

ROLL CALL

Rose Ann Barrick
Jerry Petzel, President
Harry Baumgartner, Jr.
James Schwarzkopf
Keith Masterson

Michael Lautzenheiser, Jr., Secretary

Vice-President, Rose Ann Barrick called the February 28, 2012 meeting for the Board of Zoning Appeals to order at 7:00 p.m. Four members answered roll call. Jerry Petzel was absent.

James Schwarzkopf made a motion to approve the minutes from the January meeting. Keith Masterson seconded the motion and the minutes were approved by a 4-0 vote.

OLD ITEMS:

B12-01-01 JEFFERSON TWP., NW/4 10-28N-12E David W. Myers requesting a variance to increase size of sign face from 16 sq ft to 400 sq ft; increase height of sign from 20'ft to 30'ft; reduce the front yard setback to 10'ft and reduce the side yard setback to 5'ft. The property is located at 10687 N SR 1, Ossian, IN 46777. Property is zoned S-1.

Derek Myers, son of David Myers, represented the petitioner. He stated that he had made several attempts to visit each of the neighbors surrounding the property. The only neighbors that he was able to speak with were Jack and Terri Blair and explain the details of the project. Mr. & Mrs. Blair didn't give a definitive answer on their opinion while he met with them. For the other adjacent neighbors, he tried on several attempt to meet with them, but could not find a time when anyone was home. Mr. Myers kept the BZA sign in the yard for the extra month to keep the neighbors aware that something was still going on with the property.

Michael Lautzenheiser Jr. stated that he had contacted INDOT about the proposed sign that was heard last year, which was just south of 1050N. According to the conversation with INDOT, they would not permit billboard advertising along a state highway where the property is zoned residential. The other proposed sign petition never filed with INDOT because they were told this. Mr. Lautzenheiser clarified that the other petition was zoned R-1, where this property is S-1. He stated that INDOT said that the property would have to be zoned commercial or industrial in order to obtain a permit from them for billboard advertising along a state highway.

Mr. Myers advised that he had the exact opposite conversation with the Fort Wayne district permit approval for INDOT. That conversation is what lead him to file with the BZA. He contacted them due to the interpretation of S-1 by different municipalities and wanted to get INDOTs opinion on what they thought of S-1 zoning. The person he contacted stated that if it wasn't R-1 then she would encourage him to present it to the local governing body.

Mr. Lautzenheiser stated that he too had contacted the Fort Wayne office and spoke with the main contact person there and also spoke with one of the inspectors. He also stated that there had been a letter received by the office from Josh Gerber, which indicated that he was not in favor of the petition.

Mr. Myers commented that the board should get the sign standards to be in line with INDOT's standards that way in the future there is not the problem like this one. He also questioned the board's vote on previous advertising sign petitions.

The board discussed the difference between residential zonings of R-1 and S-1.

James Schwarzkopf made a motion to deny the petition due to the fact that INDOT would not allow a petition for this type of sign along a state highway, where the property is zoned residential.

Conditions: None

Motion to Deny: James Schwarzkopf

Second: Harry Baumgartner, Jr.

Vote: 4-0

B12-02-03 LANCASTER TWP., SE/4 28-27N-12E Diocese of Fort Wayne, Inc. (St. Joseph's Catholic Church) requesting a variance for placement of a second sign on site. The property is located at 1300 N. Main St., Bluffton, IN 46714. Property is zoned B-3.

Michael Lautzenheiser, Sr. represented the petition for the church. He stated that the church owns 13.5 acres on Highway 1 across from the businesses on Baker Drive. The property sits within a greater 40 acre tract that is trusted to the church, but is not owned by the church. The church, parking lot and current sign sit on the north half of the property. The current sign is about 300'ft from the north property line. There is a small woods to the south of the church building. The proposed location for the new sign would be about 300'ft south of the existing sign and the trees prohibit the sign from going any farther south. The sign would be back farther than the 90' from the center of the road. The sign will be behind the new proposed river greenway extension. It will be on the west side of that walkway. The second sign will not be used for advertising. It will not be used for any business off of the property. It will be used for inspirational messages.

Mr. Lautzenheiser, Sr. provided the board with examples of the types of messages that would be used, along with the dimensions of the proposed sign. He advised that the sign would not be lighted and that there are no enters to the property at that location. He stated that he checked with INDOT and they said that no approval was necessary due to the size and type of sign. The sign is proposed to be 10'ft high and 12'ft wide and there will be 2 faces to the sign. He then discussed how the sign would meet the requirements of the BZA.

Conditions: The sign cannot be lit and it cannot be used for commercial purposes.

Motion to Approve: James Schwarzkopf

Second: Harry Baumgartner, Jr.

