

Zoning Board of Appeals  
 Wednesday, April 4, 2012  
 6:00 PM Town Hall

Edinburgh Zoning Board of Appeals met on Wednesday, April 4, 2012, 6:00 p.m., Edinburgh Town Hall.

Members Present:     Becky Wilhelm  
                               Richard Pile  
                               Lloyd Flory  
                               Ron Hamm  
                               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, here, Richard Pile, here, Lloyd Flory here, Rhonda Barrett, Secretary, here.

Becky Wilhelm presented the February 1, 2012 meeting minutes for approval, and asked for a motion to approve the minutes. Richard Pile made motion to approve minutes. Lloyd Flory 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. Two people signed to receive any further notification.

Dustin Huddleston then swore in those in attendance who wished to speak during the meeting.

Becky Wilhelm presented the only item on the agenda which is a request from Terry Brown, Charlotte Drive, Edinburgh, Indiana, to receive a Use Variance to operate an auto service and repair business in a district zoned General Business.

Becky Wilhelm then asked Wade Watson to present his report regarding the variance request.

Wade Watson then presented case ZB 2012 V3 for Brown's Auto and Equipment Repair the property at Lot 5A, Charlotte Drive, Edinburgh, IN. The property is located near the intersection of Eisenhower Drive and US 31. The access to the property is from Tobias Drive. Zoning for the parcel is General Business.

Lloyd Flory asked if the Edinburgh landscaping is the only thing between the property and US 31, and asked what the zoning was on the parcel with the landscaping.

Wade Watson stated that the landscaping area is zoned as General Business.

Lloyd Flory asked if this property was going to be rezoned with the Comprehensive Master Plan for the town.

Wade Watson stated that the Master Plan had been approved in May 2011 and there was nothing in it that addressed rezoning of the area.

Wade Watson presented his staff report (see attached) concerning the request which is for a variance from Section 156.036 of the Zoning Ordinance for the Town of Edinburgh. This standard makes no provision for Auto Service & Repair business types to operate in districts zoned GB (General Business). The zoning was established prior to this parcel of land being platted and/or the creation of Charlotte Drive. The property is also located in the Highway Corridor Overlay District which requires approval by the Plan Commission for architectural design, landscaping, drainage, sewage, parking, signage, lighting and access to the property. Wade also stated that the property is visible from the intersection of Eisenhower Drive and US 31 which is an attractive gateway into the community, and that the Comprehensive Plan which

was adopted by the Town in May 2011, lists "improving existing Town gateways and creating new gateways as a priority consideration.

Wade Watson stated that based on the investigation findings (see attached Staff Report), staff recommendation is for Approval of the petition, with the condition of requiring that all vehicles on premises scheduled for maintenance and/or repair to be confined within an enclosed and secure area out of the visual scope of Eisenhower Drive and US Highway 31. As a further condition of approval, and to protect the aesthetic value of the adjacent gateway to the Town of Edinburgh, staff recommends requiring strict compliance to all developmental standards specified in Division 3 HIGHWAY CORRIDOR OVERLAY DISTRICT, including but not limited to Section 156.133 Building Design Standards; 156.134 Signage Standards and 156.135 Landscape Standards.

Lloyd Flory asked about the Highway Corridor Overlay District and its restrictions if it was almost a zoning district in itself with its special restrictions about landscaping, appearance, and other things.

Wade Watson stated that the Highway Corridor Overlay District has very specific architectural designs, landscaping specifications, signage specifications by ordinance that is controlled by the planning commission for anything that develops along the Highway Corridor Overlay. The Highway Corridor Overlay recognizes all the zoning that is in place but it does not make zoning use variance determination, it controls the land development.

Richard Pile asked if the entrance to the property would be from Charlotte Drive or US 31.

Wade Watson stated that the entrance would be Tobias Drive to Charlotte Drive, that there would not be a new entrance from US 31.

Richard Pile then asked if the back of the building would be facing US 31.

