

**Minutes**  
**Board of Zoning Appeals**  
**October 28, 2020**

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The Board of Zoning Appeals of the City of Washington met on October 28, 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, Michael Allen, Dan Gress, David Gray, Don Spillman and Attorney Tim Dant. 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.

City Attorney Tim Dant talks about the role of the Board of Zoning Appeals and its power to grant Developmental Variances, Special Uses, Special Exceptions and Conditional Uses. The Area Board of Zoning Appeals is not allowed to issue Use Variances. We have been conducting business correctly, just not labeling cases correctly. After much discussion about this issue it was decided to move on to the cases on the docket.

Minutes from the Board of Zoning Appeals meeting held on September 23, 2020 and Special meeting held on October 6, 2020, were approved. Motion to approve the Minutes was made by Greg Haag and seconded by Larry Mullen. A voice vote was taken, Minutes were approved with all in favor.

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

Chairman Don Spillman suggested we change a couple of the case labels from V-23-20 to SE-1-20, V-32-20 to SE-2-20 and V-27-20 to SE-3-20. All Board members were in favor.

**Case SE-1-20:** Daviess County Commissioners are requesting 7 Special Exceptions. Reduction of sign setback from 15' to 0'. 4 Houses to be demoed and want to use residential lots as parking lots. This property is zoned Residential multi-family R-3. The properties are located at 304 E Hefron Street, 210 & 214 NE 3<sup>rd</sup> Street, 303 & 309 E Hefron Street, 211 & 215 NE 4<sup>th</sup> Street. Property size is .82 acres. Parcel number for the properties are 14-10-27-402-121.000-017, 14-10-27-403-007.000-017, 14-10-27-403-015.000-017, 14-10-27-403-008.000-017 and 14-10-27-403-009.000-017, 14-10-27-403-017.000-017 and 14-10-27-403-010.000-017.

County Attorney Grant Swartzentruber was present to answer questions about their application. Mr. Swartzentruber explained their project and answered all questions. He explained that the homes would be demoed, and the lots would be gravel until the time they settle. He said the lots would have pavement/concrete as soon as they are able to. It was stressed to Mr. Swartzentruber that the Board would like to see all their parcels combined into 1 parcel. Mr. Swartzentruber stated it was on their to-do list. With no other questions or statements, Chairman Donald Spillman put the case before the board. Acting Secretary Maria Sergesketter took a roll call vote for the parking lots Special Exception. Motion passed 6-0-1 with Dan Gress Abstaining. Acting Secretary Maria Sergesketter took a second roll call vote for the Sign Special Exception. Motion passed 7-0.

**Case C-5-19:** David Neidige is called to reappear before the Board of Zoning Appeals. This property is zoned Commercial Local Business C-1. The property is located at 10 W Main Street. Property size is .25 acres. Parcel number for the property is 14-10-27-304-088.000-017. Mr. Neidige was present to request an extension. He explained that basically he hired the wrong guy to complete the work. He also explained of health issues with himself and his family. He said that he is currently working on getting the lot finished. It should be completed by Friday but due to the weather it may take longer. Bill Summers made a motion to give Mr. Neidige until November 30, 2020 to complete the work. Greg Haag seconded. A voice vote was taken. All members were in favor for the extension until November 30, 2020.

**Case SE-2-20:** Cynthia Swan is requesting a front & side setback reduction. This property is zoned Residential Two-Family R-2. The property is located at 700 SW 6<sup>th</sup> Street. Property size is .23 acres. Parcel number for the property is 14-10-34-203-029.000-017. Ms. Swan was present to answer any questions. Building Commissioner Jon Casper explained that the mobile home will be owner occupied and will be replacing a Type 3 mobile home with a Type 1 mobile home. She is only here due to her being on a corner lot to clean up the setbacks. He explained that the front of the mobile home (Northwest corner) will be no farther out than the current home, but the home is wider and will extend out more to the south. He stated there will also be 10 feet between her new home and the garage. With no other questions or statements, Chairman Donald Spillman put the case before the board. Acting Secretary Maria Sergesketter took a roll call vote for the Special Exception. Motion passed 7-0.

**Case SE-3-20:** McDonald's Restaurant is requesting a sign setback reduction. This property is zoned Commercial General Business C-2. The property is located at 1450 E National Hwy. Property size is 1.25 acres. Parcel number for the property is 14-10-35-201-081.000-017. The manager of McDonald's Restaurant called the Building Commissioner's Office during office hours today. She stated that her Physician suggested that she not attend the meeting due to her underlying health issues and Daviess County being in the Orange due to Covid-19. She asked if she had to be in attendance or if Building Commissioner Jon Casper could speak on her behalf. Mr. Casper agreed to do so. He explained that it was not in the Right-of-Way but at the 0' mark. It was not obstructing any views. With no other questions or statements, Chairman Donald Spillman put the case before the board. Acting Secretary Maria Sergesketter took a roll call vote for the Special Exception. Motion passed 7-0.

