

Sellersburg Board of Zoning Appeals

The minutes as written are not verbatim from the meeting.

Call to Order:

Chairman Vincent C. Thacker, Jr. called the meeting of the Sellersburg Board of Zoning Appeals to order at 6:00pm at Sellersburg Town Hall, 316 East Utica St on February 18, 2019.

Roll Call:

Members present: Chairman Vincent C. Thacker, Jr., Vice-Chairman Francis A. Conroy, Members Charles Popp, Randall Mobley, and Dennis Amos. BZA attorney Jake Elder in attendance. Building Commissioner Mike Beard & consultant, Shelly Wakefield, were also present. Plan Commission Chairman Martina Webster present and takes notes.

Approval of Minutes:

Francis Conroy motions to approve the January 21, 2019 meeting minutes and February 6, 2019 special meeting, seconded by Charles Popp. Motion approved 5- aye, 0- nay.

Unfinished Business:

- a. (1) Wakefield presents for approval the BZA Rules & Procedures. Board discusses oath from petitioners and decided to include the oath in the document. Mobley offers a tentative motion to approve with minor spelling and grammar changes. 2nd by Conroy. Motion passes 5- aye, 0- nay.
(2) Motion to approve a Development Standards Variance Packet made by Charles Popp. Dennis Amos seconds. Motion passes 5- aye, 0- nay.
(3) Francis Conroy motions to approve the Use Variance Application Packet and Mobley seconds. Motion passes 5- aye, 0- nay.
- b. Thacker informs board the job posting for BZA/Plan commission secretary has been put online.
- c. Discussion of the distribution of meeting packets. All commission members will be emailed except Dennis Amos, whose information will be mailed in advance.

New Business:

- **Petition 2019-02-UV-02** James & Anita Disponett Variance at 3214 Allentown Rd
Public hearing opened at 6:17pm by Thacker. The request is for a variance on a parcel zoned B3 to allow living quarters in a building already on the parcel. Board Chairman requests all present who wish to speak on this petition stand. Board Chairman administers the oath to swear to tell the truth. Anita Disponett is not present. Regina Disponett is there to represent her mother-in-law. Board asks about the size of the current building and sewer/septic service.

Findings of Fact:

Regina states she did not receive a 2nd email. Wakefield states she did not receive findings of fact from petitioner. Popp asks when someone has lived there. Petitioners note that no one has lived there. Amos asks buyer about plans. Petitioners respond it will be for a woodworking shop. Mobley asks about fire safety. Popp asks if there is a working bathroom. Petitioner states that the variance will not adversely affect adjacent parcels. The need arises from something peculiar to the property – purchaser's bank is requiring it. Strict use would constitute a hardship because the sale depends on the variance. Petitioners have had the property for sale for 2 years. Regina Disponett states she has not read the comprehensive plan.

Daniel Waggoner – tentative purchaser – speaks. Address: 1 Riverpoint Plaza in Jeffersonville, IN. Potential buyer states Farm Credit requiring him to have a living quarters on the property to loan the money. He states he will not immediately be living there. The current interior will be torn out. The roofing & gables

will remain. Buyer again states he does not intend to reside immediately. States "if and when he decides to live there".

Mobley asks about the variance attaching to the parcel. Board clarifies intent. Waggoner states at some point he might reside there. Main residence is a condo in Jeff. Commissioner Beard clarifies wood storage would impact his plans when he does decide to build. The future build will conform to code at that time, not any past codes. Mobley questions that 800 sq ft doesn't meet code. Regina states 1200 sq ft does. 800 is the current square footage. Popp asks about changes. It will be a B3 with special use variance.

Public hearing closed at 6:45pm.

Board discussion:

Mobley asks about time restrictions on build. Mobley again has concern about fire hazard. Thacker brings up the possibility of the board approving variance but nothing ever gets built.

Brad Amos, representing neighboring parcel owned by Joe Decker, asks about drainage and a road easement. Mobley states rezoning would be decided by plan commission. Dennis Amos states buyer should have building commissioner approve the plans before buying the parcel.