Wade Watson stated that the back of the building would be facing US 31, and that one of the standards that is required by the Highway Corridor Overlay, is that the back of the building would be required to look like the front of the building which is required by the standards for architectural design.

Ron Hamm asked how many bays would be in the building.

Wade Watson stated that he had not seen the building plans yet, that there have not been any plans submitted yet, that would be part of the presentation to the Planning Commission.

Lloyd Flory asked Wade to go through the staff recommendations again.

Wade Watson went through the recommendations again which is for approval with the following requirements:

1. All vehicles scheduled for repair or maintenance cannot be visible from Highway 31 or Eisenhower Drive. If recommendation is approved the facility would need to be large enough to enclose all vehicles scheduled for repair, once the vehicle comes on site for repair it would need to be in an enclosed structure.
2. If approved then recommend to the Planning Commission with strict adherence to the Highway Corridor Overlay which protects the beautification and protects the view from the traveling public at that gateway.

Richard Pile asked about the approval of fencing for the property, if wooden fences were allowed or if they would need to be like a stone wall.

Wade Watson stated that was part of the Highway Corridor Overlay district, which does not allow for wooden fences, and requires a commercial building by specification. That if Mr. Brown wants to vary from the standards of that district, he would need to apply for a variance from the Planning Commission.

Becky Wilhelm then asked the petitioner, Terry Brown to present his information.

Terry Brown with Brown's Auto & Equipment Repair addressed the concerns with vehicles parked outside of his current business is due to the fact that they have outgrown the building that they are currently in. They do want a larger building to house vehicles inside so they will not need to work on vehicles outside in the rain. They had plans to expand their current building they have in Taylorsville, but with its location next to the railroad, the railroad has currently placed a claim on the property, therefore limiting their ability to expand the current building. They have looked at Columbus and Edinburgh and would like to locate here as it is closer to most of their customers.

Ron Hamm asked how big the building would be.

Terry Brown stated that he would like to build a 70 x 120 building; they are currently in a 40 x 60 building. They work on buses and would like to be able to house them inside so they are not required to work on them outside in the rain. He would like to build big enough to house buses inside and have approximately 6 or 7 bays, with room for large vehicles.

Lloyd Flory asked Mr. Brown if he had talked to Wade Watson about the landscaping and other requirements for the property.

Terry Brown stated that he was familiar with requirements as he had went through some building requirements with Bartholomew county when trying to expand his current business in Taylorsville. Terry stated that he thought building to standards would be easier than converting an existing structure to meet building standards and requirements.

Wade Watson stated that he had given Terry Brown a copy of the Highway Corridor Overlay district specifications when he first came in to request the variance.

Richard Pile asked if they work mainly on buses.

Terry Brown stated that they work on auto, buses, heavy equipment. Heavy equipment repair such as excavators, back hoes, bulldozers, etc., is typically done on site rather than at the shop.

Lloyd Flory asked if the lot was platted and if water, sewer and utilities were available to the property.

Wade Watson stated that he had not looked into that specifically but it is in within the municipal bounds and is annexed into the town.

Dustin Huddleston then asked if there was anyone else in the audience who would like to speak for or against the petition. He also informed the board that there were 2 letters that had been received in opposition of the petition. The first letter is from Richard & Mary Jane Neville opposing the petition that would be entered into the records as Exhibit "A" (see attached). The second letter is an email from Jefferson Shreve opposing the petition which will be entered in as Exhibit "B" (see attached). There was also a phone call from Chris Edmondson from Edmondson RV who is also in opposition to the petition. He then asked if there was anyone in attendance who was opposed to the petition to speak and ask any questions they may have.

Lloyd Flory asked about the phone call from Chris Edmondson.

Dustin Huddleston stated that the phone call had been received by John Drybread, Director of Utilities, and the message was that Edmondson's were opposed to the petition. He then asked if there was any one from Edmondson's in attendance, and there was not.

Dustin then asked if there was anyone in attendance that would like to speak against the petition, and there was no one in attendance to speak against the petition.

