

**AGENDA**  
**BOARD OF ZONING APPEALS**  
**Zoom Meeting**  
**Wednesday, November 18, 2020 - Meeting Starts at 6:00 P.M.**

**Pledge of Allegiance**

**Roll Call**

**Approval of Minutes**

June 10, 2020, August 12, 2020, and September 9, 2020

**Monthly Conflict of Interest Statement**

**Approval of 2021 Meeting Dates**

**Old Business**

**New Business**

Request for a Variance from Development Standards to allow construction of an accessory structure within the sight distance triangle, 321 S. Second Street, Ellettsville; Petitioner: James O'Donnell; Case No. BZA 2020-06

**Board of Zoning Appeals Comments**

Next Meeting: December 9, 2020

**Adjournment**

# MEETING NOTICE

Wednesday, November 18, 2020, at 6:00 p.m.

The Town of Ellettsville Board of Zoning Appeals will conduct its regularly scheduled meeting on Wednesday, November 18, 2020, at 6:00 p.m., local time.

The meeting will be conducted remotely. No Board of Zoning Appeals members will attend the meeting in person, but will instead attend remotely. The public is invited to attend by remote access. The meeting will be hosted by Zoom.

Topic: BZA 11-18-20

Time: Nov 18, 2020 06:00 PM Eastern Time (US and Canada)

Join Zoom Meeting

<https://us02web.zoom.us/j/81258638291?pwd=R0FtOUYxWFRjV1kra3ZDNERqVXppUT09>

Meeting ID: 812 5863 8291

Passcode: 221093

One tap mobile

+13126266799,,81258638291#,,,,,0#,,221093# US (Chicago)

+19292056099,,81258638291#,,,,,0#,,221093# US (New York)

Dial by your location

+1 312 626 6799 US (Chicago)

+1 929 205 6099 US (New York)

+1 301 715 8592 US (Washington D.C)

+1 346 248 7799 US (Houston)

+1 669 900 6833 US (San Jose)

+1 253 215 8782 US (Tacoma)

Meeting ID: 812 5863 8291

Passcode: 221093

While the public will not be able to attend the meeting in person, public input is still encouraged. Agendas and meeting packets can be obtained by submitting an email request to: [planning@ellettsville.in.us](mailto:planning@ellettsville.in.us).

## 2021 Board of Zoning Appeals Calendar

Meeting Date	Meeting Deadline
January 20*	December 18*
February 10	January 20
March 10	February 17
April 14	March 24
May 12	April 21
June 9	May 19
July 14	June 23
August 11	July 21
September 8	August 18
October 13	September 22
November 10	October 20
December 8	November 17

\*Date adjusted due to holiday/other schedule conflict

Board of Zoning Appeals meetings are scheduled for 6:00 on the second Wednesday of each month, unless otherwise noted.

All deadlines will be at 3:00 on the date listed.



## *Town of Ellettsville*

### *Department of Planning & Development*

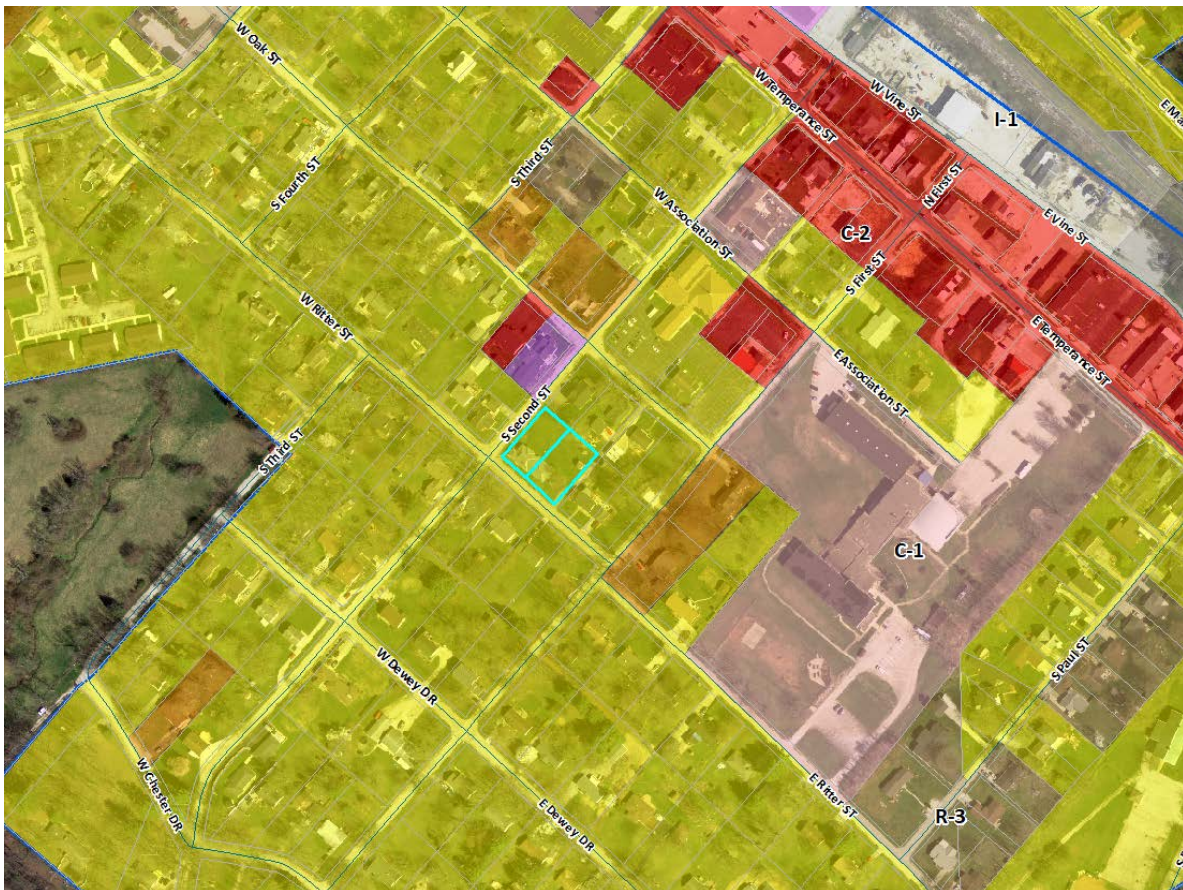
#### **BZA 2020-06–Variance from Development Standards**

