

Zoning Board of Appeals
 Wednesday, September 3, 2014
 6:00 PM Town Hall

Edinburgh Zoning Board of Appeals met on Wednesday, September 3, 2014, 6:00 p.m.,
 Edinburgh Town Hall.

Members Present: Keith Sells
 Ron Hamm
 Lloyd Flory
 Richard Pile

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 not here, Ron Hamm here, Lloyd Flory here, Richard Pile here.

Keith Sells presented the minutes for the August 6, 2014 meeting, Lloyd Flory made a motion to approve the minutes. Ron Hamm seconded the motion. Keith asked for all in favor to raise their right hand, all right hands raised. Minutes approved.

Keith Sells presented the sign in sheet and informed those in attendance that if they wanted to receive any further information concerning tonight's meeting to provide their name and address on the sign in sheet. There were no names added to the sign in sheet.

Keith Sells then informed those in attendance that they would need to be sworn in before they could provide any testimony concerning tonight's meeting.

Attorney Dustin Huddleston swore in Carolyn Austin.

Wade Watson presented Case #ZB2014-V05, Carolyn Austin, Flowers and More by Carolyn, 515 S. Main Street, for a use variance to operate a Retail Business in a district zoned as R4 Residential. The property had been formerly used as a fellowship hall for a church. Wade stated that in his staff report (see attached) there was an error with the surrounding zoning, it should be all residential with the exception of the property directly to the south which is a church building. Wade noted that the structure is missing doors to the front and windows. There are no doors or windows except on the south side, which has two windows and an entry way, as the building was originally constructed for a church fellowship hall. The structure was not designed to be a residential structure. Churches and houses of worship are permitted in every zoning district, so when the building was constructed there were no zoning violations. The request is for a variance from Zoning Ordinance Article 156.036; Permitted Uses and Special Exceptions, to use the building as a retail floral business in a district zoned as R4 Medium Density Residential. The petitioner has satisfied all documentation requirements, legal and public notifications as specified in the Edinburgh Zoning Board of Appeals Application Packet.

Wade gave four items of consideration concerning the application:

1. The zoning for this property is R4 – Medium Density Residential. §156.036 of the Edinburgh Zoning Ordinances provide for Retail Sales businesses to operate within districts zoned as Local Business (LB), General Business (GB), Roadside Business (RB), and the Central Business District (CBD). This standard makes no provision for Retail Sales business to operate in districts zoned for residential purposes.
2. As the structure on this site currently exists, it is not suitable as a residential dwelling. The structure on this property was originally constructed to be a fellowship hall for the House of Worship located on the parcel adjacent and to the south of this property. This structure was built "slab-on-grade" approximately 50' by 50' (2,500 square feet) with 10' ceiling height. Except for the small 20' section of grass in the front yard area, the building is surrounded by a paved parking lot consisting of a minimum of 19 parking spaces.

3. The business hours of operation for the flower shop is 10:00 AM to 4:00 PM, Monday through Saturday, closed on Sunday. The nature of this business and its hours of operation are unlikely to create any traffic congestion in the residential neighborhood.
4. An affirmative decision to allow this Use Variance would be specifically applicable to this owner and this business only. A separate petition to the Edinburgh Board of Zoning Appeals would be required to permit the operation of a different business on this property.

Staff recommendation is for approval with the following conditions:

1. The outdoor signage is in compliance to all standards established in Division 6 Sign Regulations §156.200 for which no variances are granted.
2. That this decision is null and void should there be a change of ownership or a change of business at this location, requiring the property owner to repetition the Town of Edinburgh Board of Zoning Appeals for a Use Variance before operating a different business on this parcel.

Keith Sells then asked the board if they had any questions.

Richard Pile asked if there was no plumbing in the building.

Wade stated that there are restrooms but he did not think there were any shower or bath facilities, only toilets, sinks and a kitchen sink.

Ron Hamm asked if there had been any complaints from any of the neighbors.

Wade stated that he had not had any complaints or comments from anybody in the neighborhood.

Richard Pile asked if the business was already open.

Wade stated that yes it has been open since July 4th.

Richard Pile commented that the business was already in violation.

Ron Hamm asked if the business was planning for anything outside like a hothouse for plants or anything.

Carolyn Austin said no.

Keith asked the board if they had any further questions. There being no further questions he asked Carolyn if she would like to present any further information to the board.

Carolyn Austin felt that the business would add to the Town of Edinburgh, and that she had a neighbor come in and express concern that the business would be closing when they saw the sign posted about the meeting and offered to come to the meeting in her favor. She has also received a lot of positive comments from the community.

Keith then asked the board if anyone would like a decision on the request. Lloyd Flory made a motion to approve the variance per the staff's recommendation that includes the two conditions:

1. The outdoor signage is in compliance to all standards established in Division 6 Sign Regulations §156.200 for which no variances are granted.
2. That this decision is null and void should there be a change of ownership or a change of business at this location, requiring the property owner to repetition the Town of Edinburgh Board of Zoning Appeals for a Use Variance before operating a different business on this parcel.