Jeff Blue with Blue's Canoe Livery stated that they are happy with the customers they receive from Edinburgh, and that they have a fleet of vehicles that are serviced by Brown's Auto and Equipment Repair and that he would like to see Mr. Brown locate in Edinburgh.

Lloyd Flory shared some historical perspective on previous variances being granted on other properties and his concern for future owners of properties with variances. He does like the idea of Brown's Auto and Equipment Repair locating here.

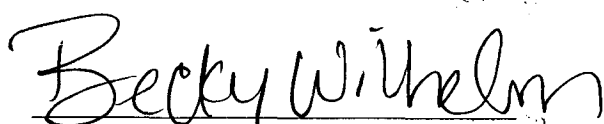
After some further discussion, Becky Wilhelm asked if anyone would like to make a motion for the variance request.


Richard Pile made a motion to accept the variance request as presented by Wade Watson. Lloyd Flory seconded the motion.

Dustin Huddleston asked if the motion was to include the conditions. Richard Pile stated yes with the conditions that Wade suggested. Lloyd Flory seconded.

Becky Wilhelm then stated that a motion had been made and seconded with the restrictions presented by Wade. Becky then 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. Ron Hamm 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



**TOWN  
OF  
Edinburgh**

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## BZA Staff Report

**To:** BOARD OF ZONING APPEALS MEMBERS  
**From:** Wade D. Watson, Building Commissioner  
**Date:** April 4, 2012  
**Re:** Case ZB 2012 (V 3) USE VARIANCE

### GENERAL INFORMATION:

**Applicant:** Brown's Auto and Equipment Repair  
Mr. Terry Brown  
1531 Tannehill Rd  
Taylorsville, IN 47280

**Agent:** Mr. Jim Tempel  
2401 Beam Rd  
Columbus, IN 4720

**Property Address:** Lot 5A, Charlotte Dr, Edinburgh, IN 46124

**Property Owner:** Franklin Congregation of Jehovah's Witness, Inc  
2508 N Morton St  
Franklin, IN 47131

**Property Number:** 03-05-03-320-000.103-023

**Legal Description:** Lot5A – Minor/Tobias Re-plat Lots 5 & 6

**Acreage:** 1.5000

**Zoning:** GB General Business  
U.S. 31 and S.R. 252 Corridor Overlay Zone District

**Land Use:** Vacant

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

### SURROUNDING ZONING:

North: GB:  
South: GB:  
East: EI:  
West: RB & R3:

### SURROUNDING LAND USE:

General Business  
General Business  
Enclosed Industrial  
Roadside Business and  
Medium Density Residential

**REQUEST:**

**Case ZB 2011 (V3) Brown's Auto and Equipment Repair.** A request for a Use Variance from the Town of Edinburgh Zoning Ordinance standards, to operate an Automobile Service and Repair business in a district zoned as General Business at the property known as Lot 5A, Charlotte Drive, Edinburgh, IN. This request is for variances from Zoning Ordinance Article 156.036; Permitted Uses and Special Exceptions.

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 these zoning standards is to promote the public health, safety, and general welfare. By establishing compact districts for specific business types, more efficient traffic movement, parking facilities, fire protection, and police protection may be provided. 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 and affect the physical development of land within the U.S. 31 and S.R. 252 Corridor Overlay Zone Districts.

**CONSIDERATIONS:**

1. The zoning for this property is GB (General Business). Auto Service & Repair businesses are permitted to operate within districts zoned RB (Roadside Business) and OI (Open Industrial) in the Zoning Ordinance for the Town of Edinburgh, Section 156.036. This standard makes no provision for Auto Service & Repair business types to operate in districts zoned GB (General Business).
2. The zoning for this area appears to have been established prior to this parcel of land being platted and/or the creation of Charlotte Drive. It appears the zoning for the area was determined for its potential value as retail and commercial space. The area zoned as GB (General Business) is parallel to the contour that extends approximately 500 feet east and south/east of Eisenhower Drive and east of U.S. Highway 31 extending all the way south to County Road 900 North. Property adjacent to and east of this line is zoned EI (Enclosed Industrial).
3. The area across U.S. 31 directly to the west, is zoned RB (Roadside Business) which permits Auto Service and Repair businesses to operate.
4. This property lies within the Highway Corridor Overlay District therefore any developmental improvement requires approval by the Plan Commission for architectural design, landscaping, drainage, sewage, parking, signage, lighting and access to the property. The Plan Commission shall examine factors concerning the site, site plan, and the

