



Administrative Offices: 107 South Holland Street, Edinburgh, IN 46124

Wade D. Watson

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BZA STAFF REPORT

To: BOARD OF ZONING APPEALS MEMBERS
From: Wade D. Watson, & Robert Overton
Date: March 2, 2022
Re: REQUEST TO ABATE COMMON NUISANCE

GENERAL INFORMATION:

Subject Property Address: 100 N Blue River Drive, Edinburgh, IN 46124
Property Owner: Ray D Anderson (Deceased)
Property Number: 41-12-33-041-019.000-002
Legal Description: PT N 1/2 SE S33 T11 R5.
Acreage: 0.259 acre (11,282 Square Ft.)
Lot Size: 101' X 110'
Zoning: R 4 Medium Density Residential
Land Use: Vacant & Abandoned - Single Family Dwelling
FEMA Flood Plain: Subject Property does not exist in a designated flood area

SURROUNDING ZONING:

North: R 4:
South: R 4:
East: R 4:
West: R 4:

SURROUNDING LAND USE:

Medium Density Residential
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Medium Density Residential

REQUEST:

To initiate action necessary to abate a common nuisance on an abandoned property known as 100 N Blue River Drive, for the removal of a noncompliant structure built without obtaining an Improvement Permit and in violation of setback standards and to secure the structure from vagrancy.

CASE HISTORY:

1. The Johnson County public records lists the current owner of the subject property as Mr. Ray D. Anderson(deceased). According to staff's research, Mr. Ray Anderson passed March 2, 2018.
2. Ray Anderson's son, Mr. Michael Anderson who was occupying the home during 2020 began constructing an addition to the front of the structure on the subject property without obtaining an Improvement Permit in violation of Section 156.241. A 'Stop Work Order' was issued for this violation on September 15, 2020, and work on the project ceased.
3. This addition is also in violation of Division 2 Section 156.036 which establishes the minimum front yard setback requirement for properties in districts zoned R4 to be a minimum twenty-five (25) feet.
4. The primary residential structure on this property exists approximately twenty (20) feet from the west pavement of N Blue River Drive. However, based on a review of the Johnson County GIS System, it appears that the structure exists fourteen (14) feet or less from the actual property line, thus the existing structure appears noncompliant with the minimum front yard setback requirement as specified in §156.036. Therefore, the existing structure prior to the addition was considered a non-conforming structure.
5. After receiving the Stop Work Order, Mr. Michael Anderson filed an application to petition the BZA for a variance for the construction of a twenty-four (24) foot by ten (10) foot covered porch (room Addition) on the front (east) side of the subject property that would place the structure approximately four (4) feet from the lot property line and approximately ten (10) feet from the pavement of N Blue River Drive.
6. Mr. Michael Anderson failed to comply to the Public Notification requirement therefore the case was never brought before the Board of Zoning Appeals for consideration.
7. Sometime in July 2021 Mr. Anderson contacted the Planning Department to inform the staff that he was moving his family to Brown County. The property has been vacant and abandoned from approximately that time. The partially constructed structure was not removed, and the building is unsecured.

CASE CONSIDERATIONS:

1. Section 156.241 establishes the requirement of obtaining an Improvement Permit before any structure may be constructed, reconstructed, moved, enlarged, or structurally altered.
2. Section 150.40 provides Remedies for Permit Violations which include the following provisions:
 - a. The Plan Commission, the Building Inspector, any enforcement official or any person, firm, or corporation, jointly or severally aggrieved, may institute a suit for injunction in the Circuit Court or Superior Court of the county in which the premises affected is located to restrain an individual or a governmental unit from violating the provisions of this chapter.

- b. The Plan Commission or the Board of Zoning Appeals may also institute a suit for mandatory injunction directing any individual, corporation, or governmental unit to remove a structure erected in violation of the provisions of this chapter.
- c. Any building erected, raised, or converted, or land or premises used in violation of any provisions of this chapter or the requirements thereof, is hereby declared to be a common nuisance and as such may be abated in a manner as nuisances are now or may hereafter be abated under existing law. (Ord. 1967-11, passed 9-5-67)

STAFF RECOMMENDATION

Based on these investigation findings, staff recommends the following:

- The Board of Zoning Appeals initiate action directing the Town Attorney to file a suit for injunction and/or a suit for mandatory injunction for the immediate removal of the illegal raised deck and roof structure at 100 N Blue River Drive and to secure the structure to prevent intrusion by unauthorized persons.

Respectively Submitted,



Wade D. Watson, Planning Director
Town of Edinburgh, Indiana