

May 24, 2018

The Ellettsville, Indiana, Board of Zoning Appeals met on Thursday, May 24, 2018, at Ellettsville Town Hall. Terry Baker called the meeting to order at 6:00 p.m. and Todd Lare led the Pledge of Allegiance.

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

Approval of Minutes

Terry Baker entertained a motion for approval of the minutes for the meeting on April 12, 2018. Pat Wesolowski so moved. Fred Baugh seconded. Motion carried.

New Business

Request for a Use Variance to Allow a Two-Family Dwelling to be Constructed in an R-1, Single Family Residential Zone, Corner of W. Raintree Drive and N. Deer Park Drive; Petitioners: Chad Vencel and David Howard; Case No: BZA2018-02

Kevin Tolloty, Planning Director, explained this is a use variance request to construct a two-family residential structure at the corner of N. Deer Park Drive and W. Raintree Drive. Property is currently zoned Residential 1 (“R-1”) single family residential. Two family homes are permitted by right only in the Residential 2 (“R-2”) and Residential 3 (“R-3”) zoning districts. Land directly west of the property is zoned R-2 and a two-family home has been built diagonal to the proposed property. Staff recommends approval of the variance. If the BZA does not approve the request, it shall state specifically which of the following five criteria set by Indiana Code have not been met:

1. Approval will not be injurious to the public health, safety, morals, and general welfare of the community.
2. Use or value of the area adjacent to the property and the need for the variance arises from some condition peculiar to the property involved.
3. Strict application of the terms in the zoning ordinance will not result in practical difficulties in the use of the property.
4. Approval does not interfere substantially with the Comprehensive Plan.
5. Approval is not based solely on financial hardship or mere convenience.

Other considerations are additional traffic created by this development will result in less than one vehicle trip per hour. Therefore, it should not have a noticeable difference on traffic. Zoning does not differentiate between owner occupied and rental housing and is not a consideration. Any single-family home can be rental or owner occupied as with two-family and otherwise. There is a potential for other two-family homes directly adjacent to this lot.

Terry Baker stated it appears the driveway will be as wide as the housing unit. Mr. Tolloty advised it doesn't meet code and will have to be adjusted. At this meeting, they're looking at whether or not a two-family home can be constructed. Mr. Ryle asked how close a driveway can be to an intersection. Mr. Tolloty answered 20'. Mr. Ryle asked between R-1 and R-2 what is the difference in setback requirements for a structure. Mr. Tolloty replied they're the same. R-2 allows the line between the two units. Mr. Wesolowski asked if they are going to remove the hill. They would look down on the roof of the house beside it. Mr. Tolloty stated grading work will have to be done. Mr. Wesolowski asked if a single dwelling went in, where will the water run. It is a fairly good slope and there is a house behind it. Is there a vacant lot between the existing house in front of it and the proposed property? Mr. Tolloty answered it is all one lot and isn't large enough to be subdivided. Mr. Ryle asked if the owner to the south submitted a letter. Mr. Tolloty answered the owner also owns the subject property.

David Howard, Petitioner, explained the house in front has the same owner and they've done work to mitigate water that runs down the hill. The reason for the duplex design is because it is on a hill and on the main street which potentially reduces the value of a single-

family home. The cost goes up slightly when building on a hill and that's where they can gain more value for a duplex versus a single-family home. The site from the upper end is flat enough and they won't have to worry about mitigating water for the house below it. They will have better control from building the house on the subject property. Mr. Ryle asked if they're going to drain the water on the proposed lot toward the southeast corner and down the hill? Mr. Hill answered it will drain toward the street and also behind the house creating a swale at the house in front. A foundation drainage system was installed in the house in front. Mr. Wesolowski asked about drainage to the east. Mr. Howard explained all of the gutters will be piped toward State Road 46. Mr. Wesolowski commented the drawing of the proposed duplex looks like a business instead of a house. Mr. Howard explained it is a modern design instead of a typical design. It's an efficient way of building and is an affordable house to purchase. Mr. Wesolowski has a problem putting duplexes where there is single-family housing. It was zoned R-1 for a reason. Mr. Baker asked if the 10' setback was the front of the unit. Mr. Howard answered it is the front. Mr. Baker asked if the setback meets code. Mr. Tolloty replied yes, it's a corner lot so they're allowed to have a 10' and 20' setbacks on the two interior lines.

Andrew Lindsey lives at 4291 N. Brindle Lane next to the subject property. Everyone purchased in the neighborhood because of R-1 zoning. He purchased his home with the intention of moving into a single-family residential neighborhood. Changing from R-1 to R-2 would decrease the value of his and his neighbors' homes. Single family dwellings are the reason everybody lives there. The duplex looks like an apartment complex. It seems like there will be no control as to whom will be renting. As there are six bedrooms, there's a chance six adults could live there with three on each side. There are rental homes in their neighborhood but the owners control who they rent to. An additional six cars could cause more congestion pulling in/out of the short road. W. Raintree Drive is the only street in/out of their neighborhood and it is very difficult and dangerous to pull onto N. Deer Run Drive. There are not any "No Parking" signs on both sides and it is very dangerous. There will be no control on the upkeep of the property because it will be renters. His neighbors take pride in their property and do maintain them. There is only one garage for each home so that means people may park on the street which would be dangerous.