surrounding area prior to: (1) the establishment of any use of the land; (2) the issuance of any improvement location permit; (3) the erection, construction or structural alteration of any building(s) in the U.S. 31 and S.R. 252 Corridor Overlay Zone Districts; or (4) modification or revision of any site development plan.

5. This property is visible from the intersection of Eisenhower Drive and U.S. 31, an attractive gateway into our community. The Town of Edinburgh Comprehensive Plan, adopted May, 9<sup>th</sup>, 2011 lists "improving existing Town gateways and creating new gateways, as a priority consideration. Therefore protecting the aesthetic beautification of this area is consistent with the goals and objectives of the Comprehensive Plan.

#### **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.

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.)

4. **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 not** result in an unnecessary hardship if applied to this property.

- 5. 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, which encourage expansion of "retail and service commercial activities" along U.S 31 and the development of "aesthetically pleasing and functionally well-designed retail and commercial shopping areas". (page 15, Town of Edinburgh Comprehensive Plan; adopted May 9, 2011)

**STAFF RECOMMENDATION**

Based on these investigation findings, staff recommends **APPROVAL** of the petition, with the condition of requiring that all vehicles on premises scheduled for maintenance and/or repair to be confined within an enclosed and secure area out of the visual scope of Eisenhower Drive and U.S. Highway 31. As a further condition of approval, and to protect the aesthetic value of the adjacent gateway into the Town of Edinburgh, staff recommends requiring strict compliance to all developmental standards specified in Division 3 HIGHWAY CORRIDOR OVERLAY DISTRICT, including but not limited to the following sections: 156.133 Building Design Standards; 156.134 Signage Standards and 156.135 Landscape Standards.

Respectively Submitted,



Wade D. Watson  
Building Commissioner  
Town of Edinburgh



## Exhibit A

March 27, 2012

To who it may concern,

This letter is to inform you we are oppose to the auto repair service proposed to be built on Charlotte Drive, Edensburg, Indiana, Lot La Minor / Tobias Replat 5 + 6 (Q3280).

Although, we sympathize with Mr. Brown we feel that this business would not be appropriate for this location.

Respectfully,

Richard A. Neville

Mary Jane Neville

*Exhibit B*

**From:** Jefferson Shreve (jshreve@storageexpress.com)  
**To:** wade-watson@att.net;  
**Date:** Wed, April 4, 2012 3:17:29 PM  
**Cc:**  
**Subject:** Brown BZA petition: 4/4/12

Mr. Watson, thanks for taking the time to familiarize me with the petition to develop the lot immediately north of the property that I own on Charlotte Drive in Edinburg.

I took a firsthand look today at the current business operation that Terry Brown is petitioning to relocate to the north of my property. I am frankly concerned.

I believe that the zoning ordinances now in place on our US 31 property properly serve to ensure that businesses located along the principal artery through Edinburg are not peppered with vehicles in various stages of disrepair. What I saw at Mr. Brown's Taylorsville business was plainly inconsistent with the zoning ordinance now in place.

These ordinances exist to safeguard not just the public good – but also the property values of the immediate neighbors – like me!

I respect a hard working man with a solid business. But I feel that there are suitable (and unsuitable) settings for staging certain types of businesses.

I wish that I could attend the BZA hearing at 6pm tonight to voice my reservations, but I am committed to another meeting of the hospital board that I serve on in Bloomington this evening at 5 o'clock.

If my sentiments would carry any more weight if they were on letterhead, I'd be happy to e-mail a PDF of such a letter over. Please let me know.

Jefferson Shreve  
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O: 812.331.3225