

Minutes
Board of Zoning Appeals
August 26, 2020

The Board of Zoning Appeals of the City of Washington met on August 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, Larry Mullen, Greg Haag, Don Spillman, Michael Allen, David Gray, and Dan Gress. Member absent Attorney Tim Dant. After the roll call, 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 July 22, 2020, were approved after discussion. Dan Gress wanted the vote count changed to reflect that he abstained on case V-20-20. The minutes will be corrected. Motion to approve the Minutes with the discussed correction was made by Larry Mullen and seconded by Greg Haag. A voice vote was taken, Minutes were approved with all in favor. Board Member Michael Allen wanted to go on record about V-18-20. He had questions about the address of 25 Brett Cabel Road versus the 25 Green Acres. He felt like the minutes are misleading on the information of additional pole buildings found from the corner of 12th & Brett Cabel to Sugarland Road. He felt this did not represent the Green Acres neighborhood. He also wanted to know how many of those had variances. It was reiterated to Mr. Allen that the only reason Mr. Alford needed to get a variance was for the 12-foot sidewalk. Chairman Don Spillman also informed Mr. Allen that the Board of Zoning Appeals is required to notify adjoining property owners. Other property owners will have the opportunity to voice their opinions, but the adjoining property owner's opinions have more of an impact on the Board's decision. Mr. Allen questioned the decision that 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. He wanted to know if this is based off the time of the application or the duration of the constructed building. Mr. Allen also asked when are we going to have an Attorney present at our meetings? Chairman Don Spillman informed him that the City Attorney was in the hospital. He also stated that we do not have to have Mr. Dant present to proceed with business. We definitely prefer him to be here to ask questions to but unfortunately, he is unable to attend this meeting.

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-22-20: Washington Housing Authority is requesting a variance to use a residential zoned lot as a commercial parking lot after the home is demoed. This property is zoned Residential multi-family R-3. The property is located at 108 Southside Avenue. Property size is .2 acres. Parcel number for the property is 14-10-34-102-126.000-017. Bill Summers and Samantha Bobbitt were present to explain the project and answer questions. Ms. Bobbitt explained that the parking lot will be similar to the parking lot across the street from the council chambers. Building Commissioner Jon Casper said that there was going to be 2 entrances/exits to the parking lot. She said that there will be some sort of fence between the parking lot and the house to the west. Larry Mullin made a motion to add the stipulation, and variance, that an 8-foot solid vinyl fence between the parking lot and the house to the west. Michael Allen seconded. All Board members voted in favor to add the stipulation and fence height variance. 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 6-0-1 with Bill Summers abstaining.

The Criteria for a Conditional Use exception or a Use Variance are set out in IC 36-7-4-918.4 in order to grant a Conditional Use exception or a Use Variance the Board of Zoning Appeals must determine that at least one of the following criteria exists:

After hearing the case the Board of Zoning Appeals determined that

- 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-14-20: Blagler Properties is requesting a 12ft side setback reduction between Kemper building and this property. This property is zoned Commercial Roadside Business C-4. The property is located at 418 S State Road 57. Property size is .209 acres. Parcel number for the property is 14-10-34-101-115.000-017. Travis Summers, Blagler Properties, was present to answer questions about the project. He stated that they would like to build a 16' x 32' addition to accommodate additional room for a dentist office. Building Commissioner Jon Casper stated that the alley behind the building that

stops at the Kemper building has not been vacated. It is still an open alley. Board Member Dan Gress made a motion to grant the same variance for the existing building as well as the new addition. This will allow the entire building to be in compliance. Bill Summers seconded. All Board members voted in favor to add the stipulation. Board Member Michael Allen made a motion that the exterior on the new addition be the same materials as the existing building. Greg Haag seconded. All Board members voted in favor to add the stipulation. Chairman Don Spillman advised Mr. Summers that in the future no work is to be started until all permits and or variances are granted, or fines will be implemented. 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 7-0 with the 2 stipulations added.

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6. Case C-12-20: Jason Joyce is requesting a Conditional Use to operate an internet gun shop from his residence. This case was requested to be heard again due to new information. This property is zoned Residential single-family R-1. The property is located at 20 Coronado Drive. Property size is .23 acres. Parcel number for the property is 14-10-26-202-052.000-017. Jason Joyce failed to appear to appeal his case therefore, the Board did not review the denial made at the July meeting.

