

AGENDA

BOARD OF ZONING APPEALS

Ellettsville Town Hall

1150 W. Guy McCown Drive, Ellettsville, Indiana

Wednesday, May 8, 2024 - Meeting Starts at 6:00 P.M.

Pledge of Allegiance

Roll Call

Election of Offices

Approval of Minutes – December 13, 2023

Monthly Conflict of Interest Statement

Old Business

New Business

Request for Four (4) Variances from Development Standards to Allow Signage to be Located in the Town of Ellettsville Right-of-Way, in the Site Triangle and in a Residential 1 Zoning District at the Ellettsville First Assembly of God Church located at 115 W. Association Street; Petitioner: Ronald Hinson, on behalf of Ellettsville First Assembly of God Church; Case No. BZA 24-01

Planning Department Comments

Board of Zoning Appeals Comments

Adjournment



Town of Ellettsville

Department of Planning & Development

BZA 24-01 - Variances from Development Standards

Staff Report

Petition

Case - BZA 24-01. A request by Ronald Hinson, on behalf of the Petitioner, Ellettsville First Assembly of God Church ("Church") for four (4) variances of development standards to allow for signage to be put in the Town of Ellettsville right-of-way and the site triangle. The subject parcel is located at 115 W. Association Street.

Surrounding Zoning Districts & Uses



	Zoning District	Property Use
North:	C-1; Neighborhood Commercial	Childcare Facility
	R-1; Single Family Residential	Single Family Residential
South:	R-1; Single Family Residential	Single Family Residential
East:	C-1; Neighborhood Commercial	Educational Facility
West:	R-1; Single Family Residential	Single Family Residential
	R-2; Two-Family Residential	Single Family Residential

Considerations

1. The Petitioner is requesting four (4) development standard variances to allow for signage to be placed in the Town of Ellettsville's right-of-way, in site triangle and in a Residential 1 ("R-1"), Single Family Residential, zoning district.
2. The Petitioner has submitted three (3) sign permit applications as follows: (1) to replace an existing sign at the corner of S. First Street and W. Association Street with a freestanding sign, (2) add a new freestanding sign at the corner of S. First Street and W. Oak Street, and (3) add a new wall sign on the Church on the side facing W. Association Street.
3. The parcel has two (2) zoning districts: R-1 and Commercial 2 ("C-2"), Tourist Commercial.
4. The first variance request is for signage in the R-1 zoning district. Churches are permitted by right in R-1, but Town Code states signs are not permitted. The Petitioner is proposing to place two signs, one free-standing and one wall sign in the R-1 section. Free-standing signs are permitted in R-1 zoning in platted subdivisions or otherwise recognized neighborhoods, but no other signage is permitted.
5. The second variance request is for signage in a site triangle. As stated in paragraph 4, included in R-1 zoning is proposed signage for a free-standing sign. The proposed location is the corner of W. Oak Street and S. First Street. Town Code states only portable, projecting or free-standing pole signs are permitted in site triangles. In addition, Town Code states any sign whether on public or private property which does not meet the requirements of this chapter for clear vision at intersections or which otherwise creates or causes a public safety concern is prohibited.
6. The third variance request is for signage in the Town right-of-way. The proposed signage is a free-standing sign to be placed in Town right-of-way at the corner of W. Association and S. First Street. Currently, there is a sign at that location, but it is a legal non-conforming use. The Petitioner wants to replace the sign with a free-standing sign, but it must comply with Town Code.
7. The fourth variance request is for signage in a site triangle (and Town right-of-way as mentioned in paragraph 6). The proposed signage is a free-standing sign at the corner of W. Association Street and S. First Street
8. The variance requests outlined in paragraphs 4 – 7, are summarized below:

Variance No.	Variance Requested	Location
1	Signage in an R-1 zoning district (wall and freestanding signs)	R-1 segment in the parcel
2	Signage in a site triangle (freestanding sign)	W. Oak Street & S. First Street
3	Signage in the Town right-of-way (freestanding sign)	W. Association Street & S. First Street
4	Signage in a site triangle (freestanding sign)	W. Association Street & S. First Street

9. The Petitioner's request of four (4) development standard variances are the only items to be

considered by this Board of Zoning Appeals.

10. Indiana Code (IC 36-7-4-918.5) requires the following criteria be met in order to approve a variance of development standards request:

- a. The approval will not be injurious to the public health, safety, morals, and general welfare of the community;
- b. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner; and
- c. The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property.

11. Additionally, Town Code requires the following criteria to be satisfied:

- a. The approval does not interfere substantially with the comprehensive plan.
- b. The approval is not based solely upon financial hardship or mere convenience; and
- c. The approval is in conformance with all other Town Ordinances.

