

BOARD OF ZONING APPEALS



FINDINGS OF FACT

**BZUV-2-11-1065
Brownsburg Muffler
660 E. Main Street**

CONCLUSIONS OF LAW AND RECOMMENDATIONS

In compliance with the appropriate provisions of the Brownsburg Zoning and Subdivision Control Ordinances, the Board of Zoning Appeals held a public hearing pursuant to notice at 7:00 p.m. on April 13, 2011, to hear Docket # BZUV-2-11-1065 Brownsburg Muffler a petition for a Use Variance from §155.208(B)(1) Permitted Uses within the "C-3" Commercial Zoning District of the Zoning Ordinance as presented by Jeffery Jackson for:

1. Jeffery Jackson and Tim Shaw

Petitioner, Jeffery Jackson on behalf of owner Jeffery Jackson and Tim Shaw, appeared and presented testimony and evidence in support of their petition.

FINDINGS OF FACT

The Brownsburg Board of Zoning Appeals, having this matter presented at a public hearing April 13, 2011, 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 real estate to which the Petition is addressed is within the Town of Brownsburg, Hendricks County, Indiana;
2. That the Petitioner, for property known as 660 E. Main Street, requested a Use Variance to permit Outdoor Storage within the fenced area north of the primary structure;
3. The approval of this use variance will not be injurious to the public health, safety, morals, and general welfare of the community because the area for the outside storage is fenced with security gate. The storage area has access only with access code at electronic gate and the property owners does not allow nonfunctioning RVs Boat or Trailers to rent storage;
4. The use and value of the area adjacent to the property in the variance will not be affected in an adverse manner because the property is surrounded by commercial businesses & railroad tracks. Across the tracks is a privacy fence;
5. The need for a variance arises from a condition peculiar to this property. The area used for storage is in the rear of property. The property owners can not really add to existing business & building using this part of the property. There is no other

access except from the front of the property. It would be difficult to develop for another use with no access or frontage;

6. The strict application of the terms of the zoning ordinance will definitely constitute an unusual and unnecessary hardship if applied to this property. The property is zoned C3. I 3 & M1 are the only zone that allows outside storage. There is outside storage within sight of the property across railroad track to the east. The petitioner paid a company Economic Solutions to establish that the property had proper zoning to put up a fence & have outside storage. The property owner has had outside storage since 2007 with no complaints that he's knows of. Without approval the property owner will have to terminate leases & ask people to move out & seek storage elsewhere; and
7. The approval does not interfere substantially with The Comprehensive Plan. Property next to this project is commercial. The Comprehensive Plan will not rename this area Non-commercial.

CONCLUSIONS OF LAW

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

1. That the Petition on file, with all notice requirements having been met, with the Petitioner having appeared before the Board of Zoning Appeals and having presented their Petition, and with members of the public having been given the opportunity to be heard in opposition or in support of such Petition, that the Board of Zoning Appeals is entitled to approve or disapprove said Petition;
2. That the property which is the subject of the Petition is within the Town of Brownsburg and is subject to the terms and provisions of the Town of Brownsburg Municipal Code, Zoning and Subdivision Control Ordinances;
3. The approval of this use variance will not be injurious to the public health, safety, morals, and general welfare of the community because the area for the outside storage is fenced with security gate. The storage area has access only with access code at electronic gate and the property owners does not allow nonfunctioning RVs Boat or Trailers to rent storage;
4. The use and value of the area adjacent to the property in the variance will not be affected in an adverse manner because the property is surrounded by commercial businesses & railroad tracks. Across the tracks is a privacy fence;
5. The need for a variance arises from a condition peculiar to this property. The area used for storage is in the rear of property. The property owners can not really add to existing business & building using this part of the property. There is no other access except from the front of the property. It would be difficult to develop for another use with no access or frontage;

6. The strict application of the terms of the zoning ordinance will definitely constitute an unusual and unnecessary hardship if applied to this property. The property is zoned C3. I 3 & M1 are the only zone that allows outside storage. There is outside storage within sight of the property across railroad track to the east. The petitioner paid a company Economic Solutions to establish that the property had proper zoning to put up a fence & have outside storage. The property owner has had outside storage since 2007 with no complaints that he's knows of. Without approval the property owner will have to terminate leases & ask people to move out & seek storage elsewhere;
7. The approval does not interfere substantially with The Comprehensive Plan. Property next to this project is commercial. The Comprehensive Plan will not rename this area Non-commercial; and
8. That the variance is subject to and conditioned upon the following:
 - a. That all vehicles must be in operable condition (*Operation Condition is when a vehicle is properly titled & licensed and being in such a state that use or operation is possible*);
 - b. That the storage of property be limited to non-explosive, non-toxic, non-combustible, non-perishable and otherwise lawful and harmless personal property owned by a Tenant and/or the owner(s) of the property at 660 East Main Street;
 - c. That signs, advertisements or other notices shall not be affixed, painted, or otherwise attached to inside or outside of the space;
 - d. That no pets or other living organisms may be stored within the storage facility;
 - e. That no refuse or other garbage or debris shall be placed within the storage facility;
 - f. That the sidewalks, driveways passages, and other common areas shall not be obstructed nor for used for any other than ingress and egress to and from storage spaces to ensure that all public safety officials have sufficient access in case of an emergency; and
 - g. That no tenant shall use such space or the premises surrounding such space to repair, construct, clean, build, manufacture or otherwise work upon cars, boats, motorcycles, trailers, or vehicles, equipment or apparatus of any kind without the express written consent of Landlord.

ORDER OF APPROVAL

Based upon the preceding Findings of Fact and Conclusions of Law, the Brownsburg Board of Zoning Appeals does now **APPROVE** the request for a **Use Variance** for Brownsburg Muffler at 660 E. Main Street, Brownsburg IN 46112.

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

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