

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

In compliance with the appropriate provisions of the Brownsburg Zoning and Subdivision Control Ordinances, the Board of Zoning Appeals (hereinafter "Board") held a public hearing pursuant to notice at 7:00 p.m. on May 14, 2012, to hear Docket # BZUV-4-12-1103, a petition for a Conditional Use Variance from §155.200(B)(1) of the Brownsburg Zoning Ordinance, entitled "Permitted Uses" to allow a photography studio as a permitted use on the property.

The petitioner, Brandon D. & Jennifer L. Soots, appeared by agent Lee Comer, and presented testimony and evidence in support of their application.

FINDINGS OF FACT

The Board, having this matter presented at a public hearing on May 14, 2012, having considered the arguments of the petitioner, and being duly advised in the premises, now finds and makes the following Findings of Fact:

1. That the legal address of the real estate subject to the petition is 7540 E. County Road 300 North, Brownsburg, Indiana, and is further identified as Indiana Parcel Numbers 32-07-23-400-007.000-015.
2. That the real estate to which the petition is addressed is not within the Town of Brownsburg, Hendricks County, Indiana, and will only be subject to the terms and provisions of the Town of Brownsburg Municipal Code, Zoning and Subdivision Control Ordinances upon annexation into the Town.
3. That Brandon D. & Jennifer L. Soots are the current owner of the real estate subject to the petition.
4. That the real estate to which the petition is addressed upon annexation will be zoned 'R-1' Single Family Residential.
5. That the petitioner is requesting to allow a photography studio as a permitted use on the property.
6. That §155.200(B)(1) of the Brownsburg Zoning Ordinance, entitled "Permitted Uses" to allow a photography studio as a permitted use on the property.

CONCLUSIONS OF LAW

Based upon the above Findings of Fact, the Board does now conclude:

1. The approval will not be injurious to the public health , safety , morals, and general welfare of the community because the photography studio is a one person/low-key venture; and
2. The use and value of the property included in the variance will not be affected in a substantially adverse manner since the use as a photography studio will have little impact to the adjacent area, considering that the entire tract is approximately 2 acres in size and that the parking will be near the center of the parcel, which is near the proposed studio building. As part of the requirements upon the subdivision that surrounds three sides of the subject tract, the developer was required to place screening through the use of vegetation. The existing outbuildings also provide screening, but with only an average of 3 appointments per week, there appears to be sufficient screening in place; and
3. The need for the variance arises from some condition peculiar to the property involved since the 2 acres as the former hub of a large farming operation is now an anomaly to the area. At one time the subject parcel was the hub of a farming operation, which is the reason for all of the outbuildings. The outbuildings lend an opportunity for background pictures and albums of graduates and families; and
4. The strict application of the terms of the Zoning Ordinance will constitute an unusual and unnecessary hardship if applied to the property for which the variance is sought because the property has structures that are not used in residential settings, but can be utilized for the studio operation. The zoning districts for both Hendricks County and the Town of Brownsburg would open up many uses for the property, which may not be in the best interests of the general area. While the Town of Brownsburg has the availability of "Use Variances", the county does not. Therefore any petitions through the County would be in the nature of Zoning petitions, rather than a Use Variance through which limitations of use are more available; and
5. The approval does not interfere substantially with The Comprehensive Plan since the use does not interfere with the residential classifications in the area. The residential appearance of the site will not change. The traffic will be similar to that of a strictly residential use and that it will actually be less until the home is again made habitable. A Use Variance appears to be a more viable means to allow the petitioner his use as a studio, rather than pursuing a commercial classification, which could allow more intense uses in the area.

ORDER

Based upon the foregoing Findings of Fact and Conclusions of Law, the Board does now **APPROVE** the Conditional Use Variance requested by Brandon D. & Jennifer L. Soots, known as Docket No. BZUV-4-12-1103 located at 7540 E. County Road 300 North, Brownsburg IN 46112; subject to and conditioned upon the following:

1. That this Use Variance be for Brandon D. & Jennifer L. Soots only;
2. Subject to annexation within six (6) months of the approval of this variance;
3. That one (1) sign be permitted on-site with a maximum sign area of fifteen (15) square feet, maximum of five (5) feet tall, and to remain unlit;
4. Prior to opening for business a life safety inspection must be completed by the Brownsburg Building Department and Brownsburg Fire Territory. If any violations/concerns are identified the property owner/tenant shall address all violations/concerns to the satisfaction of the Brownsburg Building Department and/or Brownsburg Fire Territory. After the initial life safety inspection an annual life safety inspection must be conducted to ensure that the life safety features are in adequate working order;
5. That a written comment be executed and recorded with the Hendricks County Recorder's Office regarding sections 155.149(C)(8)(a)&(b) of the Zoning Ordinance which state:
 - a. That the hours of operation of this photography studio be limited to Monday through Friday, 1:00 PM to 6:00 PM and Saturday, 8:00 AM to 6:00 PM.
 - b. That the appointments at this site be limited to "appointment only".
 - c. That the number of appointments at this location do not exceed an annual average of three (3) per week.
6. The approval of the Findings of Fact and Conclusions of Law..

Date: _____ By: _____
President, Board of Zoning Appeals

Date: _____ Attest: _____
Secretary, Board of Zoning Appeals