12. In order to be considered a practical difficulty, the following criteria should be met:

- a. The need for a variance arises from unique conditions on the property and is not shared by neighboring properties in the same zone;
- b. Strict compliance with the standard would unreasonably prevent the landowner from using the property for a permitted use, or would render conformity necessarily burdensome;
- c. The particular request, or a lesser relaxation of ordinance standard, would provide substantial justice to the landowner and neighbors; and
- d. The need for a variance is not the result of a self-created action by the current or any former property owner.

13. A variance, once granted, runs with the property no matter who owns the property.

Criteria For Decisions – Variance from Development Standards

In taking action on all variance requests, the Board of Zoning Appeals shall use the following decision criteria, consistent with the requirements of Indiana Code. The Board may grant a variance of development standards from this Ordinance if, after a public hearing, it makes findings of facts in writing (consistent with IC 36-7-4-918.5) that:

DECISION CRITERIA – USE VARIANCE

- 1. General Welfare:** The approval (**will** or **will not**) be injurious to the public health, safety, morals, and general welfare of the community.

Staff Finding:

Approval of the variance requests to locate signage in the Town's right-of-ways and site triangles would cause problems in relation to public health and safety.

- 2. Adjacent Property:** The use or value of the area adjacent to the property included in the variance (**will** or **will not**) be affected in a substantially adverse manner.

Staff Finding:

The variance requests are related to the location of signage and will not affect the use or value of adjacent properties.

3. Practical Difficulty: The strict application of the terms of the zoning ordinance (will or **will not**) result in practical difficulties in the use of the property.

Staff Finding:

Town Code is clear that nothing, including signage, is to be placed in the Town's right-of-ways or site triangles. Petitioner has 1.59 acres upon which to locate their signage. Therefore, the strict application of the Town's zoning ordinance does not result in practical difficulty in the use of the property.

Churches are permitted by right in R-1. Town Code does not permit signs in R-1, which creates a practical difficulty.

4. Compliance with Comprehensive Plan: The variance request (is or **is not**) substantially in compliance with the existing comprehensive plan.

Staff Finding:

The proposed signage is in compliance with the Comprehensive Plan. However, the location of the signage in the Town's right-of-way and site triangles is not in compliance with the comprehensive plan.

5. Financial Hardship: The need for the variance (does or **does not**) arise from some condition peculiar to the property involved.

Staff Finding:

The requested variances are about the location of signage which is not peculiar to the property. All properties within the Town of Ellettsville have right-of-ways and site triangles.

6. Compliance with other Town Codes: The variance request (or **is not**) substantially in compliance with other Town Codes.

Staff Finding:

The property is currently in compliance with all other Town Codes.

Board of Zoning Appeals Action

The Board of Zoning Appeals action shall be in the form of *approval, approval with conditions, denial, or a continuance*. The Board of Zoning Appeals takes final action on all variance petitions.

Staff Recommendation

The purpose of a variance is to provide relief in situations where the land or other condition offers resistance to meeting a particular zoning regulation through no fault of the occupant of the land.

Therefore, based on the above analysis, Staff opinion is as follows:

1. Variance No. 1: Churches are permitted by right in R-1. It is staff opinion that allowing signage in R-1, excluding in the right-of-ways and site triangles, should be granted.
2. Variance No. 2: Placement of the sign at the corner of W. Oak Street and S. First Street is not in the Town's right-of-way, but it is in the site triangle. Staff does not recommend approval of the variance request to locate a sign in site triangle at the corner of W. Oak Street and S. First Street.
3. Variances Nos. 3 and 4: The existing sign at the corner of S. First Street and W. Association Street is

a legal non-conforming use. The placement of a new sign must follow Town Code and not be placed in the right-of-way and site triangle. Staff has conferred with the Street Commissioner who concurs the placement of the new sign at this location shall follow Town Code and should not be placed in the Town right-of-way. Staff does not recommend approval of the variance request to locate a sign in the Town's right-of-way and site triangle at the corner of S. First Street and W. Association Street.

The Board may approve the variances if, after testimony and discussion, it finds that the request does meet all six (6) of the stated requirements. If the Board denies the variance, it shall state which requirement(s) have not been met.

Submitted by Denise Line
Director of Planning, Town of Ellettsville
May 8, 2024



Staff Photos:



Intersection of S. First Street & W.
Association Street



Intersection of S. First Street & W.
Association Street



Intersection of S. First Street & W.
Association Street



Intersection of S. First Street & W.
Oak Street



Intersection of S. First Street & W.
Oak Street



Intersection of S. First Street & W.
Oak Street

Zoning Map:

