

Zoning Board of Appeals
Wednesday, December 6, 2017
6:00 PM Town Hall

Edinburgh Zoning Board of Appeals met on Wednesday, December 6, 2017, 6:00 p.m., Edinburgh Town Hall to vote on tabled **Case #ZB-2017-02-UV & Case #ZB-2017-03 Commonwealth Development Corporation of America to construct multi-family dwellings in R-4 zoning, and to hear Case #ZB-2017-04-V Christopher Link to allow placement of a used manufactured dwelling in R-4 zoning.**

Members Present: Keith Sells
Ron Hoffman
Ron Hamm
Richard Pile
Lloyd Flory

Others Present: Nick Valenzuela, Building Commissioner
Wade Watson, Town Manager
Dustin Huddleston, Town Attorney

Ron Hoffman opened the meeting at 6:00 p.m. with roll call. Richard Pile here, Lloyd Flory here, Ron Hamm here, Keith Sells here, and Ron Hoffman here.

Mr. Hoffman presented minutes from the February 1, 2017 meeting. Mr. Sells made a motion to approve minutes, Mr. Pile seconded. Mr. Hoffman then asked for all in favor to say aye. Mr. Sells - Aye, Mr. Pile - Aye, Mr. Flory - Aye. Mr. Hoffman & Mr. Hamm were unable to vote as they were not in attendance at the February 1, 2017 meeting. Motion passed, minutes approved.

Mr. Hoffman presented minutes from the November 1, 2017 meeting. Mr. Pile made a motion to approve minutes. Mr. Hamm seconded. Mr. Hoffman then asked for all in favor to say aye. Mr. Hamm - Aye, Mr. Pile - Aye, Mr. Flory - Aye, Mr. Hoffman - Aye. Mr. Sells was unable to vote as he was not in attendance at the November 1, 2017 meeting. Motion passed, minutes approved.

Mr. Hoffman advised the audience of the sign in sheet to give their contact information if they would like to get any further information concerning tonight's meeting.

Mr. Hoffman presented tabled Case #ZB-2017-02-UV and #ZB-2017-03-UV and asked Mr. Huddleston to explain the procedure for voting as Mr. Sells was not in attendance at the November 1, 2017 meeting.

Mr. Huddleston stated that at the November 1, 2017 meeting Mr. Sells was absent when the tabled cases were heard. Mr. Huddleston stated that since the November 1, 2017 meeting, Mr. Sells has indicated that he wants to vote on the cases. Mr. Sells has reviewed the minutes, reviewed the documents presented by both sides, listened to the audio recording that was made of the meeting, and has reviewed the Power Point presentation given by Mr. Valenzuela at the November 1, 2017 meeting. Mr. Huddleston stated that Mr. Sells is fully aware of the issues concerning the cases and is ready to vote, which is Mr. Sells decision to make. Mr. Huddleston stated that Mr. Sells will be allowed to vote with the other board members tonight, but if anyone for the record wants to object to Mr. Sells participating in the vote on the cases, they could state their name and address for the minutes. Mr. Huddleston then asked if anyone had any opposition to Mr. Sells participating in the vote. There being no opposition from the audience, Mr. Huddleston advised the board that at the previous meeting, the board made the decision that they would take no more testimony or evidence from either side and if there were any questions, they be limited to technical questions that would be directed to Mr. Watson who is in attendance for Mr. Valenzuela who is out of town.

Mr. Hoffman presented tabled case #ZB-2017-03-UV and asked for a motion to approve.

Mr. Flory asked about having two petitions.

Mr. Hoffman stated that they would be voted on separately.

Mr. Flory asked for clarification on which property the case pertained to if it was the Fletcher buildings on Brown Street, or the property on Shelby Street.

Mr. Huddleston stated that ZB-2017-02-UV is the Fletcher Investment property that is on Brown Street, and ZB-2017-03-UV is the Town owned property that is on Shelby Street. Mr. Huddleston stated that each would be voted on separately and they could choose which case they want to vote for first.

Mr. Flory asked which case they were starting with.

Mr. Hoffman stated that the first one is ZB-2017-02-UV the Fletcher property on Brown Street. Mr. Hoffman stated that he would need a motion.

Mr. Huddleston reminded the board that if it is a motion to approve, there would not be any further language, but if the motion is to deny, there would need to be one of the specified criteria on page 8 of the staff report that was failed to be met to base the denial on.

