

Zoning Board of Appeals
 Wednesday, February 1, 2012
 6:00 PM Town Hall

Edinburgh Zoning Board of Appeals met on Wednesday, February 1, 2012, 6:00 p.m., Edinburgh Town Hall.

Members Present: Becky Wilhelm
 Richard Pile
 Lloyd Flory
 Rhonda Barrett, Secretary

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

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

Becky Wilhelm presented the January 4, 2012 meeting minutes for approval, and asked for a motion to approve the minutes. Lloyd Flory made motion to approve minutes. Richard Pile seconded. Becky asked for all in favor to say aye. All ayes. Motion approved.

Becky Wilhelm then presented the sign in sheet for anyone in attendance who wished to receive notification of any further information concerning tonight's meeting. There was no one in attendance that wished to receive any further notification.

Dustin Huddleston then swore in Rose Johnson & Shirleen & Herschel Shaw before the meeting started.

Becky Wilhelm asked Wade Watson to present his report regarding the four variances requested by Herschel and Shirleen Shaw concerning the placement of a used mobile home on their property located at 901 S. Walnut Street, Edinburgh, IN.

Wade Watson presented a power point presentation concerning the variance requests for the property owned by Herschel & Shirleen Shaw, located at 901 S. Walnut Street, the parcel is .24 acres and is located in the R5 Medium Density Residential Zoning.

The Developmental Standards Variance requests from Herschel and Shirleen Shaw is for placement of a used 1996 Skyline Manufactured home on the lot at 901 S. Walnut Street. The four variances from the ordinance are being presented as a group, which include placing a used unit instead of a new unit, the door orientation on the unit, the placement on a lot that is not in a manufactured park, and the lot and yard requirements ordinance.

- A. The first variance request is in regards to section 153.02 of Article 2002-6 requiring all units either modular or manufactured placed on any lot or park shall be a new unit.
- B. The second variance request is in regards to section 153.03 of Article 2002-6 which requires and modular or manufactured unit placed on any lot shall have the unit oriented with the front door facing the street.
- C. The third variance request is in regards to section 153.06 of Article 2002-6 requires all single manufactured housing units to be placed only in an approved manufactured housing park.
- D. The fourth variance request is in regards to section 156.037 of Article 1993-8 which requires the minimum lot width for property zoned as R-5 single family dwelling to be seventy feet.

The current residential structure located on the property is a 1976 mobile home that is in very poor condition of disrepair. The petitioner is requesting to replace the current 1976 mobile home

with the 1996 Skyline modular home. The lot at 901 S. Walnut Street is a polygon shape and has a 42' frontage on Walnut Street. (See attached Exhibit A)

Lloyd Flory asked about the enclosed porch shown in the pictures and if it was included in the measurements presented with Exhibit A. Wade Watson stated that the measurements on Exhibit A did not include the enclosed porch shown in the pictures. Lloyd asked if this would change the setback from the street to include the enclosed porch. Wade stated that it was possible, that the porch would need to be removed before moving the unit in place and the intentions are to reinstall the enclosed porch once the unit is moved. Lloyd then asked about the carport on the side of the unit if that would be across the setback also. Wade stated yes that it would be.

Wade then presented the criteria that need to be met to allow the variances requested (see attached BZA Staff Report). Based on Wade's investigation of the property his recommendation is for approval of the petition with requiring the 1996 mobile home unit to be placed on a permanent foundation, and that all other zoning ordinances and setbacks are required.

Becky Wilhelm asked the Shaw's if they had any other comments or information to present to the board.

Rose Johnson, 1617 Washington Street, Columbus, Indiana, stated that the only thing the Shaw's wanted to know is if the permanent foundation required a concrete slab under the whole thing or if a block foundation would be sufficient for the crawl space.

Wade Watson stated that there is no requirement for a concrete slab in addition to a foundation of concrete block.

Becky Wilhelm asked if there was anyone in attendance that was in opposition of the variances for the Shaw's. There being no one in opposition, Becky asked for a motion on the petition.

Lloyd Flory asked for specifications on what the board would be voting on.

Dustin Huddleston stated that the petitions could all be voted on at once or individually, and if the board wants to include conditions that were presented or not. Dustin stated that his understanding is that there is no requirement for a permanent foundation, but it is Wade's recommendation.

Wade Watson stated that there is a requirement for a concrete footing that goes under if not put on a permanent foundation there has to be runners that are under where the wheels go.

Dustin stated that if the board wants something different than that or more then that would need to be a condition of the variance approval.

Richard Pile asked if that is what they are going to do. Becky Wilhelm stated that they were going to do a block foundation.

