

**Minutes
Board of Zoning Appeals
February 26, 2020**

The Board of Zoning Appeals of the City of Washington met on February 26, 2020, at 7:00 pm in the City Council Chambers. Chairman Don Spillman called the meeting to order with the following members present: Bill Summers, Greg Haag, Michael Allen, Don Spillman and Attorney Tim Dant. Dan Gress, Larry Mullen and David Gray were absent. After the rollcall, the Chairman stated a quorum was present.

Also attending were Building Commissioner Jon Casper, Code Enforcement Officer Brandt Powden and Plan Commission Secretary Maria Sergesketter.

Minutes from the Board of Zoning Appeals meeting held on January 22, 2020, were approved. Motion to approve the Minutes was made by Greg Haag and seconded by Michael Allen. A voice vote was taken, Minutes were approved with all in favor.

All persons present who desired to speak during the hearings on cases before the Board were sworn in by Chairman Don Spillman.

The following cases were heard by the Board of Zoning Appeals:

Case V-2-20: Kyle Cornelius is requesting a Variance. He would like to build a 36 ft x 60 ft addition to an existing building that previously required a variance. This property is zoned Residential multi-family R-2. The property is located at 664 E 150 S. Property size is 5.92 acres. Parcel number for the property is 14-13-02-100-014.000-016. Kyle Cornelius was present and explained that they were needing more room for their 4-H Horses. There were no questions from Board members. Chairman Donald Spillman put the case before the board. Acting Secretary Maria Sergesketter took a roll call vote. Motion passed 4-0 with Dan Gress, Larry Mullen and David Gray being absent.

The Criteria for a Variance from Developmental Standards are set out in IC 36-7-4-918.5 in order to grant a Variance from the City's Developmental Standards the Board of Zoning Appeals must determine that at least one of the following criteria exists:

- 1. The approval 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/conditional use will not be affected in a substantially adverse manner:**

Case V-5-20: Jeremy & Susan Tooley are requesting 3 variances for the Accessory Building. Total Square Feet, Sidewalls and Peak. The property is located at 1251 N 100 W. Property size is 8.379 acres. Parcel Number for the property is 14-10-21-400-011.000-016. Jeremy Tooley was present to answer any questions. He said the building size is 36 x 48. He explained that the building was going to be used to store his camper and miscellaneous items. Board Member Greg Haag stated that the height shouldn't be an issue since the land where it is going to be built slopes down. Building Commissioner Jon Casper stated that the building should blend in or match Mr. Tooley's other buildings on his property. With no other questions or statements, Chairman Donald Spillman put the case before the board. Acting Secretary Maria Sergesketter took a roll call vote. Motion passed 4-0 with Dan Gress, Larry Mullen and David Gray being absent.

The Criteria for a Variance from Developmental Standards are set out in IC 36-7-4-918.5 in order to grant a Variance from the City's Developmental Standards the Board of Zoning Appeals must determine that at least one of the following criteria exists:

1. **The approval 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/conditional use will not be affected in a substantially adverse manner:**

Case C-2-20: Randy Burkhardt is requesting a Conditional Use to operate a gun shop from his residence. The property is located at 2 Northside Drive. Property size is .74 acre. Parcel number for the property is 14-10-27-101-029.000-017. Mr. Burkhardt was present to answer any questions. B & C Guns is owned by his Father, Byron Burkhardt. This shop is currently located at 1405 Maxwell Ave. Byron Burkhardt received a Conditional- Use in 2017 (C-2-17). This is the business that Randy Burkhardt wants to move this to his home on Northside Drive. President Don Spillman advised to put 6 stipulations on the conditional use: (1) can only sell type 1 hand guns and long guns, (2) can be by appointment only, (3) can receive no complaints about parking from neighbors, (4) can have no signs or advertising on property, and (5) can have no excessive amounts of ammunition on property. He may have ammunition for his personal guns. (6) Approval of this Conditional-Use will be pending upon obtaining his Federal Firearm License. With no other questions, Chairman Donald Spillman put the case before the board. Acting Secretary Maria Sergesketter took a roll call vote. Motion passed 4-0 with Dan Gress, Larry Mullen and David Gray being absent.

The Criteria for a Variance from Developmental Standards are set out in IC 36-7-4-918.4 in order to grant a Variance from the City's Developmental Standards the Board of Zoning Appeals must determine that at least one of the following criteria exists:

- 1. The approval 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/conditional use will not be affected in a substantially adverse manner:**
- 3. The approval does not interfere substantially with the City's adopted comprehensive plan.**

Case C-3-20: Ron & Dawn Perkins are requesting a Conditional Use to operate the Serenity House, a women's care facility. The property is located at 232 Front Street. Property size is 18750 TSF. Parcel number for the property is 14-10-27-302-098.000-017. Dawn Perkins was present to answer any questions the Board might have. Mrs. Perkins said The Serenity House is a sober living house. This house is to help women get started in life after incarcerations. These women have already completed rehab before entering this home. They work with community corrections and attend support meetings. This home is monitored in person, by cameras and the women are subjected to random drug screens, strict rules and regulated visiting hours. The home has been here for 1.5 years. Ron & Dawn Perkins took the Serenity House over when her sister Beth became ill and could not continue her work with the house. This is an 8 Bed home and it is a Non-Profit home. The home must have 9 parking spots. Mrs. Perkins stated that the girls do not have vehicles until they are within weeks of leaving the home. President Don Spillman stated that the parking spaces are a requirement regardless if they have car or not. He also stated that the maximum allowed beds would be 8. Michael Allen asked if the women were from Daviess County. Mrs. Perkins stated that most are from Daviess County, but some are from other counties. With no other questions, Chairman Donald Spillman put the case before the board. Acting Secretary Maria Sergesketter took a roll call vote. Motion passed 3-1 with Dan Gress, Larry Mullen and David Gray being absent.