Mr. Flory stated that the ZB-2017-02-UV is the expansion of the existing Fletcher buildings and property improvements for dwelling. Mr. Flory made a motion to approve the request for variance.

Mr. Hoffman asked for a second to the motion.

Mr. Pile seconded the motion.

Mr. Hoffman asked for all in favor to say aye. All ayes. Motion passed.

Mr. Hoffman presented tabled case ZB-2017-03-UV and asked for a motion to approve.

Mr. Pile made a motion to approve.

Mr. Hoffman asked for a second to the motion.

Mr. Hamm seconded the motion.

Mr. Hoffman asked for all in favor to say aye. Richard Pile – Aye, Ron Hamm – Aye, Keith Sells – Aye, Ron Hoffman – Aye. Mr. Hoffman asked for all opposed to say nay. Lloyd Flory – Nay. Motion carried by majority of a 4-1 vote.

Mr. Hoffman then turned over the meeting to Mr. Sells for Case ZB-2017-04-V.

Mr. Sells asked Mr. Watson to present the case for Christopher Link.

Mr. Watson presented Case ZB-2017-04-V on behalf of Mr. Valenzuela who could not be in attendance and that he would answer any questions based on the information that Mr. Valenzuela had compiled in the attached staff report.

Mr. Watson stated that Case ZB-2017-04-V is a Use and Developmental Standards variance request from Christopher Link for property located at 210 Franklin Street, to place a used 1995, to be refurbished, 28X40 manufactured home on the property. Mr. Watson stated that Chapter 153 of the Town of Edinburgh Zoning Ordinance does not allow for a manufactured unit to be placed anywhere other than an area that is designated for manufactured housing. Mr. Watson stated that the subject property is 459 square feet short of the of 7000 square feet minimum square footage requirements for the R-4 zoning standard. Mr. Watson stated that the subject property was a buildable lot when it was originally platted and is in an older subdivision with other lots of same or similar size, with all having a 50 foot frontage and approximately 131 feet deep.

Mr. Watson reviewed the contents of Mr. Valenzuela's staff report (see attached) discussing the purposes of the Zoning Standards for residential districts, minimum lot requirements for R-4 zoning, and the Town Ordinance concerning single manufactured housing units. Mr. Watson stated that the Town Ordinance on manufactured housing is in conflict with the Indiana Administrative Code. Mr. Watson stated that Mr. Valenzuela discovered that Indiana Code

ordinance states that any manufactured home that was constructed after January 1, 1981 and that exceeds nine hundred fifty (950) square feet cannot be prohibited from being installed as a permanent residence on any lot that any other type of dwelling can be. Mr. Watson gave an **example** that if this dwelling unit exceeds nine hundred fifty (950) square feet and the zoning for R-4 permitted a 950 square foot home, then it is an illegal ordinance to deny based on the fact that it is a manufactured unit, if the unit were smaller than nine hundred fifty (950) square feet it could be denied because it is not protected by the state ordinance. Mr. Watson further stated that if the unit were only nine hundred fifty (950) square feet, it could be denied as the standard square footage for a residential lot in R-4 zoning is eleven hundred (1100) square feet. Mr. Watson stated that in this case it could not be denied as the subject unit exceeds the 1100 square foot requirements, and could not be denied based on the fact that it is a manufactured unit.

Mr. Watson stated the subject property is owned by Chris & Amy Link and was purchased in 2008. Mr. Watson stated that Mr. Link came before the BZA in 2008 requesting variances for this same location to build a house on a lot that is smaller in size than the current square footage requirements, to build closer to the side yard setback requirements, and to build a larger accessory structure than what is allowed by ordinance (see staff report). Mr. Watson stated that in 2008 the Zoning board granted the variance to build, but denied the encroachment on the setbacks, and denied the request to build a larger accessory structure. Mr. Watson stated that there were no time limits recorded for the granted variance to build, the property is still owned by the same owners, and with no expiration date on the variance Mr. Watson stated that it is still a valid request. Mr. Watson stated that the petitioner did not develop the property and the property has been vacant since 2008.

Mr. Watson presented information about a similar case in 2011 from Herschel and Shirleen Shaw to place a used 1996 manufactured home on a non-conforming lot size on South Walnut Street. Mr. Watson stated that the variance request was granted with conditions. (See attached staff report)

Mr. Watson stated that Mr. Link is professionally in the repair, remodel and refurbishing business and has done several projects in the community, and Mr. Valenzuela included 5 units that have been done within the past couple of years, with most of those properties requiring substantial work on the interior and exterior. (See attached staff report.)