#### **Staff Report**

##### Petition

**Case - BZA 2020-06.** A request by James O'Donnell, for a variance of development standards to allow an accessory structure within the sight distance triangle. The subject property is located at 321 S. Second Street.

##### Surrounding Zoning Districts & Uses



	<b>Zoning District</b>	<b>Property Use</b>
<b>North:</b>	C-2/C-3; General Commercial	Mixed Residential
<b>South:</b>	R-1; Single Family Residential	Single Family Residential
<b>East:</b>	R-1; Single Family Residential	Single Family Residential
<b>West:</b>	R-1; Single Family Residential	Single Family Residential

### **Considerations**

1. The petitioner is requesting a development standards variance to construct a new accessory structure that will encroach into the sight distance triangle formed by his driveway and the adjacent public alley.
2. Indiana Code (IC 36-7-4-918.5) requires the following criteria be met in order to approve a variance from 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.
3. 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.
4. 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;
  - d. The need for a variance is not the result of a self-created action by the current or any former property owner.
5. The property is zoned R-1; Single Family Residential.
6. Town Code addresses sight triangles in Section 152.184, which specifically states: "At the intersection of any street, alley, driveway or railroad with any other street, alley, driveway or railroad, no improvements shall be installed or constructed nor may anything be planted at a height between two and one-half feet and nine feet above the crown of the adjacent streets, alleys, driveways or the top of the rails, in the sight distance triangle."
7. A variance, once granted, runs with the property, regardless of ownership.
8. All persons who own or have controlling interest in the property included in the petition have joined in the petition.

### **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 – DEVELOPMENT STANDARDS 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:*

There is some concern that the placement of a new accessory structure will obstruct vision of the driveway from the alley (north). The alley serves four homes, two of which face Oak Street, and the other two facing Ritter Street. The petitioner's home faces Ritter and it is expected that southward travel in the alley from Oak Street would be extremely rare. In addition, speeds in alleys should be under 10 MPH, which would greatly reduce the chances of an accident due to decreased visibility.

- 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 location of the accessory structure should have no effect on any other parcels, with only the sight triangle of the petitioner being impacted.

- 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:*

Staff is of the opinion that strict application of the Zoning Ordinance creates a practical difficulty in the use of this property. The property sits on the corner of S. Second Street and W. Ritter Street, which restricts accessory structures to either the rear or alley side. In addition, there is a significant ditch along the Second Street right-of-way that would make access from that side unnecessarily difficult. Therefore, alley side access is the only reasonable option for the accessory structure which also requires driveway access. The proposed location, while not ideal, is the least intrusive spot to place such a structure, and can be done with minimal consequences.

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

### *Staff Finding:*

The comprehensive plan does not specifically or generally address this issue.

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

### *Staff Finding:*

The reasons for this request are due to the location of the property, driveway location and drainage ditch along Second Street, and are not related to financial reasons.



**6. Compliance with other Town Codes:** The variance request (is 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 proposed location of the accessory structure is not ideal, but for the limitations of the property , is in the best possible alternative. Therefore, based on the above analysis, it is of Staff opinion that the variance does meet the decision criteria, and recommends approval of the variance. The Board may approve the variance if, after testimony and discussion, it finds that the request does meet all six (6) of the stated requirements. If the Board denies the request, it shall state which requirement(s) of which variances have not been met.

Submitted by Kevin Tolloty, AICP  
Director of Planning, Town of Ellettsville  
November 12, 2020









Application Description

10.14.2020

I am submitting this variance request at the direction of the Town of Ellettsville Department of Planning Services to request approval through the BZA application process to install a concrete slab and post frame building\structure adjacent to the north side of my current driveway at my residence of 321 south 2nd street. Attached is an overhead picture of the property with a boxed in area where I would like to have the concrete poured and eventually place a post frame structure. For reference, 2<sup>nd</sup> street is all the way to the left of the picture and Ritter Street runs along the bottom. Their concern was the proximity of this proposed structure to the throughway located on the east side of the property that runs more or less perpendicular between Ritter and Oak streets. This black top travel through does not have a name and is primarily used by the four residences that are adjacent to it. The post frame structure that I am requesting a variance for would be close to the blacktop throughway at the point where my driveway intersects with the throughway. The structure would be at least 6' or more from the blacktop throughway as the road travels at a slight angle away from my house. The structure would not enhance or impair any access or visibility issues for Ritter or Second Street in terms of vehicle navigation as it would be 40+ feet from Ritter and 75+ feet from 2<sup>nd</sup> street.

In summary I request that the decision making council grant a variance to allow me to build a post frame structure in the location of the diagram provided.

Regards,

A handwritten signature in blue ink, appearing to read 'James O'Donnell', with a long horizontal flourish extending to the right.

James O'Donnell





RITTER Street

Site picture 1 of 2