The Criteria for a Variance from Developmental Standards are set out in IC 36-7-4-918.4 in order to grant a Variance from the City's Developmental Standards the Board of Zoning Appeals must determine that at least one of the following criteria exists:

- 1. There was a predominate concern the approval will not be injurious to the public health, safety due to proximity of schools, morals, and general welfare of the community:**
- 2. The use and value of the area adjacent to the property included in the variance/conditional use will be affected in a substantially adverse manner:**

Case C-4-20: Tom Parr is requesting a Conditional Use to operate a holding facility for cars. The property is located at 765 NW 21st Street. Property size is 6.12 acres. Parcel number for the property is 14-10-28-203-004.000-016. Mr. Tom Parr was present to explain his plan and answer any questions. Mr. Parr is wanting to operate a holding facility for cars. Currently he has approximately 166 cars. 95% of the cars come from Daviess County. He has a portable car crusher brought in from a company out of Tennessee when weather permits or after he has 100+ cars. He added a 9' tall screen/fence. Per Building Commissioner Jon Casper's approval. He stated that no fluids hit the ground. He takes batteries to Auto Zone, sells Aluminum wheels and converters to a guy. President Don Spillman said IDEM's Clean Yard Program addresses salvage yards. It states that a salvage yard is when cars are brought in, parts are sold, dismantled, and if you possess more than 2 inoperable vehicles for more than 30 days. Board Member Greg Haag asked why the fence did not go all the way around the facility? Mr. Parr stated that it was due to a Neighbors request that it not go all the way across the front of the property, but he would if the board requires it. When the weather breaks, he said he would put in a gravel road and he could make a gravel lot so fluids would not leak on the ground. Board Member Michael Allen asked who would monitor this Conditional-Use. Code Enforcement Officer Brandt Powden would be able to monitor some of it, but he does not have the same authority as the State or IDEM. At this point Stipulations were added to this Conditional Use. Bill Summers made a motion to add the following stipulations. Greg Haag seconded.

- (1) All vehicles must be free of fluids before stored
- (2) Fencing must be added to screen the entire NW 21st frontage.
- (3) He must follow the Clean Yard Program as laid out by IDEM.

There were several present at the meeting that had concerns. They included Yolanda Bostic, Shane Granger and Matt Lyford. Their concerns were about the county road, line of sight, additional traffic, topsoil conditions and property values. There were also several people in attendance in support of Mr. Parr. Those included Mike Sturgeon, Brad Rainey and Elmo Ramsey. They spoke of his helping spirit, how he must maintain insurance for this business and how the property value has not been affected by this business. Michael Allen asked who controls and monitors the Clean Yard Program. Attorney Tim Dant asked if IDEM offered an advisory position. Code Enforcement Officer said that IDEM will only monitor when a complaint triggers them to get involved. Mike Sturgeon, who owns a similar business, said that the State does a yearly inspection.

Mike Allen also wanted to know what triggers insurance claims for this type of business. Mr. Sturgeon said that if the main oil storage tank leaks that would trigger a claim. Michael Allen had concerns since Mr. Parr currently does not drain fluids from the cars, so he does not have a main storage tank and older cars tend to leak fluids. It was also a concern that the CYP addresses issues for a business before it starts, but this business is already started. There are several other properties, on a smaller scale, like this one that will be addressed soon. Attorney Tim Dant suggested that the Burden of proof be put on the landowner that they are complying with all rules and regulations. President Don Spillman expressed gratitude to Mr. Parr for coming in and trying to become compliant with the Board. The question also arose of how the City can regulate this business. If he is not compliant then the City can assess fines/penalties per day until it would be compliant. Other topics included how the County is still responsible for maintaining their own roads. Code Enforcement Officer Brandt Powden explained the impound process. Nathan Burris also spoke of how this business help other businesses like Craney's Body Shop. Upon further discussion other Stipulations were added to this Conditional Use. Greg Haag made a motion to add the following stipulations. Bill Summers seconded.

- (1) all new cars obtained would have fluid drained.
- (2) the only cars that will be obtained will be from City tagged cars or City Impound.
- (3) must start draining all fluids from current vehicles in his possession.
- (4) must obtain a soil test within a reasonable amount of time at owner's expense.
- (5) try to move the approximate 166 cars the owner currently has.


President Don Spillman made the motion to Table this case until Mr. Parr returns with the results of the soil samples. At that point the case will be revisited.

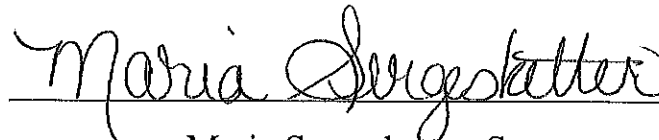
In other business, Becky Guthrie representing Ride Solutions was here to present their parking lot paving plan. She stated that CFO Tom Frank had put \$20,000 in their capital expense budget. She stated that they would get the additional \$30,000 to get the parking lot done this year. The Board is happy with this plan. She had a list of properties that she questioned why they were not held to the same standards. President Don Spillman explained to her that most of the properties on that list were grandfathered properties. If any of those properties were not grandfathered, we would be sending a letter to them.

Building Commissioner Jon Casper informed the Board that currently we do not have anything on the schedule for March. He also stated that Mr. Pete Aldrich would be coming to the office on Monday for a meeting to find out how many group homes he

operates. He might be on the docket for March.

With no other business, the meeting was adjourned.


Donald C. Spillman, Chairman or Acting Chairman


Maria Sergesketter, Secretary