

ELLETTSVILLE BOARD OF ZONING APPEALS

May 11, 2004

The Ellettsville, Indiana Board of Zoning appeals met at 7:00 p.m., Tuesday, May 11th, 2004. Jack Neal called the meeting to order by explaining there are three hearings on the Agenda for tonight and they would be heard in the order the BZA was petitioned.

Members present were: Jack Neal, President; Terry Baker, Kathy Wagner and Ray Freetage. Denise Knell was absent. Jeffrey York, Planning and Zoning Administrator was also present.

Jack Neal stated since the last BZA meeting William Evans, BZA Secretary was appointed to the Town Council and resigned from the BZA, therefore, a new Secretary needed to be appointed. He asked for a volunteer. Kathy Wagner volunteered to be Secretary. Ms. Wagner was unanimously approved as Secretary.

First Case: 2004-ESV-002 – The Peniel Group, the developer of Tuscano Mall located at 5225 W. State Road 46, is requesting a variance to defer from the Town’s sign Ordinance and erect a larger sign.

Sonny Laughlin, of Alvey’s Sign Company from Evansville spoke representing the developer, The Peniel Group. Alvey’s has been working with The Peniel Group for several years. He explained the sign they are planning is the same size sign they place at other establishments. Warren Disiler was also present to answer any questions.

The proposed pylon sign is 26 feet tall, 184 square feet, lighted internally and can be read from both sides. It would accommodate 3 or 4 businesses that will eventually be located in the strip mall. He said the height can be adjusted they are just requesting a variance on the square footage. Currently, only the Dollar General Store is in the mall. The Town’s Ordinance only allows for an 80 square foot sign. He said he had checked on a website (Stuart Signs) to get the size of letters that were visible per seconds viewable. According to their website they believe a person needs 5 seconds to read a sign. The speed limit at this area is 45 m.p.h., so you would only have 3 seconds to read. If they used 4 inch letters it would be hard to see, especially if more than one business goes in there the letters would have to be 2 inches to fit all of them on an 80 square foot sign. They contend signs need to be large enough to be readable safely by drivers passing by. It will have a wall sign on the front of the buildings also but we can’t depend on that sign to let the public know where it is to get off the highway safely that is mainly for name recognition advertising, you can’t guide customers in to the stores with wall signs.

Ray Freetage asked a how tall the sign would be and if they would have a wall sign also then stated he’s not convinced they need a larger sign. He added local residents who drive the highway daily will know where to find the stores without needing a larger sign.

Sonny Laughlin said they have done studies on how to clue potential customers in to stores and a larger sign would be better to attract customers and to avoid traffic hazards. He said signs are very important because, generally if people can’t find you they won’t come looking for you. Signs help keep businesses alive. He conceded that if it was just one business on an 80 square foot sign that it would be sufficient but not with 3 or 4 businesses. He said one sign fits all doesn’t work for everywhere, he thinks there needs to be more flexibility in the Code. Thanked the Board for listening to their petition.

Warren Disiler added that marketability is important for leasing these buildings spaces and potential stores look for things like signage when considering lease space.

Jack Neal asked about the Richland Plaza sign saying it doesn’t seem too distracting or bad? Jeff York stated that sign was put in several years ago before the restrictions were placed in the Ordinance last year. This Richland Plaza sign is actually larger than the one The Peniel Group is proposing. He passed out a staff report on each of the three hearings and explained that he has assigned case numbers with this terminology E. S. V. means Ellettsville Standard

Variance and E. U. V. means Ellettsville Use Variance like a use not permitted in a particular zone. This case is the second one the BZA has heard this year. He stated his staff report for each case is based on planning principles and what State law requires but the Board is at liberty to make the decisions they feel are best. Each petitioner has also received a copy of the staff report. He stated at Town's request former Town Planner Bill Land re-worked the sign ordinance because they wanted to prevent signage clutter and prevent motorists from being distracted by the sign which could possibly cause a safety hazard. He said three findings of fact are required by State law to be met. They are:

1. The grant (petition) will not be injurious to the public's health, safety, morals and general welfare.
2. The use or value of the area adjacent to the property included in the variance will not be adversely affected.
3. The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property.

Jeff said he doesn't believe these findings have been met. He suggested to place the words "Tuscano Mall" on the building (wall sign) instead of using the space on the pylon sign which would reduce the size of the sign and therefore comply with the Town's Ordinance.

A vote was taken by secret ballot. Kathy Wagner read 3 denied, 1 approved; variance petition is denied.

Second Case: 2004-ESV-003 – Donald Davis, 302 E. Dewey Drive requesting variance to re-build his garage in same spot with the three foot setback instead of the ten foot setback the Town's Ordinance requires.

Don Davis said he tore down his old garage and wants to rebuild a new 100% steel, 21' by 26' detached garage on the same concrete floor the old 24' by 26' garage sat. His neighbor Don Kuster said he was fine with him rebuilding it. It would be 81 feet from Don Kuster's house and he said since it would be steel construction there was no need to build a firewall like the new Town Ordinance requires.

Jack Neal said in this case since it is steel then it would be okay to not require a firewall.

Terry Baker asked Jeff York for a clarification of the term firewall. He asked if he was talking about an actual wall or if he meant the construction and the way the building was designed.

Jeff York said yes it means the way the building is designed. He stated he just recently found out the building would be all steel and if he had known that earlier he would not have included that as a requirement in his staff report. Therefore the firewall isn't necessary; in addition it is 81 feet from the neighbor's house.

A vote was taken by secret ballot. Kathy Wagner read 4 approved; variance petition is approved.

Third Case: 2004-ESV-004 – Marty McClure, 460 Ridge Springs Lane requesting a variance to build a detached garage on his property which lies on a corner lot.

Marty McClure explained he lives on the corner lot and wants to build a garage. He's spoken with his neighbor's and they are fine with it. He added the way his driveway is now it is hard to see to back out of his drive and it would be safer to have the garage behind his house.

Jeff York said according to the Town's Ordinance it requires the garage be placed behind the house so that it is hidden from view. However, the best place to build the garage for drainage purposes will leave 12 or 14 feet of the garage visible from the road. He would enter his garage off of Rosewood Drive. He recommended approving the variance.

A vote was taken by secret ballot. Kathy Wagner read 4 approved; variance petition is approved.

Terry Baker commended Jeff York for his excellent job of preparing the information for the Board. He said it was important that Jeff took care of reviewing the sites also since often times the BZA members don't have opportunities to

do so and especially for checking on the legal aspects of the petitions.

Jack Neal added Jeff made his job a lot easier. Jeff gave them all the information they needed to make an informed decision, they didn't have to go into the hearings blind.

Everyone agreed that Jeff is doing a great job.

ADJOURNMENT:

Jack Neal called the meeting adjourned.