

Zoning Board of Appeals  
Wednesday, May 4, 2016  
6:00 PM Town Hall

Edinburgh Zoning Board of Appeals met on Wednesday, May 4, 2016, 6:00 p.m., Edinburgh Town Hall.

Members Present: Keith Sells  
Becky Wilhelm  
Richard Pile  
Ron Hamm

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

Keith Sells presented minutes from the July 1, 2015 and February 3, 2016 meetings. Becky Wilhelm made a motion to approve minutes. Richard Pile seconded. Keith Sells asked for all in favor to say aye. All ayes. Minutes approved.

Keith Sells asked Wade Watson to present his report for the next item on the agenda, case #BZ 2016-01, Wesley & Lisa Smith, for a Developmental Standard Variance.

Wade Watson gave his presentation on the variance request (see attached staff report). The property is located at 609 Memorial Drive, and is in R3 Medium-Low Density Residential Zoning. Setback requirements for the property are 25 feet from the front, and 10 feet from each side, with a minimum of 25 feet in the back.

The property is surrounded by the same zoning with the exception that it backs up to Rest Haven Cemetery. Wade noted that on the staff report the location for the Cemetery is wrong that it is actually located to the south and not to the west.

The request is to build a 10 X 20 carport attached to the east side of the house in the area that is considered the minimum side yard setback. The request is for a variance from Division 11 Article 156.037 of the Town of Edinburgh Zoning Ordinance.

The petitioner has satisfied all documentation requirements, legal and public notifications specified in the Town of Edinburgh Zoning Board of Appeals Application Packet for a Variance.

The purpose for the establishment of the six districts designated for residential use, ("R1", "R2", "R3", "R4", "R5", and "R6") is to create an attractive, stable, and orderly residential environment. The only uses permitted in these districts are those which would not detract from the residential character of the neighborhood. Each district has established density standards, dwelling types and the lot and yard requirements to provide for the various housing needs and desires for citizens.

### ***CASE CONSIDERATIONS:***

1. Division 2 Section 156.036 establishes the minimum width side yard setback requirement for properties in districts zoned R3 to be a minimum ten (10) feet.
2. The subject property has an effective lot width of seventy (70) feet. The current structure on this property is approximately fifty (50) feet wide, positioned approximately in the center of the lot. As such there currently exists the minimum side yard setback requirement as specified in §156.036.

3. The construction of a ten (10) foot wide carport on the east side of the subject property would place the structure on or approximately on the lot boundary line between the two parcels.
4. Most of the houses in this area were built utilizing the minimum side yard setback. However the existing distance between the house on the subject property and the house on the adjacent lot to the east is approximately twenty-four (24) feet.
5. The proposed carport is to be constructed as a roof structure only supported by posts, having no enclosed walls to the south, east or north sides of the structure.

Staff recommends **APPROVAL** of the petition subject to the following conditions:

1. That prior to the commencement of construction, property owner shall obtain all required improvement permits from the office of the Building Commissioner and subject to the appropriate inspections.
2. The structure shall be compliant with International Residential Building Codes adopted by the State of Indiana, and all other requirements of the Edinburgh Zoning Ordinances.
3. That at no time shall there be any sidewalls constructed enclosing the carport unless proper permits are obtained and strict adherence to all requirement standards compliant with the Zero Lot Line construction.

The zoning ordinance makes allowance for Zero Lot Line in all residential districts, primarily meaning that if two property owners build adjacent structures and connect them, the requirements include having a two hour fire separation wall to exist between the two structures. As the carport will be built on the lot line, if it were ever to be enclosed and the neighboring property wanted to build within their 10 foot setback, there would be a fire hazard risk. In the event this is ever enclosed as a garage, then the requirement would be that the zero lot line wall would be a two hour fire separation.

Keith Sells asked the board if they had any questions.

Ron Hamm asked if there had been any complaints from any of the neighbors. Wade stated that he had not received any calls concerning the variance, all neighbors had been notified and that it had been published in all the papers.

Ron Hamm asked the Smiths if the neighbor on the east side was okay with the carport, or if the had any complaints. Wesley Smith stated that the neighbor was in Florida, and that he was aware of their plans before he left, that he would be returning on Sunday.

Dustin Huddleston swore in Wesley and Lisa Smith.

Keith Sells asked the Smiths if they had any questions or comments for the board. Wesley Smith said that the reason for wanting the carport attached was because he did not like the looks of detached carports, and that he tries to keep his property looking good. Lisa Smith stated they had put in new sidewalks to the property.

