

**July 26, 2018**

The Ellettsville, Indiana, Board of Zoning Appeals met on Thursday, July 26, 2018, at Ellettsville Town Hall. Terry Baker called the meeting to order at 6:00 p.m. and led the Pledge of Allegiance.

**Roll Call:** Members present were Terry Baker, President; Russ Ryle, Vice President; Todd Lare and Pat Wesolowski. Fred Baugh was absent.

### **Approval of Minutes**

Terry Baker entertained a motion for approval of the minutes for the meeting on June 28, 2018. Russ Ryle so moved. Pat Wesolowski seconded. Motion carried.

### **New Business**

**Request for a Variance from Development Standards to Allow an Additional 32 ft<sup>2</sup> of Freestanding Signage, 5560 W. State Road 46 (Domino's Pizza); Petitioner: Custom Sign and Engineering, Inc.; Case No. BZA2018-03**

**Kevin Tolloty, Planning Director**, explained the duties of the Board of Zoning Appeals ("BZA") and the definition of a variance from development standards. The following criteria for a variance from development standards are as follows:

1. It will not be injurious to the public health, safety, morals, and general welfare of the community.
2. The use or value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner.
3. The strict application of the terms of the zoning ordinance will not result in practical difficulties in the use of the property.
4. Approval does not interfere substantially in compliance with the existing comprehensive plan.
5. Approval is not based solely on financial hardship or mere convenience.
6. The approval is in conformance with all other Town ordinances.

Criteria for a practical difficulty are as follows:

1. The need for the variance arises from unique conditions on the property not shared by other properties in the same zone.
2. The strict compliance of the standard would unreasonably prevent the landowner from using the property for a permitted use or render the conformity unnecessarily burdensome.
3. A particular request for lesser relaxation of the ordinance standard would provide substantial justice to the landowner and neighbors.
4. The need for a variance is not the result of a self-created action by the current or any former property owner.

**Kevin Tolloty, Planning Director**, explained the Petitioner is requesting a variance to add 32 ft<sup>2</sup> of freestanding signage to the existing 78 ft<sup>2</sup> freestanding sign. Town code allows freestanding pole signs of up to 80 ft<sup>2</sup>. Property is zoned Commercial-3. Staff recommended denial of the variance. There was a discussion on what would happen if the vote again resulted in a tie and the possibility of alternate BZA members.

**Scott Eppers, Custom Sign & Engineering, Inc.**, explained the same conditions apply. They're asking for a 32 ft<sup>2</sup> elevated, changeable copy, permanent sign to advertise multiple specials and events. At the last meeting, it was discussed the sign would be obstructive to traffic. They learned they could have a 32 ft<sup>2</sup> banner which is the exact size of the sign they've requested. A banner would be ground mounted which could be an obstruction to traffic pulling in/out of Domino's Pizza ("Domino's") and adjacent businesses. If they can

get approval for the sign, the same size as a banner, the owner will agree not to put up banners. An email from the previous property owner stating the sign was removed in November 2017, can be provided. There was not an opportunity to re-work the existing signage.

**Pat Wesolowski** asked if the banner would be put on two posts. Mr. Tolloty answered yes, for a freestanding banner. Banners have to be outside of the site triangle as they are not permitted to block traffic. Mr. Wesolowski asked if the banners cannot be up 52 weeks/year. Mr. Tolloty explained banners cost \$40 for a 30-day period, six times/year. There is a 10-day break between each 30-day period for a maximum of banners being allowed 180 days/year. Mr. Ryle asked how far a site-triangle has to be from the pavement. Mr. Tolloty replied it is 20' down the driveway and State Road 46 because the state's right-of-way runs behind the sidewalk. Mr. Ryle asked if a banner would have to go on the grass in front of Domino's. Mr. Tolloty answered it should be behind State Road 46. Mr. Eppers explained the ingress/egress is made from concrete and goes all the way to the end of the right-of-way. Mr. Tolloty noted the state took additional right-of-way on State Road 46. Mr. Wesolowski commented Domino's has put over \$1 Million into Ellettsville. Domino's moved to Ellettsville to help the community and the owner donates to different programs in the Bloomington area. Long John Silvers did not make donations to the Town and was an eye sore in the community. The Town of Ellettsville does a lot of things downtown such as Food Truck Wednesday they probably don't follow all of the rules and regulations of zoning. The Town should help Domino's and grant the variance because they brought their business to Ellettsville.

**Todd Lare** explained the last time the BZA met, he voted to support the request for a variance because he wants to encourage small business. He appreciates businesses located within the Town's jurisdiction. He understood the problematic piece was removed before they had a chance to use the existing signage. Also, he understood and sympathized with the jurisdictional confusion between the City of Bloomington and Ellettsville regulations. His preference is to have a nicely constructed sign instead of banners up and down State Road 46. He is of the opinion there is too much signage on State Road 46. He appreciates staff's comparison of other signage and variances that may/may not exist along the same track of road. He had hoped a solution would have been identified. Unfortunately, that wasn't the case and the fifth member of the BZA is not present. He will change his vote as it would be more in compliance with the signage that currently exists on State Road 46.

Terry Baker entertained a motion. Russ Ryle made a motion to deny the request for a variance from development standards, BZA2018-03. Terry Baker seconded. Roll call vote: Terry Baker – yes; Russ Ryle – yes; Todd Lare – yes; and Pat Wesolowski – no. Motion carried, 3-1.

**Kevin Tolloty** advised findings need to be adopted and signing the individual worksheets are sufficient for the same. Findings will be formally adopted at the next meeting.

### **Board of Zoning Appeals Comments**

**Terry Baker** announced the next meeting is scheduled for September 12, 2018.

### **Adjournment**

Terry Baker entertained a motion to adjourn. Pat Wesolowski made a motion to adjourn. Russ Ryle seconded. Motion carried. Meeting adjourned at 6:29 p.m.

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Terry Baker, President

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Fred Baugh

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Todd Lare

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Pat Wesolowski

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Russ Ryle

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Denise Line, Secretary