Mr. Watson stated that the structure that Mr. Link wants to place on Franklin Street is currently located in Taylorsville, within the Towns buffer zone. (See photo in attached staff report). Mr. Watson stated that the unit is 1120 square feet and the minimum square footage allowance for residential structures in R-4 zoning is 1100 square feet. Mr. Watson stated that the petitioner plans to build a 10 foot front porch across the 28 foot width of the unit to improve the aesthetic value from the street.

Mr. Watson stated that zoning ordinance allows the zoning board to attach conditions on variances to assure compliance of zoning codes.

Mr. Watson stated that the building department had received one (1) written complaint from a neighboring property owner who was unable to attend tonight's meeting. (See attached letter). Mr. Watson stated that there had been no other written or telephonic complaints about the variance request.

Mr. Watson covered the three criteria for decision on the request. (See attached staff report).

Mr. Watson stated that based on the petitioner's request, Mr. Valenzuela has recommended approval with the following conditions:

1. That the Petitioner install a permanent foundation for the subject manufactured dwelling;
2. That this decision is only granted to the Petitioner, and the Developmental Variance not transferable to any other property owner(s) not directly associated with the Petitioner;
3. That this decision is null and void should the Petitioner fail to develop the subject parcel within two (2) years of the date of the BZA Findings of Fact;

4. That this decision is null and void should the Petitioner fail to receive applicable approvals from all appropriate local, county, and state authorities related to site development for the subject project;
5. That the subject dwelling be compliant with the Building Code of the Town, International Residential Building Code adopted by the State of Indiana, and all other requirements of the Zoning Ordinance; and,
6. That prior to placing and refurbishing the subject dwelling at the subject parcel, the Petitioner submit construction plans to the Town Building Commissioner for review/approval and new permit issuance(s) by the Building & Zoning Department as applicable.

Mr. Watson stated that he would answer any questions that the board had concerning the petition.

Mr. Sells asked the board if they had any questions for Mr. Watson.

Mr. Hamm asked if it would be on a permanent foundation.

Mr. Watson stated that the staff recommendation is to approve the variance requiring it to be put on a permanent foundation.

There being no further questions from the board for Mr. Watson, Mr. Huddleston swore in those in attendance who wished to speak either for or against the petition for Mr. Link.

Mr. Sells advised Mr. Link that he had twenty (20) minutes to present information concerning his petition.

Mr. Link stated that he would like to improve the property and receive the same opportunity that was granted to the Shaws for their property on Walnut Street. Mr. Link stated that nine (9) years ago he was planning to build on the property and he got busy with buying other rundown properties and renovating them. Mr. Link stated that he now has an opportunity to purchase a manufactured home that he would like to place on the property and renovate it so it does not resemble a manufactured home. Mr. Link stated that the house design he had planned originally to build on the lot is very similar in size of the manufactured home which will meet the size requirements for the setbacks of the lot. Mr. Link stated that he plans to refurbish the manufactured home with a new roof, new siding, new windows, and a new front porch, so that it looks like a stick built home. Mr. Link stated that his goal is to provide a home for someone to reside in that will take pride in the property.

Mr. Sells asked if there was any further information or anyone else who wished to speak in favor of the variance request. Mr. Sells then asked the board if they had any questions for the petitioner. There being no further information, or further questions, the time for speaking in favor was closed.

Mr. Sells then asked if there was anyone who had information or who wished to speak not in favor of the variance request.

Justin Toth, Edinburgh, stated that he does not agree with the variance request. Mr. Toth stated that he does not believe that Mr. Link can do what he wants to do with the home and the size of the lot. Mr. Toth stated that he owns property across the street from the subject property and feels that the manufactured home will devalue his property. Mr. Toth stated that the proposed unit will not match the existing homes in the neighborhood, as they were all built in the late 60's and he does not feel that this will increase the value of the adjacent properties.

Mr. Sells then asked Mr. Link if he would like to respond to Mr. Toth.

Mr. Link stated that in the past he has found rundown properties decrease the property values in the area and that is why he has been renovating properties and he is currently watching a property on Clay Street located behind this property that he would like to purchase and renovate. Mr. Link stated that Mr. Toth owns a rental property in the neighborhood and Mr. Link wants to make the subject property a property that people will want to reside in and take care of because

they own it and it is not a rental. Mr. Link stated that his goal is to improve the community and provide a home for responsible homeowners to live in the community.

Mr. Sells closed the public comments on the petition.

Mr. Flory asked Mr. Watson for clarification on the two (2) items for the variance if one is for lot size and one is for the manufactured housing.

Mr. Watson stated that was correct.

Mr. Flory stated that there was not much that could be done about the lot size, and commented on Mr. Watson's statement that they could not discriminate on manufactured units.

Mr. Watson stated that Indiana Code specifically prohibits town ordinances from denying placement of manufactured housing on any lot that any other development would be allowed on, providing that the unit is at least nine hundred fifty (950) square feet. Mr. Watson stated that this unit is larger than 950 square feet and it meets the minimum square footage permitted in that zoning,

Mr. Sells asked if anyone on the board would like to make a motion to either approve or deny the request.

Mr. Hoffman made a motion to approve case ZB2017-04-V.

Mr. Sells asked if that motion was to include the staff recommendations.

Mr. Hoffman stated that yes the motion was based on staff recommendations.

Mr. Hamm seconded the motion.

Mr. Huddleston asked for clarification if the motion was on the recommendations or with the conditions.

Mr. Hoffman stated that it was with the conditions recommended by the staff.

Mr. Sells stated that there is a motion to approve the request and a second on the motion. Mr. Sells then asked for all in favor to say aye. All ayes. Mr. Sells then asked for all opposed to say aye. There were no ayes for opposed. Motion passed with all in favor.

Mr. Sells asked if there was any further business. There being no further business, Mr. Hamm made a motion to adjourn the meeting. Mr. Hoffman seconded. Mr. Sells asked for all in favor to say aye. All ayes. Motion passed, meeting adjourned.

Keith Sells, Chairman

Rhonda Barrett, Secretary



TOWN OF Edinburgh

Administrative Offices: 107 South Holland Street, Edinburgh, IN 46124

Nick Valenzuela, Building Commissioner, telephone: (812) 526-3513, e-mail: nvalenzuela@edinburgh.in.us

Building & Zoning Department Staff Report

To: BOARD OF ZONING APPEALS MEMBERS
From: Nick Valenzuela, Building Commissioner
Date: December 1, 2017
Re: Case No. ZB-2017-04-V

GENERAL INFORMATION:

Applicant: Christopher Link
6650 S 800 E
Edinburgh, IN 46124

Owners: Christopher & Amy J. Link
6650 S 800 E
Edinburgh, IN 46124

Property Addresses: 210 Franklin Street
Edinburgh, IN 46124

Parcel Number: 41-12-34-013-083.000-002

Legal Description: Maplewood Addition, Lot 10, Block 8

Acreage: 0.150 acres (6,551 square feet)

Zoning: R-4 "Medium Density" (residential)

Land Use: Vacant Land

FEMA Flood Plain: The subject property does not exist in a Federal Emergency Management Agency designated Special Flood Hazard Area

SURROUNDING ZONING:

North: R-4 (red)
South: R-4 (red)

SURROUNDING LAND USE:

Medium Density (single-family residential)
Medium Density (single-family residential)

East: R-4 (red) Medium Density (single-family residential)

West: R-4 (red) Medium Density (single-family residential)



PETITIONER’S REQUEST

Christopher Link (the “**Petitioner**”) is requesting a Developmental Variance from certain requirements of the Zoning Ordinance of the Town of Edinburgh (“Zoning Ordinance”) and Town of Edinburgh (“Town”) Code of Ordinances.

Specifically, the Petitioner asks for a Developmental Variance from the Town’s Board of Zoning Appeals (“BZA”) under Division 2 of the Zoning Ordinance to permit placement of a 1995 used, to-be-refurbished, 28’ x 40’ manufactured home at the parcel. The Zoning Ordinance and Chapter 153 of Town Code of Ordinances do not allow for a single manufactured/modular dwelling unit to be placed anywhere but an approved manufactured housing park. Additionally, the subject parcel does not meet minimum square footage requirements for any single-family dwelling development under its current zoning, R-4 Medium Density [residential].

DOCUMENTATION REQUIREMENTS, LEGAL & PUBLIC NOTIFICATIONS

The Petitioner has satisfied all documentation requirements, and legal and public notifications, specified in the Town’s BZA *Application Packet for Variance/Special Exception* adopted on January 4, 2017.

PURPOSE OF STANDARDS

According to the Zoning Ordinance, Division 2: District Regulations, §156.029: *Residential Districts*:

“Districts designated for residential use . . . [including] ‘R-4,’ are limited to dwellings and public and semi-public uses which are normally associated with residential neighborhoods. The only uses permitted in the residential districts are those which would not detract from the residential character of the neighborhood. The purpose of these . . . districts is to create an attractive, stable, and orderly residential environment. However, the density standards, dwelling types and the lot and yard requirements are different in the each of the six districts to provide for the various housing needs and desires for citizens.”

According to the Zoning Ordinance, Table 2: Permitted Uses & Special Exceptions indicates that for R-4 zoning, the minimum lot area required in order to permit placement or construction of a single-family dwelling is 7,000 square feet.

According to Town Code of Ordinances, Chapter 153: Modular & Manufactured Housing, all single manufactured housing units are only permitted to be placed in approved manufactured housing parks.

According to Indiana Administrative Code, Title 36: Local Government, §36-7-4-1106:

“(d) ADVISORY--AREA. Standards and requirements, specified in comprehensive plans and ordinances, adopted under this section for lots and dwelling units may not totally preclude all manufactured homes constructed after January 1, 1981, and that exceed nine hundred fifty (950)

square feet of occupied space, from being installed as permanent residences on any lot on which any other type of dwelling unit may be placed.”

CASE HISTORY

The Petitioner is the co-owner of the subject property parcel with spouse Amy J. Link. The Petitioner purchased the subject property on or about January 24, 2008.

CONSIDERATIONS

On August 28, 2008, the Town's BZA held a hearing for the Petitioner's request to allow construction at the same subject property of a residence that did not meet the parcel's minimum square footage requirement of 7,000 square feet under the Zoning Ordinance. The Petitioner indicated that the subject residence would be 38' x 36' and allow for only 6' side-yard setbacks from adjoining property lines, while the Zoning Ordinance allowed for a minimum of 10' side-yard setbacks from such. The Petitioner also requested permission to construct a detached garage that would be 26' x 32', larger than that permitted by the Zoning Ordinance. The BZA voted to approve the construction of a residence that would meet the side-yard setbacks under the Zoning Ordinance, but denying construction of a garage larger than the dimensions prescribed by the Zoning Ordinance.

The Petitioner ultimately did not develop the subject property parcel as permitted by the BZA in 2008, and it has remained vacant land since.

In **Case ZB 2011 (V2), Herschel & Shirleen Shaw**, the Shaws requested variances from Zoning Ordinance standards to place a 1996 used Skyline manufactured home at 901 South Walnut Street. The request was for variances from Town ordinances for requiring a new manufactured/modular unit; location of the front door to face the street; unit placement only at an approved manufactured housing park; and, lot and yard requirements of a width under 70'. The BZA approved the variances requested on condition that the Shaws provide a permanent foundation for the dwelling.

The Petitioner has remodeled/repaired/refurbished single-family dwellings throughout the Town municipal limits and in the Bartholomew County – Town Buffer Zone area. Some of the addresses where such work has occurred include the following:

- 523 West Center Cross Street
- 108 North Kyle Street
- 400 North Clay Street
- 510 Clay Street
- 400 Franklin Street

Most of the work completed involved substantial rehabilitation to dwelling premises. Current representative photographs include the following (no photos prior to restoration available for this report):

400 North Clay Street



400 Franklin Street



108 North Kyle Street



The subject dwelling to be refurbished and placed at the subject property parcel is currently located at 12180 N US 31 in Taylorsville, just south of the Bartholomew County – Town Buffer Zone. The subject dwelling is currently represented in photos here:



The subject dwelling is 1,120 square feet, 20' square feet in size greater than the minimum R-4 zoning requirement for 1,100 square feet minimum area for a one-story dwelling. The Petitioner has stated that he intends to attach a front porch 10' x 28' to the front of the dwelling.

The Zoning Ordinance, in Division 9: Board of Zoning Appeals, §156.252: *Variances*, states that in approving variances, the BZA may attach such conditions to the variances as it deems necessary to assure compliance with the purpose of the Zoning Ordinance.

An application for Developmental Variance is required to demonstrate that:

- 1) *The approval will not be injurious to the public health, safety, and general welfare of the community;*
- 2) *The use and value of the area adjacent to the property included in the variance will not be affected in substantially adverse manner;*
- 3) *The strict application of the terms of the zoning code will result in practical difficulties in the use of the property; and*
- 4) *The variance granted is the minimum necessary and does not correct a hardship cause by an owner, previous or present, of the property.*

In addition, the Zoning Ordinance states that the BZA shall make written findings of the fact that all of the requirements of Division have been met by the applicant for a variance. The Board shall make a written finding of fact that the granting of the variance will be "in harmony with the general spirit, purpose, and intent" of the above chapter, and in the interest of determining "that substantial justice is done."