Vote: 4-0

B12-02-04 JEFFERSON TWP., NE/4 15-28N-12E Brian L Donovan requesting a variance for an existing 8' X 12' storage shed on the southeast side of the property, which is currently in the utility easement. The property is located at 702 Heatherwood Ln., Ossian, IN 46777. Property is zoned R-3.

Brian Donovan stated that he had built a shed on his property. When he placed it there, he was unaware of all of the steps that he had to go through before putting up the shed. He stated that Michael Lautzenheiser, Jr. came out and informed him that there was an easement on the property and that he would have to apply for a variance if he wanted to keep the shed at the current location, which is 13'ft from the back property line and 11'ft off of the south property line. Mr. Donovan spoke with the neighbor to the south, which has a shed in the north east corner of their property, and she said that she did not have an issue with the location of his shed. She also stated that she had to get a variance to have her shed at that location. He also advised that the shed was movable due to its size.

Michael Lautzenheiser, Jr. stated that the utility easement was 20'ft on the property, due to the fact that the property behind this location is not developed.

Mrs. Donovan contacted the City of Ossian and they stated that as long as it passed this board's approval that they had no problem with it. She also spoke with a neighbor that has a fence in the easement. She contacted the utility companies and stated that they were okay with the shed at the current location.

Mr. Lautzenheiser stated his concern about the advertisement sign for the meeting that was placed in the Donovan's front yard and the fact that it was moved behind a sign to the north side of the property and was not visible to the public.

Mrs. Donovan commented that she had called the office and was told that the sign could be moved as long as it was still on the property. She stated that she moved it to the property line and that the real estate sign was placed there after she had moved the advertisement sign.

Mr. Lautzenheiser advised that the Town Board of Ossian stated that they would no longer be supporting sheds located in their easements. In order for the board to approve a variance in an easement, the board would have to have the support of the controlling agent. The town of Ossian controls the utility easement. The Town Board of Ossian voted on that point at the Monday, February 27, 2012 meeting. He stated that the decision is not a retroactive one.

The Donovans disputed the town of Ossian's vote on the subject matter. They also disputed the meeting date verses when they filled their petition.

Mr. Lautzenheiser stated that if the town of Ossian does not allow them to keep the shed in the easement that does not mean that they cannot have a shed. There is ample room on the property for the shed to be moved out of the easement.

James Schwarzkopf made a motion to continue so that the Donovans can go before the Town Board of Ossian to see if they can receive approval to have the shed at the current location.

Conditions:

Motion to Continue: James Schwarzkopf

Second: Keith Masterson

Vote: 4-0

B12-02-05 ROCKCREEK TWP., SW/4 04-27N-11E Eric A & Jennifer R Bailey requesting a variance for an addition to an existing building. The addition will maintain the same 12'ft distance from the property line as the existing building. The property is located at 3875 NW State Road 116, Markle, IN 46770. Property is zoned A-1.

Eric Bailey stated that they recently purchased the property and wanted to put a new building in place of the old building. The floor of the current building is gravel and when it rained last year about 2-3 inches was in the shop. He would like have a shop where he can work on the family cars, which is the reason that he would like to build a new building at the same location. The proposed location is a good place, due to the fact that it is easy to turn and maneuver vehicles into it. The elevation is a little low and they would bring in dirt to raise the area before building. He stated that he spoke with the Montgomerys, the neighbors to the south, and they were okay with the proposed project.

Michael Lautzenheiser, Jr. stated that on the plans there is a bathroom. He advised the petitioner that he would need to speak with the health department about hooking up to the septic. He also stated that the location does have localized flooding and it would need to be built up.

Mr. Bailey advised that run off water currently goes into the pond and there is an overflow on the northeast side of the pond. There is a pipe that goes into the pond, which ties into a field tile.

Mr. Lautzenheiser stated that with the precedent of the current building being there on the site that the new building is not getting any closer to the property line. He advised that 5'-10' between the building and the property line should be left at regular elevation before the increase. This would be in case tiling around the building needed to be done at some point.

Mr. Bailey's father-in-law stated that there was already an 8"inch culver pipe in the low swale.

Mr. Bailey stated that any down spouting that was done on the proposed building could be run into that so it could be taken away from the area.

Conditions:

Motion to Approve: Keith Masterson

Second: James Schwarzkopf

Vote: 4-0

Discussion:

Michael Lautzenheiser, Jr. commented to the board on the phone call that was received in the office from Mrs. Donovan, in regards to her tone and comments. The board discussed possible options on how to handle difficult callers and their questions.

ADVISORY:

James Schwarzkopf made a motion to adjourn the meeting. Keith Masterson seconded the motion and the motion passed with a vote of 4-0. The February 28, 2012, meeting of the Board of Zoning Appeals adjourned at 8:00pm.

Ron An Barritt, Vice Pres.
~~Jerry Petzel, President~~

ATTEST: *Michael W. Lautzenheiser Jr.*
Michael Lautzenheiser, Jr., Secretary