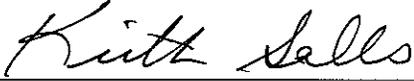
Ron Hamm seconded the motion.

Keith asked for all in favor to raise their right hand. Lloyd Flory, Ron Hamm, and Keith Sells raised their right hand.

Keith then asked for those opposed to raise their right hand. Richard Pile raised his right hand.

Motion passed with a voted of 3-1.

Keith Sells asked if there was any other business for tonight's meeting. There being no further business, Ron Hamm made a motion to adjourn the meeting. Lloyd Flory seconded. Keith asked for all in favor to raise their right hand. All right hands were raised. 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: September 3, 2014
Re: Case ZB 2014 (V05) USE VARIANCE

GENERAL INFORMATION:

Applicant: Flowers And More By Carolyn
Ms. Carolyn Austin
13480 N. 100 E.
Edinburgh, IN 46124

Property Address: 515 S. Main Street, Edinburgh, IN 46124

Property Owner: Jerry & Bonnie Jones
9196 S Edinburgh Road
Edinburgh, IN 46124

Property Number: 41-12-34-033-101.000-002
Lot Size: 80' x 148' (approximately)
Zoning: R4 Medium Density Residential
Land Use: Previously House of Worship (Fellowship Center)
FEMA Flood Plain: Subject Property does not exist in a designated flood area

SURROUNDING ZONING:

North: R4:
South: R4:
East: R4:
West: R4:

SURROUNDING LAND USE:

Residential
General Business
House of Worship
Residential

REQUEST:

Case ZB 2014 (V05) Petitioner requests a Use Variance from the Town of Edinburgh Zoning Ordinance standards, to operate a retail floral business in a district zoned as Medium Residential at the property known as 515 S Main Street, Edinburgh, IN. This request is for variances from Zoning Ordinance Article 156.036; Permitted Uses and Special Exceptions.

DOCUMENTATION 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.

PURPOSE OF STANDARDS:

The intent of the Edinburgh zoning standards is to promote the public health, safety, and general welfare of the community. Districts designated for residential use 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.

The establishment of compact districts for specific business types is to provide for more efficient traffic movement, parking facilities, fire protection, and police protection. The purpose of these districts is to provide unified shopping and service districts conveniently located in areas appropriate for business use and to establish standards for the design of sites, buildings, structures, plantings, signs, street hardware and such other improvements that are visible to the public.

CASE CONSIDERATIONS:

5. The zoning for this property is R4 – Medium Density Residential. §156.036 of the Edinburgh Zoning Ordinances provide for Retail Sales businesses to operate within districts zoned as Local Business (LB), General Business (GB), Roadside Business (RB), and the Central Business District (CBD). This standard makes no provision for Retail Sales business to operate in districts zoned for residential purposes.
6. As the structure on this site currently exists, it is not suitable as a residential dwelling. The structure on this property was originally constructed to be a fellowship hall for the House of Worship located on the parcel adjacent and to the south of this property. This structure was built “slab-on-grade” approximately 50’ by 50’ (2,500 square feet) with 10’ ceiling height. Except for the small 20’ section of grass in the front yard area, the building is surrounded by a paved parking lot consisting of a minimum of 19 parking spaces.
7. The business hours of operation for the flower shop is 10:00 AM to 4:00 PM, Monday through Saturday, closed on Sunday. The nature of this business and its hours of operation are unlikely to create any traffic congestion in the residential neighborhood.
8. An affirmative decision to allow this Use Variance would be specifically applicable to this owner and this business only. A separate petition to the Edinburgh Board of Zoning Appeals would be required to permit the operation of a different business on this property.

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:

Adjacent properties to the subject property **will not** be affected in a substantially adverse manner.

1. **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.)

2. **Unnecessary Hardship: The strict application of the terms of the Ordinance will constitute an unnecessary hardship if applied to the property for which the variance is sought.**

STAFF FINDINGS:

The strict application of the terms of the ordinance **will** result in an unnecessary hardship if applied to this property.

3. **Comprehensive Plan: The approval does not interfere substantially with the Edinburgh Comprehensive Plan.**

STAFF FINDINGS:

The approval of this variance **will not** interfere with or be inconsistent with the goals and objectives of the Comprehensive Plan.

STAFF RECOMMENDATION

Based on these investigation findings, staff recommends **APPROVAL** of the petition for a Use Variance to operate the Flower Retail business in the residential neighborhood, with the following condition:

3. The outdoor signage is in compliance to all standards established in Division 6 Sign Regulations §156.200 for which no variances are granted.
4. That this decision is null and void should there be a change of ownership or a change of business at this location, requiring the property owner to repetition the Town of Edinburgh Board of Zoning Appeals for a Use Variance before operating a different business on this parcel.

Respectively Submitted,

Wade D. Watson
Building Commissioner
Town of Edinburgh