Lloyd Flory stated the motion could be approval of the four variances, listed individually, Article 2002-6 section 153.02, 153.03, and 153.06 and Article 1993-8 section 156.037 and add that this be put on a permanent foundation and meet all setbacks as recommended by staff.

Dustin Huddleston asked what kind of foundation.

Lloyd Flory stated a block foundation that meets code.

Richard Pile asked Lloyd if this is a motion that he was making. Lloyd Flory stated that yes this is the motion he is making. Richard Pile seconded the motion. Becky Wilhelm asked for all in favor to say aye. All ayes. Motion passed.

The next item on the agenda is for Tom Crow and Kimberly Phelps, 500/502 W Center Cross, review of variance that was granted on November 3, 2010. Becky Wilhelm asked Wade to present the information that he has for this item.

Wade Watson stated that this is a petition to revoke the variance that was granted on November 3, 2010, for the property located at 500/502 W Center Cross, owned by Tom Crow and Kimberly Phelps. The variance granted Michael Fisher the permission to operate an automobile repair business within an area that is zoned LB, Local Business, with the board requiring a six month review by the building commissioner. At this time the business is no longer operating, the current businesses occupying the property are compliant with the zoning ordinances for local business; therefore the standing zoning variance is no longer necessary. Staff recommendation is to revoke the action taken by the Board of Zoning appeals on November 3, 2010 which granted a variance to operate an automobile repair business in an area zoned LB.

Dustin asked if notice was given to the property owner and Mr. Fisher about tonight's hearing.

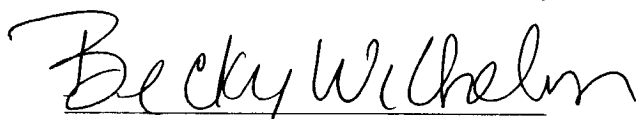
Wade stated yes, but that he was unable to reach Mr. Fisher, the letter was sent to the last known address and it came back unopened, and that he had talked with Mr. Crow.

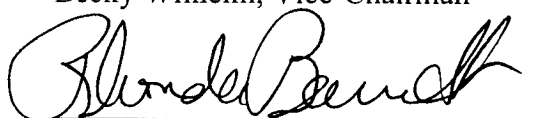
After some further discussion, Becky Wilhelm stated that since there was no one in attendance to speak for or against the request, she would like a motion for the request to revoke.

Lloyd Flory made a motion to approve the revoking of the variance for the property located at 500/502 W Center Cross for auto repair business

Richard Pile seconded. Becky asked for all in favor to say aye. All ayes.

There being no further business, Becky Wilhelm asked for a motion to adjourn the meeting. Richard Pile made a motion to adjourn the meeting. Lloyd Flory seconded. Becky asked for all in favor to say aye. All ayes. Meeting adjourned.


Becky Wilhelm, Vice-Chairman


Rhonda Barrett, Secretary



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OF
Edinburgh**

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BZA Staff Report

To: BOARD OF ZONING APPEALS MEMBERS
From: Wade D. Watson, Building Commissioner
Date: February 1, 2012
Re: Case ZB 2011 (V 2)

GENERAL INFORMATION:

Applicant: Herschel and Shirleen Shaw
7011 E 750 S
Elizabethtown, IN 47232

Owner: Same

Property Number: 03-05-03-210-006.800-010
Area: 10,265 (sf.)
Acreage: 0.24 (ac.)
Zoning: R5
Land Use: Medium Density Residential
FEMA Flood Plain: Subject Property does not exist in a designated flood area

SURROUNDING ZONING:

North: R-5:
South: EI:
East: R-5:
West: R-5:

SURROUNDING LAND USE:

Medium Density Residential
Enclosed Industrial
Medium Density Residential
Medium Density Residential

REQUEST:

Case ZB 2011 (V2) Herschel & Shirleen Shaw. A request for variances from the Town of Edinburgh Zoning Ordinance standards, to place a used 1996 Skyline Manufactured home at the property known as 901 S Walnut Street, Edinburgh, IN. This request is for variances from the following four (4) Zoning Ordinances:

- a. Article 2002-6: Chapter 153; Section 153.02: New Unit
- b. Article 2002-6: Chapter 153; Section 153.03: Door Placement
- c. Article 2002-6: Chapter 153; Section 153.06: Unit Placement
- d. Article 1993-8: Chapter 156; Section 156.037: Lot and Yard Requirements

PURPOSE OF STANDARDS:

The intent of these ordinances is to promote the public health, safety, general welfare, and to lessen injury and losses to persons or property by limiting the use of manufactured housing that potentially fail to meet current manufacturing codes related to fire protection, electrical standards, and energy efficiencies. Further these ordinances promote the aesthetic enhancement of the community and encourage the protection of property values.

