



Administrative Offices: 107 South Holland Street, Edinburgh, IN 46124
Wade Watson, Building Commissioner, telephone: (812) 314-5114, e-mail: wwatson@edinburgh.in.us

BOARD OF ZONING APPEALS STAFF REPORT

To: BOARD OF ZONING APPEALS MEMBERS
From: Wade Watson, Building Commissioner
Date: January 6, 2021
Re: **Case ZB 2021-01 Special Exception**

GENERAL INFORMATION:

Applicant: Charles Blair
650 Pinellas Bayway S Unit 2101
Tierra Verde, FL 33715

Property Owner: Naylor-Blair Family Limited Partnership
650 Pinellas Bayway S Unit 2101
Tierra Verde, FL 33715

Property Address: 120 W Thompson Street, Edinburgh, IN 46124

Parcel Numbers: 41-12-34-032-082.000-002

Legal Descriptions: Alexander Thompsons Add E 1/2 LOT 9 & E 1/2 LOT 10
Blue River Township

Acreage: 0.234 acres (10,197 square feet)

Lot Sizes: 86' x 136' (approximately)

Zoning: LB Local Business

Land Use: Residential/Storage

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

SURROUNDING ZONING:

North: CBD (yellow)
South: LB (purple)
East: LB (purple)
West: LB (purple)

SURROUNDING LAND USE:

Commercial (Public Library)
Medium Density Residential (non-conforming)
Local Business/Commercial
Medium Density Residential (non-conforming)



REQUEST:

CASE ZB 2020-01 Charles Blair: Petitioner is requesting a Special Exception as required by Division 2, Section 156.030 and 156.036 of the Town of Edinburgh Zoning Ordinance Permitted Uses and Special Exceptions to allow the conversion of a commercial building in the Local Business District to be used as Residential Dwelling.

PUBLIC NOTIFICATIONS:

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

PURPOSE OF STANDARDS:

Town of Edinburgh Zoning Ordinance Division 2: *District Regulations*, §156.030 Business Districts. The districts designated for business, "LB," "GB," "RB," and "CBD" are limited to business, public, and certain residential uses. By establishing compact districts for such uses, more efficient traffic movement, parking facilities, fire protection, and police protection may be provided. The purpose of these districts is to provide unified shopping districts conveniently located in areas appropriate for business uses.

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 and create an attractive, stable, and orderly residential environment

CASE HISTORY:

According to investigative records, Town of Edinburgh staff, and Town utility records, the subject property was home of “Tom’s TV” from 1954 to 1996. Following the retirement of the owner, Mr. Tom Coleman, the property was purchased by Jerry Lewis who operated a heating & air business there from 1996 to 2004. Between 2004 and 2019 the property was owned/occupied by Centerline Plumbing.

At some time during the period between 1996 and 2019 the primary commercial structure on the property was remodeled to accommodate residential dwellings. At first only the upper floor was renovated for use as a two-family dwelling, sometime later the downstairs was converted from commercial space into a single-family residential dwelling. No records were found to indicate anyone sought a variance request for this change of use or applied for an improvement/remodel permit. There were no records found indicating the issuance of any improvement permits or any inspections conducted during any of the renovation projects.

By the time Mr. Blair acquired this property on September 12, 2019, renovation for a three-unit apartment building was existing and occupied. On Saturday October 17, 2020 the property was heavily damaged by fire in which a tenant in the downstairs apartment was killed. This fire caused extensive structural damage to the apartments, making it necessary to demolish the original commercial building which had been converted to dwelling units. The covered commercial storage buildings on the lot were virtually undamaged by the fire.

The Petitioner is requesting to convert a portion of the remaining storage building into a single-family apartment.

CASE CONSIDERATIONS FOR LB (“LOCAL BUSINESS”) ZONING:

1. Town of Edinburgh Zoning Ordinance §156.027: *Zoning Districts*, states the following:

“The entire Town and area of extended jurisdiction is divided into the districts stated in this Article as shown by the district boundaries on the Zoning Maps.”

2. Town of Edinburgh Zoning Ordinance Division 2: *District Regulations*: §156.036: *Permitted Uses and Special Exceptions* states the following:

“The Permitted Uses for each district are shown on Table I. The uses that are listed for the various districts shall be according to the common meaning of the term or according to definitions given in Division 7. Uses not specifically listed or defined to be included in the categories under this article shall not be permitted. The Special Exceptions for each district that may be permitted by the Board of Zoning Appeals are also shown on Table I. The Board of Zoning Appeals shall follow the provisions of §156.253 and any other applicable sections when considering any application for a Special Exception.”

3. Zoning Ordinance §156.036 identifies permitted uses for each zoning district. Single-family, Two-Family and Multi-Family Dwellings are not permitted in any of the Business Districts. However,

Division 2: *District Regulations, Table 1: Permitted Uses and Special Exceptions* states that, under LB zoning, Use Category “Single Family Dwelling” is designated an “S” for “Special Exception”, which may be permitted by the Board of Zoning Appeals

4. Town of Edinburgh Zoning Ordinance Division 9. Board of Zoning Appeals, §156.253: Special Exceptions, states the following:

“The Board of Zoning Appeals shall have the power to authorize special exceptions if the following requirements are met:

(1) The special exception shall be listed as such in Table 1 of this Article for the district requested.

(2) The special exception can be served with adequate utilities, access roads, drainage, and other necessary facilities.

(3) The special exception shall not involve any element or cause any condition that may be dangerous, injurious, or noxious to any other property or persons, and shall comply with all of the performance standards of this ordinance.

(4) The special exception shall be sited, oriented and landscaped to produce a harmonious relationship of buildings and grounds to adjacent buildings and properties.

(5) The special exception shall produce a total visual impression and environment which is consistent with the environment of the neighborhood.

(6) The special exception shall organize vehicular access and parking to minimize traffic congestion in the neighborhood.

(7) The special exception shall preserve the purpose of this Ordinance.”

5. This property exists in a mixed-use area with most of the surrounding parcels being used for residential dwellings. The existing uses in the area have been established for decades and are considered Non-Conforming Uses and regulated by §156.171.
6. The site currently has provisions for adequate off-street parking.

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:

Adjoining properties to the subject property **will not** be affected in a substantially adverse manner. Any prospective or alleged adverse effect to adjoining residential dwellings should likely be scrutinized against the north and east dwellings currently existing in non-conformity with the Zoning; currently, there is no evidence that the residential dwelling to the south would suffer adverse impact should the Special Exception go in favor of the petitioner.

3. **Practical Difficulty:** The strict application of the terms of the ordinance 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:

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 decision is only granted to the Petitioner, and the Use Variance not transferable to any other property owner(s) not directly associated with the Petitioner, and
2. That this decision is null, and void should the Petitioner fail to develop the subject parcel within one (1) year of the date of the BZA Findings of Fact, and
3. That the building be compliant with standards established in the Edinburgh Zoning Ordinances for development within Central Business District for which variances are not granted, and
4. That all aspects of this project development be compliant with all applicable Building Codes adopted by the State of Indiana, and the developmental requirements of the Edinburgh Zoning Ordinances,
5. That appropriate renovation permits are issued for the project, that the new residential dwelling space shall be inspected for Building Code compliance, and a Certificate of Occupancy be issued by the Town of Edinburgh Building Commissioner prior to any occupancy of the building.

Respectively Submitted,



Wade Watson
Building Commissioner
The Town of Edinburgh