinance for the above said condition or situation of the above said specific piece of property; the Board additionally finds that the determination of the above said variance is based on the findings of fact and that said findings of fact support and create a fact situation that warrants authorization of the above said variances as allowed for in the White County Indiana Zoning Control Ordinance.

For all the foregoing reasons, the Board APPROVED the request for the following:

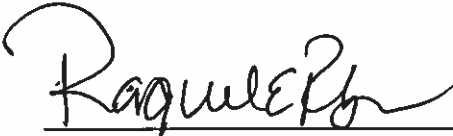
- 1. A 4' west side set back off of Main St vs the 30' required**
- 2. A 2' east side set back off of the residential property line vs 5' required**
- 3. A height allowance of 21'9" vs 19'**
- 4. To locate a driveway 0' from the residential district vs 25' required**
- 5. A variance from the landscaping requirements of Table 9.1**
- 6. A variance to allow employee parking area to be gravel material vs a dust free concrete or asphalt material as required by subsection 8.6.3(A)**

and it was so ordered, September 17, 2020.

Area Board of Zoning Appeals



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



**Raquel Reynolds, Secretary
Board of Zoning Appeals**

WHITE COUNTY BUILDING & PLANNING DEPT.
BZA MEETING SIGN IN/OUT

Date: September 17, 2020 – 6:00 p.m. Meeting Time

Scheduled Security Officer:

Printed Name	Purpose	Time In	Time Out	Signature
Joseph Rogers	BZA			
Raquel Reynolds	BZA	5:25	8:10	Raquel Reynolds
Dennis Sterret	BZA	5:41		Dennis Sterret
Abbey Gross	BZA	5:47	8:10	Abbey Gross
Randall Conwell	BZA	5:40	8:10	R Conwell
Stan Minnick	BZA	5:35	8:10	Stan Minnick
Jeff Guingrich	BZA	5:36	8:10	Jeff Guingrich
EMKA McARTHUR	BZA	5:25	8:10	EMKA McARTHUR
JIM MARRIN	BZA	5:35	8:00	JIM MARRIN
MARLENE MARRIN	BZA	5:35	8:00	MARLENE MARRIN
LIUKI S. ARTER	BZA	5:35	8:00	LIUKI S. ARTER
ALAN SICKLER	BZA	5:40		ALAN SICKLER
ASS. REUSAS	BZA	5:40	8:00	ASS. REUSAS
BZA STANISLAW	BZA	5:41		BZA STANISLAW
DAVID SGT	BZA	5:41	8:00	DAVID SGT
CHRISTIAN GROSS	BZA	5:41	8:00	CHRISTIAN GROSS

Printed Name	Purpose	Time In	Time Out	Signature	
Deirdre Smith	B2A	5:45	8:00	[Signature]	
Tina McGovern		5:51	8:00	[Signature]	
Scott H Simpson		5:53	8:00	[Signature]	
Diana Suhr		5:45		[Signature]	
William Suhr		5:45		[Signature]	
Mike Spolek		TLVSL	5:50	6:27	[Signature]
Wanda Arvin			5:51	6:27	[Signature]
Abe Hovin			5:52	6:27	[Signature]
MARK MATTOZ			5:47	6:05	[Signature]
Thomas Ball Sr			5:49	7:11	[Signature]
Thomas Ball Sr		5:49	7:11	[Signature]	
David Stahl		5:51	7:11	[Signature]	
Marion Ayala		5:52	6:00	[Signature]	
Scott A. Simpson		5:52	6:46	[Signature]	
David Springs		5:59			
William Suhr					
Diana Suhr					
Brian Suhr	V		8:10	[Signature]	
Alan Sweeney			8:11	[Signature]	
			8:00	[Signature]	