- 1) Mobley makes the motion that approval of the variance will not be injurious to the public health, safety, morals, and general welfare of the community. Seconded by Francis Conroy. Thacker asks about the building being used as wood storage might increase fire hazard. Mobley clarifies the building is stick built. Popp worried about eye sore potential if buyer will not live there. Mobley clarifies there are already codes for grass cutting. Motion passes 3-aye with 2- nay (Popp, Thacker dissenting)
- 2) Conroy motions that the use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner. D Amos seconds. Conroy clarifies they will not be changing use. D Amos states there will still be problems with the building approval process. Popp again has concern if the risk of blighted property. Mobley said any buyer can currently buy it now at B3. Motion passes 3-aye with 2- nay (Popp, Thacker dissenting).
- 3) Motion by Mobley that the strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property. Seconded by Popp. Motion passes 5-aye, 0-nay.
- 4) Mobley motions that the strict application of the terms of the zoning ordinance will constitute an unnecessary hardship if applied to the property for which the variance is sought. Seconded by Conroy. Motion passes 5-aye, 0-nay.
- 5) Mobley motions that the approval does not interfere substantially with the comprehensive plan. Conroy seconds. Motion passes 5-aye, 0-nay.

Rules state variance cannot be open ended. Improvement must be done within 1 year. Wakefield explains if petition is granted the improvement "I can do what the variance allows". Board can stipulate special conditions. Mobley motions that the variance be approved with special conditions that a building location permit be obtained within 1 year and the variance is for a single family dwelling only. Seconded by Conroy. Wakefield clarifies the difference between a zoning permit and a building permit. Motion passes 5-aye, 0-nay.

- **Petition 2019-02-UV-03** Martin Patrick Variance at 226 Broadway
Public hearing opened at 7:14pm by Thacker. Variance requested to divide the parcel with 2 lots each with 47.5' frontage (lot width). Board Chairman requests all present who wish to speak on this petition stand. Board Chairman administers the oath to swear to tell the truth.

Petitioner Patrick of Cabin Hill Rd in Borden presents exhibit 1 and states it will be two single family homes. Each will be 3bdrm, 2ba. One will be 1500 sq ft; the other will be 1600 sq ft.

Findings of Fact:

Petitioner states the variance will not be injurious. They will be nice homes to be sold, not rentals. They will be stone & hardy board and priced at market. With regard to the use and value of the adjacent property being affected, the petitioner states again they will be nice homes and not crowded. He states it is his belief they will improve the neighborhood values. On the strict application of zoning resulting in practical difficulties petitioner explains the property is R1 and it will still be used residentially. Much of the neighborhood parcels are legally existing, non-conforming. Petitioner has 95' of frontage and is requesting a split into 2 parcels, each with 47.5'.

Amanda Duvall, 222 Broadway speaks. She has resided in her home for 60 years. The previous home that was on the property burned. It was close enough to her home that it melted siding and windows. She is opposed to the variance. She is not happy about her street turning into rental.

Carl Daily, 16217 Beyl Rd speaks. He owns the property at 512 E Utica which butts up to the property. Opposes the variance due to the already high density in the area.

Lynn Stepp of 512 E Utica has been there 10 years. Her mother owns the property and she rents. She's ok with 2 houses but would not be ok with apartments.

Mr. Patrick clarifies that he was their neighbor for 30 years. He says they will not be rentals, they will be single family homes. They will not be over using the yards. His plans are to bring the neighborhood value up.

Public hearing closed at 7:40pm.

Board discussion:

- 1) Mobley makes the motion that approval of the variance will not be injurious to the public health, safety, morals, and general welfare of the community. Seconded by Francis Conroy. Meets setbacks. Motion passes 5-aye, 0-nay.
- 2) Popp motions that the use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner. Conroy seconds. Noted it will be viewed as an improvement and should bring values up. Motion passes 5-aye, 0-nay.
- 3) Motion by Conroy that the strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property. Seconded by D Amos. Motion passes 5-aye, 0-nay. Amos clarifies distance between the neighbors will actually improve based on the plans provided.

Conroy motions that the variance be approved with special conditions that a building location permit be obtained within 1 year and the variance is for single family dwellings only. Seconded by Amos. Motion passes 5-aye, 0-nay.

No additional comments from building Commissioner Mike Beard, BZA attorney Jake Elder. S Wakefield explains that zoning permits and building permits are like comparing cows to apples. They are 2 separate approvals.

Adjourn:

Motion to adjourn by Dennis Amos. Francis Conroy seconded. Motion approved 5-aye, 0-nay. Meeting adjourned by Chairman Vincent C Thacker, Jr at 7:52pm.

Feb 18, 2019 meeting minutes

Vincent C. Thacker, Jr. Chairman

Francis A. Conroy, Vice Chairman

Dennis V. Amos, Member

Randall W. Mobley, Member

Charles E. Popp, Member

Attest: