

Zoning Board of Appeals
 Wednesday, July 2, 2014
 6:00 PM Town Hall

Edinburgh Zoning Board of Appeals met on Wednesday, July 2, 2014, 6:00 p.m., Edinburgh Town Hall.

Members Present: Keith Sells
 Richard Pile
 Becky Wilhelm

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

Keith Sells opened the meeting at 6:00 p.m. with roll call. Keith Sells here, Becky Wilhelm here, Ron Hamm not here, Richard Pile here, Lloyd Flory not here.

Keith Sells presented the sign in sheet and informed those in attendance that they would need to sign in with their name and address if they wished to receive further information about tonight's meeting.

Keith Sells then informed the crowd that anyone who wished to speak during tonight's meeting would need to be sworn in by Dustin Huddleston, Town Attorney. Dustin then reminded those in attendance that if they were not sworn in then they would be unable to speak during the meeting. He also reminded those in attendance that if they spoke to give their name and address for record keeping purposes. Dustin then swore in those in attendance who wished to speak.

Keith Sells presented the minutes for the June 4, 2014 regular meeting, June 16, 2014 executive meeting, June 27, 2014 executive meeting, and June 27, 2014 special meeting and asked if anyone had any changes or corrections that needed to be made. Becky Wilhelm made a motion to approve all of the minutes. Richard Pile seconded the motion. Keith then asked for all in favor to say aye. All ayes. Minutes approved.

Wade Watson presented the Zoning Variance request for Fred Stadler with MA Metal, 212 N. Main Street for a variance on setback requirements for front, side, and rear of property. (See attached staff report). Wade presented his power point presentation which included an aerial map to show the location of the property. The current zoning is R4 Medium Density Residential. The request is for a variance of setback requirements to construct a 70' x 95' commercial building that is 29' tall. All legal and public notifications has been satisfied per requirements of the Zoning Board of Appeals application packet.

Wade informed the board that the applicant has applied to the Planning Commission to rezone the property to Enclosed Industrial from R4 and probably should have went to them before coming to the Zoning Board, but due to the "fast track" nature of the construction, the petitioner requested to come before the Zoning Board of Appeals first as the Planning Commission meeting will not be held until July 15, 2014. Any decisions made by the Zoning Board tonight will be contingent on the decision of the Planning Commission at their meeting on July 15, 2014. If the planning commission denies the request for rezoning then the decisions made tonight by the Zoning Board will be null and void and MA Metal will need to come back before the Zoning Board to file for additional variances before beginning construction. The variance request being sought tonight is for a lot that is zoned Enclosed Industrial.

Enclosed Industrial setback requirements are:

Minimum Front Yard Setback: 60'
 Minimum Side Yard Setback: 20'
 Minimum Rear Yard Setback: 20'

The petitioner is requesting:

Front Yard Setback: 40'
 North Side Yard Setback: 10'
 South Side Yard Setback: 20'
 Rear Yard Setback: 16'

Staff recommendation is for approval of the petition subject to the following conditions:

1. That this approval be contingent upon the affirmative decision of the Edinburgh Plan Commission to re-zone the subject property to Enclosed Industrial. Should the request before the Plan Commission to re-zone be denied, that this approval becomes null and void and that the Petitioner shall reapply to the Board of Zoning Appeals for additional variances before beginning construction on this residential lot.
2. The structure shall be compliant with Building Codes adopted by the State of Indiana for construction of Commercial Buildings, and all other requirements of the Edinburgh Zoning Ordinances.

Keith Sells asked the board if they had any questions for Wade. There being no questions for Wade, Keith asked the petitioner if they would like to present anything.

Dustin Huddleston reminded the audience that they had a total of 10 minutes for the petitioner and anyone in approval of the request to speak and a total of 10 minutes for any remonstrators or people opposed to the request to speak.

Gregg Cantwell of CKW Land Surveying spoke on behalf of MA Metals, 216 N. Main Street, for subject property located at 212 N Main Street. The petition is for a variance for minimum setback requirements for the proposed Enclosed Industrial District. Town of Edinburgh zoning ordinance requires a 60 foot front setback and MA Metals is requesting a 40 foot front setback, side yard setback requirement is for 20 foot and the south side will meet requirements and the request is for a 10 foot setback on the north side, the rear setback requirement is for 20 foot and the request is for a 16 foot setback. The proposed building will be constructed in accordance with Federal, State, Fire, and Town code, rules, ordinances and requirements. The proposed building will be used to support the existing MA Metal operations, and will be an increase in assessed value and will have a positive financial effect for the community. MA Metals current business is growing, hiring employees and needs the 70 X 95 building which is an additional 6,650 square feet of space.

Keith Sells asked the board if they had any questions for Gregg Cantwell. There were no questions for Gregg.

Rick McConnaughay, Sales Manager for MA Metals, presented a letter to the board for the Economic Business Scope of the proposed building. MA Metal is doing an investment of \$2.5 million with approximately \$300,000 for the building and the remaining expenditures for equipment and tooling for the production. MA Metal will be hiring 24 additional employees and the estimated annual payroll is \$750,000.

Keith Sells asked the board if they had any questions for Rick McConnaughay. There were no questions for Rick.

Jim Krohn, 289 W. Robertson Road, Morgantown, IN, is the business unit manager for CL Tech, stated that the contract for MA Metal is not short term and that it will go through 2020, and the building is needed to add additional lines and additional jobs.

Keith Sells asked if any remonstrators would like to speak.

Carl Giles, 307 N. Grant Street, owns rental property at 210 N. Main Street, the problem he has with the business is the dust the comes from the current parking lot. His tenants had to close down and remove their pool due to the dust; he feels that the building will downgrade his property. He doesn't feel that it needs to be that close to his house, the renters in his property have complained about the noise from the equipment that is currently used.

Harold Clark, 613 High School Drive, owns rental property at 208 & 208 ½ N. Main Street, he feels that the building should be built to meet current requirements and not with a variance. He rebuilt his property after 2008 tornado and had to move it 3 ½ inches out of the alley, at the request of the previous Building Commissioner. He stated that he never received any notification for the current parking lot at MA Metals. He is concerned with the dust, dirt, fast vehicles coming in and out of the parking lot, that there is no stop sign coming out of the parking

lot, noise from the business all night long. He was also concerned with the parking lot not being black topped.

Roy Clark, 208 ½ N Main Street, concerned with all the noise and dust.

Diana Dement, 208 N. Main Street, Apt. B, concerned with noise, dust.

Mike Morgan, 208 N. Main Street, Apt. A, concerned with noise, dust, have to keep windows shut due to dust. His kids can't ride bikes on sidewalk to the park due to cars coming in and out of the parking lot too fast.

There being no further input from the audience, Keith Sells asked the board if they would like to discuss the petition or if they were ready to make a decision.

Dustin Huddleston reminded the board and the audience that since there were only three board members in attendance that any action that can be carried forward has to be unanimous. If the vote is 2 – 1 or 1 – 2 that the petition would need to be tabled until the next meeting in August.

Keith Sells asked if the building would have new machinery in it.

Jim Krohn stated that it would be all new machinery, fully automated lathes, there will not be presses. The building will be enclosed, air conditioned, climate controlled, and there will be no open doors or windows which will reduce the noise.

Keith Sells asked about the paving of the parking lot.

Rick McConnaughay stated that they would black top the parking lot.

Gregg Cantwell stated that the actual site design is not completed, as they are waiting to get the approval for the variance and rezone before doing any further design work. Any drive or parking would be concreted or black topped for the new building.

Keith Sells stated that the requirement for paving could be part of the motion for approval.

Becky Wilhelm asked if they were talking about pavement of the new parking lot.

Keith Sells stated that the complaints were for the current parking lot and that it would need to be paved.

Carl Giles asked about the location for the driveway for the building, if it was going to be right next door to his rental property.

Wade Watson stated that the site plans have not been reviewed yet as they have not been developed due to waiting on approval of the rezoning and variance requests. The building will take up a majority of the area that is currently used as a parking lot, so part of the parking will go away due to the construction of the building. The remainder is to be determined once the site plan is submitted.

Keith Sells asked if the board had any other further questions

Richard Pile addressed the complaint about no stop sign and the traffic coming from the parking lot and that MA Metal could put up a sign in the lot.

Harold Clark asked about the noise.

Becky Wilhelm asked MA Metal representatives if the new building would be a buffer to the noise.

Jim Krohn stated that the machines inside the new building are CNC lathes and cold forming machines, not presses that will not produce any additional noise. The presses usually cease operation at 3:00 but are sometimes used later due to additional capacity.

Becky asked that once the new building is completed that it would help serve as a noise buffer to the existing building.

Jim Krohn said that was correct.

Keith Sells commented that the new building should not add any additional noise.

Jim Krohn stated that was correct that with the additional requirements for insulation on the new building and being climate controlled.

Harold Clark commented on the noise that is coming from the existing building. He doesn't feel that the new building will help with the existing noise.

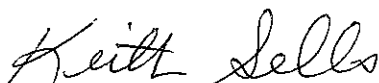
For clarification, Wade Watson asked Harold if the noise was going on when he was constructing the house and if the condition existed before the house was constructed.

Harold Clark stated that the noise had been going on since he bought the property in 2001.

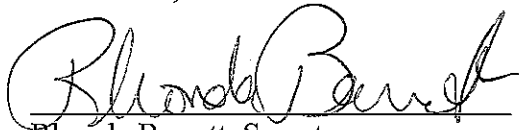
There being no further questions or comments, Keith Sells made a motion that the request be approved based on the approval being contingent upon the affirmative decision of the Edinburgh Plan Commission to re-zone it to Enclosed Industrial, if denied then approval is null and void, including a paved parking lot of all existing and future parking to eliminate the dust problem that neighbors are complaining about, and the company will install a stop sign before the sidewalk at the entrance to the parking lot and take action to control the employees leaving the parking lot as best as they can.

