

February 20, 2008

The Ellettsville, Indiana, Board of Zoning Appeals met in session on Wednesday, February 20, 2008 at the Fire Department Training and Conference Room. Frank Nierzwicki called the meeting to order at 7:00 P.M., leading the Pledge of Allegiance.

Roll Call: Members present were Fred Baugh, Phillip Rogers, Geraldine McIntyre, Terry Baker, Darlyne Sowder and Frank Nierzwicki. All members present.

Selection of Officers:

Geraldine McIntyre nominated Terry Baker as BZA President, seconded by Phillip Rogers. All in favor.

Terry Baker- Moved into the President position and asked for the Vice President to be nominated. Selection of Vice President.

Phillip Rogers- Nominated Geraldine McIntyre as Vice President.

Fred Baugh- Seconded Geraldine McIntyre for Vice President.

Terry Baker- All in favor, motion carried, Geraldine McIntyre will be Vice President.

APPROVAL OF MINUTES

Terry Baker- Approval of Minutes from the December 14, 2007 meeting.

Geraldine McIntyre- Made a motion to approve of the December 14, 2007 meeting minutes.

Phillip Rogers- Seconded the approval of the December 14, 2007 meeting minutes.

Terry Baker- All in favor, opposed, no opposition, motion carried to approve December 14, 2007 BZA meeting minutes.

OLD BUSINESS

None

NEW BUSINESS

New Petition: 2008-EUV-001

Eagles Landing, Kenton Robinson, Variance, farm animal in commercial zone

Terry Baker- New Petition, Eagles Landing, farm animal in commercial zone, is there anyone to speak on this issue.

Jay Brinegar- Approached the board. Read a letter to the BZA from Kenton Robinson. He discussed that 23 certified letters were mailed to the surrounding business owners of Eagles Landing. Jay provided documentation that the letters were mailed. He also provided a copy of the Journal which featured the news paper announcement.

He mentioned that he spoke with approximately 98% of the neighbors in the surrounding area, and he had a list of 80 names that support the pet goat at Eagles Landing. He mentioned he has tried to resolve the matter of the goat with Frank Nierzwicki. The goat is trained and is a companion to his family. The goat is trained to alert him of when people are in the area outside of Eagles Landing.

In pursuant of Town Code 152.003 the Planning Director has to show that the pet goat changes the intensity of the use effect on demand of transportation and other infrastructure and the effect on surrounding property uses and values as compared to those listed in the

chapter. The director has never proved those changes and I feel Sinny is a vital part of the friendly nature of the businessmen and patrons of Eagles Landing. Sinny is a vital part of our family and our structure and to the community of Eagles Landing.

He discussed the City of Anderson livestock definition, and how livestock is used for commercial gain, meat and breeding. He mentioned that he doesn't plan on getting anymore goats. All I'm asking for is to have one goat. If you have any questions I'll be happy to answer those, and find some form of an agreement tonight.

Terry Baker- Do any of the other members have a question for Mr. Brinegar?

Fred Baugh- How old is the goat?

Jay Brinegar- The goat is approximately 10 months old. He also described the goat's size and habits.

Darlyne Sowder- If the goat passes away, would you replace the goat?

Jay Brinegar- I do not foresee getting another one, because of what has happened from having this one.

Geraldine McIntyre- A goat is a goat and it is a farm animal, in one sense this one isn't because it is a pet, but if allow this one to go through, then we are going to have problem with people trying to have little pony's and more goats in town.

Jay Brinegar- If you go through the process, like I have, and this is the way the system is and they really want to pursue it, and then it would come before you in the end, and you would make a decision on a case by case basis.

Geraldine McIntyre- She discussed a lady that had a horse, and how the neighbors complained and the Town eventually got rid of the horse.

Jay Brinegar- Mentioned his neighbors aren't here, but he has their signatures as proof that they support me and the goat at Eagles Landing.

Terry Baker- Thank you.

Terry Baker- Does anyone in the public have anything to say on this issue?

Stewart York- He discussed that he was the only reporter present for the meeting, and that he has changed his style, and allows himself to vent his opinions. I think Geraldine has a good point, but what I've noticed is that every time it comes up and goes out to the media in any form I hear from someone else that they want to get a goat and they think it is a good idea. He has a great case to take to the Town to take against the Town if you turn him down. All he has to do is make two points: 1. The goat isn't bothering anybody, and he has his landlords and neighbors support. 2. He also discussed how Diane Bastin had commented from Town Council's board that she couldn't find anything on the Internet that mentioned goats as pets. I went to the Internet Google search engine and I typed in "pet goat" and it came back with 150 to 160,000 references. Most of the references were about U.S. Presidents. If I were Jay, and you turned me down, I would get a lawyer and take the town to court and make these two points. He mentioned the Town Code definition of agricultural animals. It is obvious to me that you are going to do what you are going to do.

Terry Baker- Thank you.

Darlyne Sowder- I went up today to see the pet goat and I couldn't see it from the road, so I parked my vehicle and watched it for awhile. I latter took my husband up to watch the goat. I see no problem with having a pet goat, except where we have it written on the petition, where it says variance, farm animal in commercial zone. I would rather have it say variance, pet goat, because when you say farm animal, it looks like he can have any kind of a farm animal there. I think this is specifically a pet goat.

Terry Baker- Frank do you have anything?

Frank Nierzwicki- I think the BZA already had a ruling about a goat being defined as an agricultural animal or if it is a pet at the December meeting.

Darlyne Sowder- I read that.

Frank Nierzwicki- I know.

Darlyne Sowder- I've taken everything that I've heard and read into consideration, in my opinion, this is a pet goat. I would rather have a pet goat there instead of a farm animal, because that means he could bring a cow in to the area. I think the variance is for a pet goat – specifically. Not for any farm animal and that is the change that I would like to see in the petition.