7. Case C-8-20: Stryker Excavating LLC is requesting a Conditional Use to operate a lawncare, landscape, excavating business from a residential zoned lot. This case is being recalled to the BZA to review their plan of action. This property is zoned Suburban Residential S-1. The property is located at 180 E 140 S. Property size is 3 acres. Parcel number for the property is 14-13-02-203-007.000-016. Ian Johnson and Krystal Knepp, representing Stryker's Excavating, were present to answer any and all questions. Remonstrators present were Diana Peel, Lisa Peel-Stremlau and Attorney Tanner Bouchie. This case was tabled from the June 24, 2020 meeting. All parties presented the

Building Commissioner with lists of expectations/goals. Chairman Don Spillman asked Mr. Johnson if the compromised list was workable? Mr. Johnson said that the Vinyl white fence was not feasible. They would however build a solid wooden fence. It is more economically feasible for them. They were asked about the vehicles on the property. Some are business, but some are for personal use. The personal use vehicles would stay on property regardless if business is operating or not. The Peel's Attorney Tanner Bouchie spoke about how Stryker's business practices are not compatible with residential practices. He said the Peel's would like to see the BZA deny the conditional use and to give the Stryker's 30 days to vacate the property. Board Member Larry Mullen said that if the variance would be denied that ample time must be given to relocate their business and 30 days is not enough time. Mr. Bouchie also addressed the issue of the burning pile and the Peel's concern that things other than wood is being burned. He also reiterated that the burden of operating this business or getting this variance should be on the petitioner not the anyone else. Ian Johnson stated that he would like to see all lawncare companies, that are located in residentially zoned areas in the City, be held to the same stipulations as he is. He also said that he did not understand why this became an issue now since this is his 4th season of being there. Board Member Dan Gress asked Building Commissioner Jon Casper if he felt that there has been effort put forth by Stryker's to comply with the requests from neighbors. Building Commissioner Jon Casper stated that he believes that they have shown effort but there is still quite a bit to do on the property. Bill Summers made a motion to change the following stipulation. He suggested that instead of a vinyl fence Stryker's could put up a solid fence that must be well maintained. Dan Gress Seconded. All Board members voted in favor with the exception of Board Member David Gray (6-1) to add the stipulation. Dan Gress made a motion to give Stryker's 90 days to become compliant. Michael Allen seconded. All Board members voted in favor (7-0) to add the stipulation. Here is the list of stipulations that was added to this Conditional Use.

Conditional Use Stipulations for Stryker Excavating and Landscaping

1. All trash, unusable automobiles, and other junk or unusable items must be removed from the property within 90 days from this meeting or the conditional use will be invalidated.
2. A solid fence that is well maintained along the west property line approximately 6-8' in height.
3. No new structures relating to the business in any way shall be built or placed on the property. (No permanent variance to be given to a non-permanent Conditional Use)
4. In accordance with Indiana Administrative Code 326 4-1-2, no burning of any commercial, business, industrial, or residential trash will be allowed.
5. The property shall not be used for waste storage of any kind. This will include any trash and/or yard waste and debris.

6. Business operations (which includes preparing vehicles for use) or the gathering of employees shall not commence before 7:30 a.m. and must conclude by 6:00 p.m., unless there is an unusual situation that prevents the above being achieved. (i.e. snow or other weather-related emergencies).
7. All Equipment shall continue to be staged towards the East side of the property as has been since the original Board of Zoning meeting.
8. The business owner and property owner must give written permission for the Building Commissioner/Code Enforcements of the City of Washington, or their designee to enter the property unannounced for the purpose of ensuring compliance with the conditions attached to this conditional use variance.

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 4-3 with the 8 stipulations added.

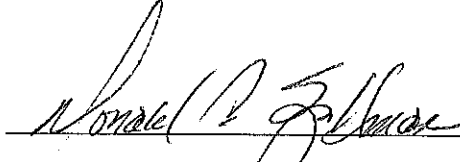
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Building Commissioner Jon Casper informed the Board that currently we have 1 case for September.

With no other business, the meeting was adjourned at 8:50 p.m.



Donald C. Spillman, Chairman or Acting Chairman



Maria Sergesketter, Secretary