

April 12, 2018

The Ellettsville, Indiana, Board of Zoning Appeals met on Thursday, April 12, 2018, at Ellettsville Town Hall. Terry Baker called the meeting to order at 6:08 p.m. and led the Pledge of Allegiance.

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

Election of Officers

Terry Baker opened nominations for President. Pat Wesolowski nominated Terry Baker. Fred Baugh seconded. Roll call vote: Terry Baker – yes; Russ Ryle – yes; Fred Baugh – yes; Todd Lare – yes; and Pat Wesolowski – yes. Motion carried.

Terry Baker opened nominations for Vice President. Pat Wesolowski nominated Russ Ryle. Todd Lare seconded. Roll call vote: Terry Baker – yes; Russ Ryle – yes; Fred Baugh – yes; Todd Lare – yes; and Pat Wesolowski – yes. Motion carried.

Approval of Minutes

Terry Baker entertained a motion for approval of the minutes for the meeting on December 18, 2017, as amended. Pat Wesolowski so moved. Russ Ryle seconded. Motion carried.

New Business

Request for a Variance of Development Standards to Reduce the Side Yard Setback from Ten Feet (10') to Five Feet (5'), 480 N. Kelli Drive; Petitioner: Brad Hetser; Case No. BZA 2018-01

Kevin Tolloty, Planning Director, explained the Petitioner requested to reduce the side yard setback to 5'. Ellettsville Town Code requires a 10' setback for side yards. The property is zoned Residential-1. If the variance were to be approved there would be 25' between the garage and the house on the east side. Staff does not recommend approval of the variance at this time. However, it is a reasonable request.

There are six criteria that need to be met in order to grant a variance from development standards are listed below. The first three criteria are set through Indiana code:

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 included in the variance will not be affected in a substantially adverse manner.
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.
6. Approval is in conformance with all other Town ordinances.

Russ Ryle asked if the variance complied with state requirements. Mr. Tolloty answered the criteria he had difficulty with was practical difficulty. Mr. Ryle asked for the definition of practical difficulty. Mr. Tolloty explained for something to be considered practical difficulty, it can't be self-created; request or lesser relaxation of the ordinance would provide substantial justice for the landowner and neighbors; the variance request covers what is required to be built, need for the variance arises from unique conditions on the property and is not shared by neighboring properties in the same zone; strict compliance with the standard would unreasonably prevent the landowner from using the property for a permitted use; or would render conformity necessarily burdensome. Mr. Ryle thinks a 5' setback reduces the safety margin. Mr. Baugh noted there would still be 25' between the garage and the next house.

Brad Hetser, Petitioner, wants to build a garage. Mr. Baker asked the reason why it needed to be a two car instead of a single car garage. Mr. Hetser originally wanted to build a 24' two car garage but couldn't because of the setbacks. Now, he wants to build a 20' garage for approximately 1.5 cars. There will be room for one car and a workbench. Mr. Baker asked if he will be working on cars. Mr. Hetser answered not much. Mr. Wesolowski asked if he was at the end of the sewer line. Mr. Hester answered yes. Mr. Wesolowski asked if the existing garage will remain the same. Mr. Hester replied yes. Mr. Wesolowski asked what type of door will be on the new garage. Mr. Hester answered he will replace the existing garage door so both will match. Mr. Wesolowski asked if he was extending the garage 20'. Mr. Hester replied yes. Mr. Wesolowski asked if water stands over the sewer line between him and his neighbor. Mr. Hetser answered no, because it goes down a grade. Drainage has always been good there. Mr. Wesolowski asked if the roof on the garage will be the same as the house. Mr. Hetser replied it will be identical and the siding will be the same. Mr. Ryle asked if the peak of the roof will be the same. Mr. Hetser answered it will follow the same pitch. Mr. Ryle asked if there was mitigation for the runoff from the roof such as plastic piping. Mr. Hetser answered he has a drain on the front edge of the house facing the driveway and the back drain faces away from the yard. The new garage will have perimeter drains directing the flow of the water. Mr. Baker asked the dimensions of the garage. Mr. Hetser replied approximately 20' wide and 30' to 32' deep. Mr. Wesolowski asked the depth of the house. Mr. Hetser answered it is 24' deep. Mr. Ryle asked if the floor elevation of the garage will match the house. Mr. Hetser answered yes. Mr. Wesolowski asked if the neighbors had any complaints. Mr. Tolloty replied a letter was received from Derrek Baker in support of the garage and there was an anonymous letter requesting property estimates to be paid for by the applicant, costs of insurance premiums/risk evaluations and additional plans of the driveway and draining system coming from the new garage.

Terry Baker entertained a motion. Fred Baugh made a motion to accept BZA2018-01. Pat Wesolowski seconded. Roll call vote: Terry Baker – no.

Russ Ryle asked what type of legal precedent they're setting if they approve a 5' setback and someone else wants the same but there are clearly other issues. Mr. Tolloty answered the Board of Zoning Appeals ("BZA") hearings are on a case by case basis. Mr. Ryle asked if they're setting a precedent that could cause trouble for them in other situations.

Mr. Wesolowski agreed with Mr. Tolloty in that the BZA hears matters on a case by case basis. It may not be advantageous for them to say yes to someone else requesting a 5' setback because it may be a different situation. They're not granting the entire Town have a 5' setback because it is for an individual. Therefore, he doesn't see it as setting a precedent, as it is different for every property owner.

Roll call on the aforementioned motion continued. Russ Ryle – yes; Fred Baugh – yes; Todd Lare – yes; and Pat Wesolowski – yes. Motion carried, 4-1.

Adjournment

Terry Baker entertained a motion to adjourn. Fred Baugh so moved. Russ Ryle seconded. Motion carried. Meeting adjourned at 6:28 p.m.

Terry Baker, President

Fred Baugh

Todd Lare

Pat Wesolowski

Russ Ryle

Denise Line, Secretary