**Case V-33-20:** Yolanda Bostic is requesting minimum lot width reduction. This property is zoned Agricultural A-1. The property is located at 804 NW 21<sup>st</sup> Street. Property size is 1.78 acres. Parcel number for the property is 14-10-28-204-003.000-016. Dennis Helms, Landmark Surveying, was present to answer any and all questions. He explained that there are 2 homes on this parcel. When the parcel is split this will cause the parcel to not have enough road frontage. Ms. Bostic will have a 25' strip for herself and another 25' strip with an easement for her mother. This will make her road frontage to a 50' strip. Chairman Don Spillman proceeded to ask him the 3 questions that need to be answered and satisfy the Board of Zoning appeals. Dennis Helms accommodated the Board. With no other questions or statements, Chairman Donald Spillman put the case before the board. Acting Secretary Maria Sergesketter took a roll call vote for the Special Exception. Motion passed 7-0.

**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:**

**The Board Determined the request meets the following stipulations:**

- 1. The approval will not be injurious to the public health, safety, morals, and general welfare of the community:**
  - a. The homes have been there for many years so this will not affect anything in the neighborhood therefore the variance will not hurt or potentially cause harm to the city or county.**
- 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:**
  - a. Granting this variance will not disturb the neighbors or affect them in a substantially adverse manner to the neighboring property. The neighborhood will not suffer any**

**major negative impacts.**

- 3. The strict application of the zoning ordinance will result in practical difficulties in the use of the property.**
  - a. The adjoining property she owns can not be developed unless the variance is approved. The potential for development is greatly hindered if this is not approved.**

**Case V-29-20:** Dr. Darrell Deem is requesting 6 variances. 1. Over maximum TSF allowed (2912) 2. Sidewall height (14') 3. Peak height (23') 4. 8' reduction between 2 buildings 5. Over 35% lot coverage 6. Reduce parking spaces to 15'. This property is zoned Residential two-family R-2. The property is located at 114 W Van Trees Street. Property size is .31 acres. Parcel number for the property is 14-10-27-304-061.001-017. Mr. Deem spoke with Building Commissioner Jon Casper this afternoon. He requested to withdraw his application due to the number of variances he was requesting and also due to the number of Board Members that would have to abstain from the vote. He said he would like to proceed with trying for a re-zone to C-1 of his property. This zoning would match the zoning of his Dentist Practice.

In other business Building Commissioner Jon Casper advised the Board of Zoning Appeals that upon further investigation our Code Book does not specify that only 1 (one) building with multi-families can only be built on R-3 zoned properties. Dennis Helms, Landmark Surveying, also added that there are multiple cases in our history where multiple buildings accommodating multiple families were built in the City. His examples were Cherry Tree Apartments, West Wood Addition and several more. This question was brought up due to an upcoming issue that would be located in the 2-mile extra-territorial zoning area. The Board agreed that she would not need to come before the BZA based upon the information Mr. Casper shared.

Mr. Casper also informed the Board that Ian Johnson, Stryker Excavating, called in today to let him know that they are in the process of buying a commercial property located downtown. Mr. Johnson stated he was unsure if he would be able to move out by November 24, 2020. The Board decided that we should go ahead and advertise for their case and Building Commissioner Jon Casper will monitor their progress.

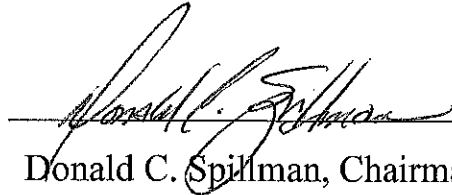
Mr. Casper also was asked about how the Hoover/Carroll driveway easement was coming along. Mr. Casper said he would contact one of them to see where it stands.

It was also asked about the building that is being built on Maysville Road. Mr. Casper stated that it was permitted as a personal garage, but there are no garage doors. He told the Board that he spoke with the owner and he stated that his wife might want to run a "food truck" type business out of it. Upon hearing that information, Mr. Casper spoke

with Indiana State Fire Marshall Carl Deel and informed him of the potential upcoming business. Mr. Deel stated that he would keep an eye on it. If a State Design release would need to be filed, he would address that when it needs to be addressed.

Mr. Casper informed the Board of Zoning Appeals that once he has some of these questions answered he would send an email containing some answers to all Board members

With no other business, the meeting was adjourned.

  
Donald C. Spillman, Chairman or Acting Chairman

  
Maria Sergesketter, Secretary