



BOARD OF ZONING APPEALS
Minutes

**Brownsburg Town Hall
61 North Green Street
Brownsburg, Indiana 46112**

Monday, May 14, 2012

The Brownsburg Board of Zoning Appeals convened at 7:00 PM with the Pledge of Allegiance. Tom Lacey, 2012 president opened the meeting. A roll call was taken.

Members Present: Tom Lacey, Eric Willman, Al Wolting, and Chuck Walker
Members Absent: Brett Scowden

Also Present: Todd A. Barker – Director of Planning, Tricia Leminger- Town Attorney, and Jonathan Blake-
Planning Technician

C. CONSIDERATION OF PREVIOUS MINUTES:

1. April 9, 2012 – Regular Meeting

Motion: Eric Willman made a motion to **APPROVE** the February 13, 2012 regular meeting minutes, seconded by Al Wolting, motion carried 4-0.

D. APPROVAL OF FINDINGS OF FACT:

1. BZUV-3-12-1097 BKH, LLC. (AKA MIDWEST TECHNICAL INSTITUTE 'MTI') 558 & 550 Pit Road

Motion: Al Wolting made a motion to **APPROVE** the Finding of Facts for BZUV-10-11-1088 with the amendment of correcting the case number on the document, seconded by Chuck Walker, motion carried 4-0.

E. OLD BUSINESS:

1. **NONE**

F. NEW BUSINESS:

1. BZUV-4-12-1103 BRANDON D. & JENNIFER L SOOTS 7540 E. CR 300 NORTH
A REQUEST FOR A USE VARIANCE FROM §155.200(B)(1) OF THE BROWNSBURG ZONING ORDINANCE, ENTITLED "PERMITTED USES" TO ALLOW PHOTOGRAPHY STUDIO AS A PERMITTED USE ON THE PROPERTY. THIS PROPERTY IS NOT ANNEXED INTO BROWNSBURG AT THIS TIME, IT IS ZONED 'AGR' AGRICULTURE RESIDENTIAL UNDER THE JURISDICTION OF HENDRICKS COUNTY UPON ANNEXATION IT WOULD BE ZONED 'R-1' SINGLE FAMILY RESIDENTIAL. **ADVERTISED PUBLIC HEARING**
(PARCEL No. 32-07-23-400-007.000-015)
REPRESENTED BY: LEE T. COMER, COMER LAW OFFICE

Lee Comer presented the request for Use Variance for Brandon D. and Jennifer L. Soots stating this property consisted of 2 acres of ground surrounded by the Bersot Crossing subdivision with approximately 8-10 outbuildings located on the property.

Mr. Comer stated this property owners intended to utilize the various settings for props and locales for backdrops. The house on the property had been damaged in a fire 23 months ago; the property owners intend to remodel it in the future for future habitation.

See detailed statement of reasons for additional information

Eric Willman stated the detailed statement of reasons indicated a maximum number of 3 appointments per week. He expressed concern with the amount of traffic that would go through the property if the business were to grow. Mr. Willman requested there be a condition added that the business would be limited to an average of 3 appointments per week; should the business grow beyond that there would be a need for the applicants to submit an additional petition in the future.

Jennifer Soots, property owner, stated she was an 'on-location' photographer and does a lot of travelling to various locations. The property would serve mainly as a winter location where she would be photographing newborns, engagement, and family photos inside the buildings.

Mr. Comer stated if the business grew they would come in and request a new petition.

Tom Lacey inquired if the property owners had been made aware of the annexation process with Town Council. Todd Barker stated that the conversation had previously taken place with Mr. Comer. It was noted that annexations are roughly a 45 day process and that the notice period, or the notice of public hearing, would be the petitioner's responsibility.

Chuck Walker inquired if the property was currently in town. Mr. Barker confirmed that it currently was not annexed, however, before an action on the property became effective, the property must be annexed. Tricia Leminger stated the next step in the process would be a voluntary annexation petition.

Mr. Willman sought clarification on what would happen if the use variance was approved and the annexation was not approved; would the use variance would become null and void? Mr. Barker agreed, also stating that use variances are not permitted in Hendricks County. The property owners would be required to complete a rezoning of the property through Hendricks County to a commercial classification to permit this request. It was the belief of the property owners they did not want to go through a rezoning. Mr. Comer stated this is a unique piece of property that was not included in the process of Bersot Crossing subdivision; however the Use Variance process is easier in the Town than the Rezoning process with Hendricks County

Mr. Lacey stated the house still appears in some disrepair and inquired what the purpose of the home would be. Brandon Soots, property owner, stated it has been 2 years since the original fire. By the end of the summer they plan on having the outside of the home completed; specifically painting the exterior and replacing boards. It is their intention to make the building structurally sound and up to building code. At this time there is no set timeline for completion however they intend for it to be a future home.

Mr. Comer stated the property owners had just acquired the home last October and had already begun the reconstruction process.

Mr. Walker expressed concern about the lighted sign that was indicated in the detailed statement of reasons; wanted to know if they had placed a request for the lighted sign and

where would it be located on the property. Mr. Comer stated the building sat 100 yards off the road. At this time, they have not decided on a specific location.

Mr. Lacey asked Todd Barker to address the sign permitting process. The detailed statement of reasons indicated 20 square feet, which Mr. Barker advised the Board that a nearby photography studio has a sign that is comparable in size.

Al Wolting asked if someone has a bed and breakfast would they be allowed a sign in front of their property. Mr. Barker stated that would depend on the zoning district they are in; generally limited to 4 square feet.