Becky Wilhelm seconded the motion. Keith Sells asked for all in favor to say aye. All ayes. Motion approved.

Keith Sells asked if there was any other business for tonight's meeting. There being no further business, Keith Sells made a motion to adjourn the meeting. Richard Pile seconded. Meeting adjourned.



Keith Sells, Chairman



Rhonda Barrett, Secretary



TOWN OF Edinburgh

Administrative Offices: 107 South Holland Street, Edinburgh, IN 46124 Wade D. Watson, Building Commissioner, Email: wwatson@edinburgh.in.us

BZA Staff Report

To: BOARD OF ZONING APPEALS MEMBERS
From: Wade D. Watson, Building Commissioner
Date: July 2, 2014
Re: Case ZB 2014 (V03) VARIANCE/SPECIAL EXCEPTIONS

GENERAL INFORMATION:

Applicant: Fred C Stadler
 216 N. Main Street
 Edinburgh, IN 46124

Agent: CKW Land Surveying, Inc.
 301 E Jefferson St
 Franklin, IN 46131

Property Address: 212 N. Main Street, Edinburgh, IN 46124

Property Owner: Fred C Stadler
 216 N. Main Street
 Edinburgh, IN 46124

Property Number: 41-12-34-023-035.000-002

Subdivision & Lot: Hunts Addition, Lot 42

Lot Size: 100' X 150'

Zoning: R 4 Medium Density Residential

Land Use: Residential Single Family Dwelling Platted Lot

FEMA Flood Plain: Subject Property does not exist in a designated flood area

SURROUNDING ZONING:

North: EI:
 South: R 4:
 East: LB:
 West: LB:

SURROUNDING LAND USE:

Enclosed Industrial
 Medium Density Residential
 Residential & Local Business
 Vacant & Industrial Parking

REQUEST:

The petitioner, Fred Stadler, Midwest Art Metal (Petitioner) requests a variance from the setback requirements established in the developmental standards of Division 11, Article 156.037 Table 2 of the Town of Edinburgh Zoning Ordinance, for the construction of a 70' x 95' industrial building having a maximum height of 29' feet.

LEGAL AND PUBLIC NOTIFICATIONS

Petitioner has satisfied all documentation requirements, legal and public notifications specified in the Town of Edinburgh Zoning Board of Appeals Application Packet for Variance/Special Exception.

CONTINGENT CONSIDERATION:

The current zoning for the subject parcel is R4 Residential. The Petitioner has made application to the Edinburgh Plan Commission to have this property re-zoned Enclosed Industrial (EI). The Petitioner requests this case first come before the Board of Zoning Appeals in order to "fast track" the construction process of the new structure. The Edinburgh Plan Commission is scheduled to consider the petitioner's re-zone request on July 15, 2014.

The approval of this variance request will be contingent upon the approval of the Plan Commission to re-zone the property to Enclosed Industrial. In the event the re-zoning request before the Plan Commission fails, the approvals by the Board of Zoning Appeals will become null and void, requiring the Petitioner to reapply to the Board of Zoning Appeals for additional variances before beginning construction.

CASE CONSIDERATIONS:

1. Town of Edinburgh Zoning Ordinance, Division 11, Section 156.037 establishes the following minimum setback requirements for lots within EI Districts:

Minimum Front Yard Setback: 60'
Minimum Side Yard Setback: 20'
Minimum Rear Yard Setback: 20'

Petitioner is seeking a variance to construct an industrial building having the following setbacks for the property lines:

Front Yard Setback: 40'
North Side Yard Setback: 10'
South Side Yard Setback: 20'
Rear Yard Setback: 16'

2. The structures of the adjacent properties are not compliant with setback requirements established in Section 156.037.

CRITERIA FOR DECISIONS:

(**The petitioner will need to address the Criteria for Decisions in their presentation**) In taking action on all variance requests, the Board of Zoning Appeals shall use the following decision criteria, consistent with the requirements of the Indiana Code. The Board may grant a variance from development standards and limitations of this 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:

The approval of this variance will not be injurious to the public health, safety or general welfare.

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:

The use and value of the adjacent properties to the subject property will not be affected in a substantially adverse manner.

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 ordinance will not result in a practical difficulty in the use of this property. (The petitioner should explain how the strict application of these ordinances results in a practical difficulty in the use of the property.)

STAFF RECOMMENDATION

Based on these investigation findings, staff recommends **APPROVAL** of the petition subject to the following conditions:

1. That this approval be contingent upon the affirmative decision of the Edinburgh Plan Commission to re-zone the subject property to Enclosed Industrial. Should the request before the Plan Commission to re-zone be denied, that this approval becomes null and void and that the Petitioner shall reapply to the Board of Zoning Appeals for additional variances before beginning construction on this residential lot.
2. The structure shall be compliant with Building Codes adopted by the State of Indiana for construction of Commercial Buildings, and all other requirements of the Edinburgh Zoning Ordinances.

Respectively Submitted,



Wade D. Watson
Building Commissioner
Town of Edinburgh