Adam Christy lives at 4261 N. Brindle Lane. His concern is drainage of the property. The hill going down to State Road 46 is a steep incline and in the winter is very slick. If runoff is added to that side of the street, it will run down to the main road making it difficult to prevent people from sliding into the intersection at State Road 46. A lot of children live in the neighborhood and ride their bicycles up to the sidewalk. Turning off of N. Deer Run Drive is like having their own neighborhood because it is a cul-de-sac on both ends. With the potential of six adults living in the duplex, the traffic flow will increase affecting the children playing in the neighborhood. He purchased a single-family dwelling because he wanted to be away from apartments and duplexes. A duplex is located across the street but it is by itself and has an enlarged parking area. The driveway for the proposed duplex is not going to be permitted so there will be cars parked on the street. It is a very dangerous intersection.

Tyrone Cooper lives at 4200 N. Deer Park Drive, across the street from the driveway of the proposed property. Aesthetically, this would impact his home. They are first time homeowners and moved there because it was a neighborhood of single-family homes. He is a professor at Indiana University so he is concerned about children. He and his wife are conscious of children playing on the street in his neighborhood. Daily, when backing out of their garage they have to be aware of children on the street. Whomever moves in the duplex will make it an interesting challenge, perhaps catastrophic. Mr. Wesolowski asked how long he has lived there. Mr. Cooper answered since 2013. Mr. Ryle asked if on-street parking was permitted in this neighborhood. Mr. Tolloty answered probably not.

Jennifer Gunderman has lived at 4260 Deer Trail Court, an existing duplex, for 21 years. It has been beneficial to the neighborhood because they own their home. She knew the original owners of the subject lot and he said he would never do anything with it because of land elevation and runoff toward State Road 46, before it was four lanes. There is a lot of runoff from existing homes onto State Road 46 and it causes severe puddling. If they had a good plan to handle runoff it would ease her concerns.

Pat Wesolowski asked if the Petitioner owns the house in front of the lot on State Road 46. Mr. Howard answered yes. Mr. Wesolowski asked if the person living in the house wants to build the duplex. Mr. Howard replied it is being rented. Mr. Wesolowski confirmed the owners of the vacant lot don't live in the house on the other lot they own. Mr. Howard replied no. The duplex will be sold and the goal is for it to be owner occupied. Mr. Wesolowski disagreed because the existing house is a rental. There was a discussion on accessibility of the duplex and where the owner of the property lives. Mr. Howard commented runoff issues are easy to engineer as they're building. It's a common problem with every home and development.

Adam Christy explained a drainage ditch runs through the center of his property, inside of his fence, and to a retention pond. It is a natural slope and when they cut the hill on the property the drainage will run into his property even more as it is currently washing out his fence. Large trees hold the ground together and once they're removed it will flood his yard. Ditches have been cut and piping installed so the water runs off. It will create more problems for his home, a new home to be built in the spring and the house behind him. He is not worried about a single-family home but the value of his and his neighbors' homes and runoff.

Andrew Lenzy stated drainage is a huge problem. He has an indoor porch that had to be built at a slope because of water running into it and to prevent flooding in the home. The proposed duplex will be a two-story building and they will be looking into his home. He won't have any privacy any more. If it was a one story single family home he would be fine with it. Building the duplex will cause more drainage issues. Mr. Wesolowski reminded him the meeting is about the rezone. He spoke with Betty Fiscus whose family sold their farm to move to a single-family area and was worried it would lead to more duplexes.

Terry Baker entertained a motion. Fred Baugh made a motion to deny BZA2018-02. Pat Wesolowski seconded. Roll call vote: Terry Baker – yes; Fred Baugh – yes; Todd Lare – yes; Russ Ryle – yes; and Pat Wesolowski – yes. Motion carried.

The next BZA meeting was scheduled for Thursday, June 28, 2018, beginning at 6:00 p.m.

Kevin Tolloty asked why the petition was denied so he can put it in the findings. Mr. Baker thinks for the first finding "approval will not be injurious to the public health and safety", there was a safety issue because of the curve. He did not see anything peculiar to the property other than the Petitioner wanted a duplex in an R-1 area. Lastly, the Petitioner wanted a duplex rather than a single family that would fit on the property with no problem. All concurred.

Adjournment

Terry Baker entertained a motion to adjourn. Fred Baugh made a motion to adjourn. Russ Ryle seconded. Motion carried. Meeting adjourned at 6:43 p.m.

Terry Baker, President

Fred Baugh

Todd Lare

Pat Wesolowski

Russ Ryle

Denise Line, Secretary