OPEN ADVERTISED PUBLIC HEARING

Steven Woods
7535 E CORD 300 N
Brownsburg, In 46112

Steven Woods approached the Board of Zoning Appeals in opposition to the Use Variance request. Mr. Woods stated he had purchased the property one month prior to the fire on the subject property. Since then, the house had sat empty for almost 2 years. He and his wife received a certified letter regarding the petition however stated they did not receive all the information regarding the request; specifically information regarding placing a sign on the property. He was concerned about the value of the property should the variance be approved.

Mr. Woods stated there is a sign at the neighboring photo studio, however should the variance be approved the following are his concerns:

- Increase in traffic
- Decrease in property value
- Environmental concerns about the hog shed being used as a setting and bringing customers into the existing facilities
- Concerned about the ongoing process if it does get annexed; what kind of continued steps will there have to be?
- Will there be sidewalks put in

Mr. Woods stated he purchased the property to live in the country and was concerned about the potential for commercial development.

Mr. Willman reminded Mr. Woods that the intent of the petition was to allow the studio to be in a residential zone. Mr. Woods stated that the long-term plan of Northfield Drive coming through could make the area commercial.

Mr. Lacey stated for the record that Mr. Woods had provided a letter to Town Hall Staff stating his concerns. This property will stay R-1 with sidewalks.

Mr. Barker addressed the concern stating that the Subdivision Control Ordinance states sidewalks are required as infrastructure as a part of the plating process. This request is not creating any new buildable lots therefore the plating process is not required as a result the current petition does not require sidewalks to be install.

Mr. Woods inquired if the property were not annexed could the property be subdivided?

Mr. Barker stated that he was unaware of Hendricks County ordinances as far as AGR classification but is doubtful they could subdivide in the property in the current zoning classification.

Mr. Lacey addressed the concern regarding the disrepair of the house and surveyed the board if the petitioner could guarantee the house be repaired in original standards would that satisfy Mr. Woods. Mr. Woods stated it would and the property owners had previously mentioned their intentions for the house.

Mr. Lacey addressed the petitioners regarding the concern about the sign; asked what had the property owners anticipated. Mr. Comer stated the lighting is planned to be a dusk to dawn light similar to security light. The detailed statement of reasons had indicated 20 square foot being the maximum but felt 15 square foot would be more suitable to their needs.

Mr. Lacey asked if there were any plans to enlarge the current driveway to accommodate traffic. Mr. Comer stated the driveway will remain the same.

Mr. Lacey inquired of the total square foot of the building the property owners intended to use in conjunction with their sets and props. Mr. Comer stated the building was approximately 20 x 50.

Mr. Lacey verified that the building will house changeable sets. Mr. Soots stated the property will allow for various settings, the building will have false walls with a dressing room. Their intention is to offer 5-6 different rooms inside the structure however the outside appearance will stay consistent with the farm setting. Other than ensuring the building is structurally sound and fresh paint is applied, there is no plan to change the structure of the house.

Mr. Walker stated he was still concerned with the sign in the rural setting. He stated a large lighted sign disturbs the makeup of the neighborhood. Mr. Walker recommended that a 2 x 3 sign was sufficient to indicate the business on the premises.

Mr. Lacey asked Mr. Barker to provide direction from the sign ordinance on what size and type of sign would be permitted in this zoning classification. Mr. Barker advised that under the current ordinance there is no allotment of size requirements; stated that is the reason for the sign inclusion with the Use Variance petition.

Mr. Wolting inquired if the petitioner had any intention to live on the subject property once the repairs were completed on the home. Mr. Comer stated it is intention for another family member to reside at the location in the future.

Mr. Lacey clarified that the long-term plan was to use it as a home residence. Mr. Comer confirmed that it would be a home residence.

CLOSED ADVERTISED HEARING

Mr. Comer stated the petitioner is self-imposing a 15 sq foot limitation- 5 ft tall and can light the sign with security lights or whichever the board approves.

MOTION: Eric Willman made the motion to **APPROVE** BZUV-3-12-1097 subject to and conditioned upon the following the recommendations included in the staff synopsis report with a maximum square foot of 15 feet for the sign, maximum height of 5 feet tall, and externally lit seconded by Tom Lacey; Chuck Walker and Al Wolting **OPPOSED** the motion; motion failed.

Tricia Leminger stated the motion failed and that the matter would need to come back before the BZA for another Public Hearing.

Mr. Walker stated he would be willing to change he vote if the sign were unlit.

MOTION: Eric Willman made the motion to **APPROVE** BZUV-3-12-1097 subject to and conditioned upon the following the recommendations included in the staff synopsis report with a maximum square foot of 15 feet for the sign, maximum height of 5 feet tall, with the sign to be unlit seconded by Chuck Walker; Al Wolting **OPPOSED** the motion; motion carried 3-1.

G. REPORTS FROM OFFICERS AND COMMITTEES

Todd Barker presented the proposed Comprehensive Plan schedule hearing at the Plan Commission as well as the APC special meetings on the proposed Zoning Ordinance.

Mr. Barker stated the April Plan Commission meeting was the first public hearing on the Ronald Reagan Parkway. The Plan Commission continued the request and took comments from the property owners. Consultants are currently working on addressing those concerns for the meeting this month on Tuesday May 29th.

Additionally, the Plan Commission is working through the Zoning Ordinance process and will hold a meeting on Wednesday, May 17th on Article 5. They intend to hold the public hearing at the Plan Commission level at the end of July.

H. COMMUNICATIONS & BILLS

1. NONE

I. ADJOURNMENT

Motion: Al Wolting made a motion to ADJOURN, seconded by Eric Willman, motion carried 4-0. 7:45 p.m.

Tom Lacey, President

ATTEST:

Meegan Morgan, Recording Secretary