Prior to this current BZA hearing and by the date of this Staff Report, the Town's Building & Zoning Department received one (1) written public comment objecting to a manufactured dwelling being permitted to be placed at the subject parcel. No separate parties made telephonic/in-person inquiries to the Building & Zoning Department about the nature of the variances requested by the Petitioner prior to the hearing.

CRITERIA FOR DECISIONS:

(The petitioner should address the Criteria for Decisions in their presentation**)** In taking action on all variance requests, the BZA shall use the following decision criteria, consistent with the requirements of the Indiana Code. The BZA may impose reasonable conditions as a part of its approval.

The BZA may grant a Developmental Variance from the Zoning Ordinance if, after a public hearing, it makes findings of facts in writing (consistent with IC 36-7-4-918.5) that:

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

STAFF FINDINGS:

There is substantial evidence that approval of this Developmental Variance **will not** be injurious to the public health, safety, morals, or general welfare. There is no evidence that the Petitioner has a record of development or property management troubles with any of his similar properties.

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

STAFF FINDINGS:

There is evidence that adjacent properties to the subject properties **will not** be affected in a substantially-adverse manner. The Development would be consistent with single-family residential and after **Case ZB 2011 (V2), Herschel & Shirleen Shaw**, Bartholomew County Government records indicate that the sole adjacent single-family residential parcel to the Shaws parcel alternately increased and decreased marginally in valuation from year to year since 2012.

3. **Practical Difficulty:** *The strict application of the terms of the ordinance will result in a practical difficulty in the use of the property. (This situation shall not be self-imposed, nor be based on a perceived reduction of, or restriction on, economic gain.)*

STAFF FINDINGS:

The strict application of the terms of the ordinance **will** result in a practical difficulty in the development of this property. (The Petitioner should explain how the strict application of these ordinances results in a practical difficulty in the development of the property.) No single-family dwelling of any type is permitted to be placed at the premises under such strict standard since the parcel size conflicts with a 7,000 square foot minimum requirement, making residential development nearly impossible. A majority of parcels on the same block and surrounding streets are also below the 7,000 square foot R-4 requirement to harbor a single-family home, with 50' effective front / rear yards similar to the Petitioner's lot (6,551 square feet total).

Indiana Administrative Code, in prohibiting zoning discrimination by localities if assigning only specific zoned areas or designated land parcels for manufactured units, would supersede Town of Edinburgh municipal ordinance requiring all single manufactured housing units to be placed in approved manufactured housing parks.

STAFF RECOMMENDATIONS

Based on the Petitioner's Request; and, the Purpose of Standards, Case History, Considerations, and Town staff analysis incorporated herein, Building & Zoning Department staff recommends **APPROVAL** of the petition in ZB-2017-04-V.

Building & Zoning Department staff recommends that the BZA impose the following conditions on the Petitioner specific to approval of the Developmental Variances:

1. That the Petitioner install a permanent foundation for the subject manufactured dwelling;
2. That this decision is only granted to the Petitioner, and the Developmental Variance not transferable to any other property owner(s) not directly associated with the Petitioner;

3. That this decision is null and void should the Petitioner fail to develop the subject parcel within two (2) years of the date of the BZA Findings of Fact;
4. That this decision is null and void should the Petitioner fail to receive applicable approvals from all appropriate local, county, and state authorities related to site development for the subject project;
5. That the subject dwelling be compliant with the Building Code of the Town, International Residential Building Code adopted by the State of Indiana, and all other requirements of the Zoning Ordinance; and,
6. That prior to placing and refurbishing the subject dwelling at the subject parcel, the Petitioner submit construction plans to the Town Building Commissioner for review/approval and new permit issuance(s) by the Building & Zoning Department as applicable.

Respectively Submitted,

Nick Valenzuela
Building Commissioner
Building & Zoning Department

Notes

If a Board of Zoning Appeals member has received any relevant information to this proceeding outside of the meeting, they should consider disclosure of such at the beginning of the hearing: i.e. potential ex parte contact (required under Indiana law for BZA members)

Indiana Code 36-7-4-909 states that a member of a board of zoning appeals is disqualified and may not participate in a hearing or decision of that board concerning a zoning matter under certain conditions