Ron Hamm asked if they would be in agreement that there would not be any sides on the carport. Wesley Smith said yes, that he was buying a new vehicle and wanted to be able to protect it from the weather.

Keith Sells asked the board if they had any further questions. There being no further questions, he then asked for a motion.

Becky Wilhelm made a motion to approve the request based off of the staff recommendation with the conditions in the staff report. Ron Hamm seconded. Keith Sells stated that there was a motion to approve the request with restrictions as noted, that it was properly seconded, and asked for all in favor to say aye. All ayes. Motion passed.

There being no further business, Keith Sells asked for a motion to adjourn. Ron Hamm made a motion to adjourn the meeting. Richard Pile seconded. Keith asked for all in favor to say aye. All ayes. Motion passed, meeting adjourned.

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Keith Sells, Chairman

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Rhonda Barrett, Secretary

DRAFT



Administrative Offices: 107 South, Holland Street, Edinburgh, IN 46124    Wade D. Watson    wwatson@edinburgh.in.us

BZA STAFF REPORT

To: BOARD OF ZONING APPEALS MEMBERS  
From: Wade D. Watson  
Date: May 4, 2016  
Re: Case BZA 2016 -01 VARIANCE FROM DEVELOPMENT STANDARDS

GENERAL INFORMATION:

Applicant: WESLEY & LISA SMITH  
609 MEMORIAL DRIVE  
Edinburgh, IN 46124

Agent: None

Property Address: 609 Memorial Drive, Edinburgh, IN 46124

Property Owner: Same

Property Number: 41-12-33-043-056.000-002

Legal Description: Prosser Add 5<sup>th</sup> Sec Lot 101

Acreage: 0.169 acre (7,349 Square Ft.)

Lot Size: 70' X 105'

Zoning: R 3 Medium-Low Density Residential

Land Use: Residential Single Family Dwelling Platted Lot

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

SURROUNDING ZONING:

North: R 3:  
South: R 3:  
East: R 3:  
West: PG:

SURROUNDING LAND USE:

Medium-Low Density Residential  
Medium-Low Density Residential  
Medium-Low Density Residential  
Rest Haven Cemetery

## **REQUEST:**

**Case BZA 2016-01 Wesley & Lisa Smith.** The petitioner has requested a variance from Developmental Standards of Division 11, Article 156.037 of the Town of Edinburgh Zoning Ordinance to allow the construction of an accessory structure to be located within an area less than the minimum Side and Rear Yard Setback requirements established in Table 2 Districts Standards. Petitioner is requesting a variance to build a ten (10) foot by twenty (20) foot carport attached to the east side of the house.

## **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 purpose for the establishment of the six districts designated for residential use, ("R1", "R2", "R3", "R4", "R5", and "R6") is to create an attractive, stable, and orderly residential environment. The only uses permitted in these districts are those which would not detract from the residential character of the neighborhood. Each district has established density standards, dwelling types and the lot and yard requirements to provide for the various housing needs and desires for citizens.

## **CASE CONSIDERATIONS:**

6. Division 2 Section 156.036 establishes the minimum width side yard setback requirement for properties in districts zoned R3 to be a minimum ten (10) feet.
7. The subject property has an effective lot width of seventy (70) feet. The current structure on this property is approximately fifty (50) feet wide, positioned approximately in the center of the lot. As such there currently exists the minimum side yard setback requirement as specified in §156.036.
8. The construction of a ten (10) foot wide carport on the east side of the subject property would place the structure on or approximately on the lot boundary line between the two parcels.
9. Most of the houses in this area were built utilizing the minimum side yard setback. However the existing distance between the house on the subject property and the house on the adjacent lot to the east is approximately twenty-four (24) feet.
10. The proposed carport is to be constructed as a roof structure only supported by posts, having no enclosed walls to the south, east or north sides of the structure.

## **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.)

**STAFF RECOMMENDATION**

Based on these investigation findings, staff recommends **APPROVAL** of the petition subject to the following conditions:

4. That prior to the commencement of construction, property owner shall obtain all required improvement permits from the office of the Building Commissioner and subject to the appropriate inspections.
5. The structure shall be compliant with International Residential Building Codes adopted by the State of Indiana, and all other requirements of the Edinburgh Zoning Ordinances.
6. That at no time shall there be any sidewalls constructed enclosing the carport unless proper permits are obtained and strict adherence to all requirement standards compliant with the Zero Lot Line construction.

Respectively Submitted,



Wade D. Watson, Town Manager  
Town of Edinburgh, Indiana