CONSIDERATIONS:

1. Article 2002-6, Section 153.02 of the Zoning Ordinance for the Town of Edinburgh adopted the 12th day of August, 2002 states:

"All units, either modular or manufactured housing placed, moved, installed or constructed upon any lot or park with in the Town of Edinburgh or within the Town of Edinburgh Zoning and Planning jurisdiction, shall be a new unit. This means said unit shall not be previously owned by anyone other than the manufacturer and not previously occupied for any purpose, lease, ownership, and residential or any other purpose."

2. Article 2002-6, Section 153.03 of the Zoning Ordinance for the Town of Edinburgh requires any modular or manufactured housing unit placement on any lot shall have the unit oriented with the front door facing the street.
3. Article 2002-6, Section 153.06 of the Zoning Ordinance for the Town of Edinburgh requires all single manufactured housing unit shall only be placed in an approved manufacturing housing parks.
4. Article 1993-8, Section 156.037 of the Zoning Ordinance for the Town of Edinburgh requires the minimum lot width for property zoned as R-5 Single Family Dwelling is to be seventy feet (70').
5. The residential structure currently on this lot is a mobile home manufactured in 1976 in very poor condition of disrepair. The Petitioner has requested to replace the current mobile home with a Skyline modular home manufactured in 1996.
6. Lot 17 is a polygon shaped property having forty two feet (42') of street frontage to the west adjoining S. Walnut Street, one hundred seventy three feet (173') to the south, seventy three feet (73') to the east side and one hundred fifty three feet (153') to the north side. (Exhibit A)

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 or will not) be injurious to the public health, safety, morals, and general welfare of the community.**

STAFF FINDINGS:

- a. Section 153.02 (New Unit) The approval of this variance will not be injurious to the public health, safety or general welfare as the 1996 unit will have been manufactured under the majority of the current building codes.
- b. Section 153.03 (Door Placement) The approval of this variance will not be injurious to the public health, safety or general welfare.
- c. Section 153.06 (Unit Placement) The approval of this variance will not be injurious to the public health, safety or general welfare.
- d. Section 156.037 (Lot and Yard Requirements) 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 or will not) be affected in a substantially adverse manner.**

STAFF FINDINGS:

- a. Section 153.02 (New Unit) Adjacent properties to the subject property could potentially be affected in a substantially adverse manner with the use of a sixteen year old (16) manufactured unit in lieu of a new unit of the same size. However a valid argument could be made that the 1996 unit would substantially improve the value of the adjacent properties over the current condition of the subject property.
- b. Section 153.03 (Door Placement) The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner with the approval of this variance. The 1996 modular unit has a door that will be facing Walnut Street. There is currently a roof covering this door and Petitioner has submitted intentions to reconstruct the porch roof when the unit is placed on the property thus having a covered entrance facing Walnut Street.
- c. Section 153.06 (Unit Placement) Approval of this variance will not substantially affect the use and value of adjacent properties in an adverse manner.
- d. Section 156.037 (Lot and Yard Requirements) Approval of this variance will not substantially affect the use and value of adjacent properties in an adverse manner.

3. **Practical Difficulty: The strict application of the terms of the ordinance (will or will not) 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:

- a. 153.02 (New Unit) The strict application of the ordinance **will not** result in a practical difficulty in the use of this property.
- b. 153.03 (Door Placement) The strict application of the ordinance **will not** result in a practical difficulty in the use of this property.
- c. 153.06 (Unit Placement) The strict application of the ordinance **will not** result in a practical difficulty in the use of this property.
- d. 156.037 (Lot and Yard Requirements) The strict application of the ordinance **will** result in a practical difficulty in the use of this property. Any residential structure placed on this property would require a variance from this zoning standard because of the width of the lot being only forty-two (42') feet at the Walnut Street side of the property.

(The petitioner should explain how the strict application of these ordinances results in a practical difficulty in the use of the property.)

Please Note: The Petitioner has provided photographs of the 1996 modular unit which appears to be in very good condition and would be an improvement over the current structure. The removal of the old unit and the installation of the 1996 unit would require the removal of several trees and a utility service pole in order to meet the set back requirements of Section 156.037.

STAFF RECOMMENDATION

Based on these investigation findings, staff recommends **APPROVAL** of the petition, with the consideration of requiring the owner to place the 1996 Skyline Manufactured house on a permanent foundation and to be compliant with all other Zoning Ordinances and set back requirements.

Respectively Submitted,



Wade D. Watson