Jay Brinegar- When I petitioned for the variance, I did exactly what you said. I never said a farm animal I said a pet goat.

Terry Baker- I would entertain a motion whether we are going to allow the variance or not.

Darlyne Sowder- I would like to make a motion that we allow the variance, but with the stipulation that it is not for any farm animal, but specifically for this pet goat.

Terry Baker- Do I have a second?

Fred Baugh- Second.

Terry Baker- All in favor say aye? Fred Baugh and Darylne Sowder said aye.

Terry Baker- All opposed, say aye? Terry Baker, Geraldine McIntyre and Phillip Rogers said aye.

Terry Baker- So it is 3 to 2, it did not pass.

Frank Nierzwicki- You just defeated a motion, you need a motion that actually is passed.

Terry Baker- We need a motion to not grant the variance for a farm animal in a commercial zone, do I hear a motion.

Geraldine McIntyre- I make a motion that we do not allow the variance for the pet goat at Eagles Landing.

Terry Baker- Do I have a second?

Phillip Rogers- I'll second that.

Terry Baker- All in favor say aye? Terry Baker, Geraldine McIntyre and Phillip Rogers said aye, opposed- Darlyne Sowder and Fred Baugh said aye. The vote is 3 to 2, motion passed to not allow the variance.

Frank Nierzwicki- I think the issue is the amount of time to vacate the premise with the goat is actually something you could state.

Terry Baker- Do we have any preferences on how long he can keep it there?

Phillip Rogers- I make a motion that we grant him a 30 day grace period to find another location or home for the goat.

Geraldine McIntyre- I'll second it.

Terry Baker- All in favor say aye. All opposed. All in favor. Motion carried. You have 30 days, after that it will be a violation of the zoning ordinances.

Terry Baker- Next item on the agenda is 2008-EUV-002 O'Reilly Auto Parts, 5227 W. SR 46 Variance Size of Sign.

Greg Simms- O'Reilly Auto Parts district manager. We are asking for a variance for additional square footage for our signage on building. The city allows 128 square feet and we are asking for 146.88 to bring up to our normal dimensions. Along with this, we are asking that the signage on our pole. Do you have copies of the signage? The pole signage at the road, you allow 80 sq. feet, we want to add a four line reader board, which would take us to 110.125 sq. feet. And that is the other variance we are asking for. We can put various sales advertising, without this we would have to use static signs on the windows, that is the purpose for the reader board.

Terry Baker- This actually covers two variances.

Frank Nierzwicki- You would have to address these one at a time.

Terry Baker- The one on the face of the building will be addressed first.

Greg Simms- In regards to the building, if there is an overall sq. footage for the lot, we would consider reducing the signage on the building to allow us to have the reader board on the street. We would be fine with keeping the smaller signage on the building and not requesting a variance on that, it means more to us to have something out on the street.

Frank Nierzwicki- East bound on SR 46 you see more of the west side of the building compared to the front, and that amount of overage isn't that great, I recommend approval on that. The other variance is a little bit larger, 37% above the allotted amount. Approve the wall sign, but not approve the reader board.

Greg Simms- That would be a four line reader board, in some cases we will go with a three line reader board. That square footage would be 99.845 sq. ft. where we are allowed 80 sq. feet. So, we would be 19.845 larger than what is allowed.

Terry Baker- Any questions from the board?

Darlyne Sowder- The sign currently on the building is not the size of the sign that you would like to have on the building?

Greg Simms- That is correct, we would be willing to work with what we have if we can get something out on the street.

Phillip Rogers- That wouldn't make a difference, because we are talking about two different sign variances.

Darlyne Sowder- I looked at the sign and it looks appropriate for the building.

Phillip Rogers- I'm alright with the one on the building.

Frank Nierzwicki- The current one they have on the building meets our code. The smaller reader board is what they are wanting. The code allows 80 sq. feet.

Geraldine McIntyre- I think reader boards cause problems, people are driving and reading the boards, which I think is dangerous. We created the sign ordinance, and I think we should stay with it. I think your business is nice, I think we should stay with our current sign code ordinances.

Greg Simms- I understand about your code and ordinances.

Terry Baker- Any questions from the board or audience?

Frank Nierzwicki- It appears to me he is more concerned about the reader board.

Greg Simms- I would like to see the three line, but I would take the larger sign on the building if we can't have the reader board.

Terry Baker- First we should deal with the signage on the building. Do I have a motion for anyone to grant the variance?

Phillip Rogers- I make a motion we accept the proposal to accept the building signage variance on the new O'Reilly building.

Geraldine McIntyre- Seconded motion.

Terry Baker- All in favor say aye. Phillip, Geraldine, Terry and Fred were in favor of the building variance with one opposed; Darlyne Sowder. Vote is 4 to 1, so variance is granted for the larger sign on the building. The next sign is the reader board. Any motion.

Geraldine McIntyre- I make a motion that we do not accept the variance for the reader board on the O'Reilly Auto Parts sign.

Phillip Rogers- I'll second that motion.

Terry Baker- All in favor say aye. All in favor. Carried unanimously.

Greg Simms- Thank you.

Frank Nierzwicki- I do not have any more business, but we need the variance paper work signed.

Adjournment

Terry Baker- I entertain a motion to adjourn. Geraldine McIntyre made a motion to adjourn, seconded by Phillip Rogers. All in favor, motion carried. Meeting adjourned 7:41 P.M.

Terry Baker, President

Geraldine McIntyre, Vice Pres.

Fred Baugh

Phillip Rogers

Darlyne Sowder
