

**Minutes**  
**Board of Zoning Appeals**  
**December 8, 2021**

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The Board of Zoning Appeals of the City of Washington met on December 8, 2021, 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, Dan Gress, David Gray, Don Spillman and City Attorney Tim Dant. Board Member Larry Mullen was absent. After the rollcall, the Chairman stated a quorum was present.

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

Minutes from the Board of Zoning Appeals meeting held on November 23, 2021, was approved. Motion to approve the Minutes was made by Greg Haag and seconded by Bill Summers. 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 City Attorney Tim Dant.

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

**Case SE-42-21:** Roger Killion is requesting a Special Exception. He would like to rent a double single wide trailer that is connected by a walkway that has lost its grandfather. This property is Residential Two-Family R-2. The property is located at 503 Vine Street. Property size is 1.26 acres. Parcel number for the property is 14-10-29-404-030.000-017. No one was present to represent the case. Building Commissioner Jon Casper informed Mr. Parham twice of the meeting date and time. He was informed on Monday, December 6, 2021 in person and by phone Wednesday, December 8, 2021, at approximately 3:15 p.m. City Attorney Tim Dant sent an email with a legal opinion regarding this case. (See attached letter) This case should be switched from a special exception to a Variance. The issue with approving a variance is that the land does not have any special or unusual circumstances that would allow a variance to be granted. This property has also lost its grandfather. There have not been utilities to this property since 9-24-19. Board Member Greg Haag said that Mr. Parham stated last meeting that he would be losing income. This property has not been collecting rental income for several years so that was a moot point. (See Washington Municipal Utilities notes attached) Mr. Haag also stated that even if the trailers were put on a condemnation list for Building Commissioner Jon Casper to monitor, it would be a lot of resources put toward something that does not have much value. He also thought that it would be difficult to find quality repair men to work on

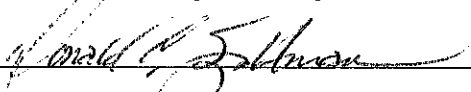
these trailers. City Attorney Tim Dant also wanted to make sure the Board was aware that the Ordinance does not mention the wording "Owner Occupied." It was discussed many years ago to add this language but was never added. After much discussion, Chairman Donald Spillman put the case before the board. Code Enforcement Officer Brandt Powden took a roll call vote. Motions denied 0-6.

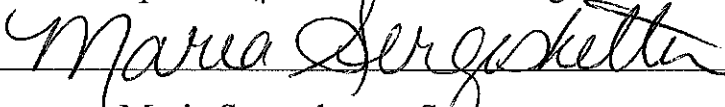
Board Member Dan Gress asked the Board if they reviewed the Common Wall agreement that he had emailed to the Board. There was some discussion on this matter that will result in further discussion with upcoming projects.

Also Building Commissioner Jon Casper let the Board know that there have been some issues with the addressing of Brett Cabel Rd / Green Acres area and First Responders finding the correct address per GIS. This is something that he will be working on.

Mr. Casper informed the Board that there will be a meeting in January.

With no other business, the meeting was adjourned at 8:00 p.m.

  
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Donald C. Spillman, Chairman or Acting Chairman

  
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Maria Sergesketter, Secretary

**Legal Opinion Regarding Case SE-42-21-**  
**Roger Killion's Request for a special exception**

This case was tabled at the November BZA meeting to allow counsel to research the issues raised by petitioner's request. There seems to be two relevant provisions in the city code.

The first relevant provision deals with the fact that a legal non-conforming use which has been "grandfathered-in" when new restrictions are enacted loses its "grandfathered-in" status when it has been discontinued for 1 year. In other words, once the legal non-conforming use has ceased to be used for one year, then the property must be used in conformity with all provisions of the code. The non-conforming use is no longer legal. This provision actually appears twice in the code at §155.045(B)(2) and at §155.041(F).

The petitioner's request is for a special exception, however, a special exception is a circumstance where the local authorities had anticipated such circumstances and had made some provisions for it. A variance, on the other hand, grants a property owner the ability to use his property in a manner that is completely against local regulations. This request would more appropriately be viewed as a request for a variance.

Another provision of the code which should be considered is §155.045(B)(3) which states, in pertinent part that "If existing mobile homes have expended it's useful life... the replacement unit must not exceed 10 years of age or must pass an inspection by the building commissioner and be declared safe and cosmetically appropriate for the neighborhood."

In this case, there clearly is no "replacement unit" being considered. But there seems to be agreement that the existing unit has expended its useful life unless extensive repairs are made. The Board could determine that this provision could be used to require the petitioner to comply with all safety measures which the Building Commissioner would find necessary and to approve a variance conditioned 100% upon the petitioner meeting all safety standards demanded by the Building Commissioner. The Board could require a certificate of occupancy to be issued before any person could reside in the remodeled unit.

These are the options available to the Board.

## **Maria Sergesketter**

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**From:** Rosie Kelso  
**Sent:** Thursday, December 9, 2021 9:41 AM  
**To:** Maria Sergesketter  
**Subject:** 503 VINE ST  
**Attachments:** MARIAINFOFOR503VINEST.pdf

Hello,  
I have attached the info you requested for 503 Vine Street.  
There are two accounts at that location and both are owned by Herb Parham.  
The other account—13259.7 has not been on since December 7, 2018.  
Let me know if you have any questions.  
Thank you!

*Rosie Kelso*  
**Washington Municipal Utilities**  
Collections Clerk  
101 N. E. 3<sup>rd</sup> St.  
Washington IN 47501  
Phone: (812) 254-2730

**Waste Account Maintenance**

Master | User Page | Comments | Extra Page | Deposit Refund Info | Associated Names | Meter History | Address

503 VINE ST

Account No: 1315676

Acct Status: A Start Dt: 06-23-2010

Resident

Name: PARHAM, HERBERT

Address: 244 APRAW RD

City: WASHINGTON

Zip: 47501

St: IN Cr-rt

DL#:

SSan:

Phone: 812-254-3082

Cell#:

E-mail: DO NOT TURN ON EL PER BC

AR: QM

BH: QS

PH: IQ

WO: AR Log

E-mail Bill:

Ext. Date:

Ext. Type:

NSF Date:

NSF Count:

Landlord:

Last Update: 09-24-2019

Balance: -124.51

Bill To: R

Owner Code: 0104

Name: PARHAM, HERB

Address: 244 APRAW RD

City: WASHINGTON

Zip: 47501

St: IN Cr-rt

Phone: 812-254-3082

SSan:

DoB:

Refuse Status: A Value:

Refuse Rate: NCT

Contract Amt:

Electric Status: A Value:

Electric Rate: LI1

Begin Read:

Water Status: I Value:

Water Rate: NCH

Occupants:

Book #: 14

Sewer Status: I Value:

Sewer Rate:

Occupants:

Book #:

Print Screen | Text | Copy | Cancel | Update | Delete

Master Account Maintenance | Deposit Refund Info | Associated Names | Meter History | Address

Master | User Page | Comments | Extra Page

10/1/19 THIS IS A SEC LIGHT ONLY--THERE IS NO ELEC ON AT THIS HOUSE PER SA--SO IF ANYONE TRIES TO TURN ELEC ON AT THIS ADDRESS DO NOT LET THEM--PER DON WILLIAMS BUILDING COMM--RXK

9.24.19 DON W. TOLD ME LAST NIGHT AT CC MEETING TO NOT TURN ON EL AT THIS LOCATION UNTIL NOTIFIES. SA

Comments

Delete Row | Append Row | Insert Row | Print Screen | Cancel | Update | Delete