



TOWN OF Edinburgh

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
Date: June 1, 2016
Re: Case BZA 2016-3 USE VARIANCE

GENERAL INFORMATION:

Applicant: Marshall Ryan & Brittany Piercefield
808 E Main Cross Street
Edinburgh, IN 46124

Agent: None

Property Address: 808 E Main Cross Street, Edinburgh, IN 46124

Property Owner: Same

Property Number: 41-12-34-014-069.000-002

Legal Description: PT NE S34 T11 R5

Acreage: 1.137 acres (Approximated)

Lot Size: 150' X 330' (Approximated)

Zoning: R 4 Medium 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 4 - Medium Density Residential
South: R 4 - Medium Density Residential
East: R 4 - Medium Density Residential
West: R 4 - Medium Density Residential

SURROUNDING LAND USE:

Eastside Elementary School
Single Family Residential
Eastside Elementary School (vacant)
Single Family Residential

REQUEST:

Case BZA 2016-03 Marshall Ryan & Brittany Piercefield. The petitioner has requested a variance from Developmental Standards of Division 2, Article 156.029 of the Town of Edinburgh Zoning Ordinance to allow the conversion of an accessory building into a residential dwelling unit on the second floor and to permit two residential dwelling units on a single lot.

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.

CONSIDERATIONS:

1. Zoning Ordinance for the Town of Edinburgh, Section 156.029 establishes that: "In no case shall there be more than one principal building used for residential purposes and its accessory buildings located on one lot" in any of the six residential districts.
2. Zoning Ordinance for the Town of Edinburgh, Section 156.029 makes no provision to allow Multi-Family Dwelling Units in an area zoned "R4". Two Family Dwellings are permitted in an area zoned "R4" but it is understood that these units will be duplexes, designed specifically as a two family dwelling unit.
3. The lot size of the property located at 808 E Main Cross Street exceeds the minimum standard requirements established by the Zoning Ordinance for the Town of Edinburgh, Section 156.036 for both single family dwelling units and/or for a two family dwelling units.
4. Zoning Ordinance for the Town of Edinburgh, Section 156.036 establishes that the ground floor area of a one story, single family dwelling unit located within an area zoned "R4" shall be a minimum of 1,100 square feet. The accessory building proposed to be converted to a residential unit located on this lot is a 28' X 36' garage having a total of 1008 square feet of floor area on the ground floor. Only the second story floor of this structure is proposed to be converted to living space, this area contains approximately nine hundred fifty (950) square feet.
5. This accessory building currently meets or exceeds the minimum setback standards established in Section 156.036 of an accessory building. However this accessory building fails to meet the setback distances established by this standard for the minimum Side Yard setback, required for a principal building used for residential purposes in an area zoned "R4".

6. Zoning Ordinance for the Town of Edinburgh, Section 156.175 establishes the requirement of a minimum of two off-street parking spaces for each single-family or two-family dwelling unit. This accessory building meets or exceeds the minimum parking requirements.
7. An Improvement Permit was obtained to remodel the second floor of this structure and inspections will be conducted to ensure compliance with all Indiana Building Codes for a residential dwelling before the issuance of a Certificate of Occupancy.
8. There exists within the municipal boundary of the Town of Edinburgh, several non-conforming properties on which an accessory building has been converted into living quarters, many of which are assumedly rental or income properties. It is not known how many of these actually came before the Zoning Board for approval.
9. It is the intention of the petitioner for this building to be used as rental property as an efficiency apartment.
10. Staff has made a review of five similar variance requests that have been considered by the Town of Edinburgh Zoning Board within the past several years. Following is a brief summary of these reviews:
 - a. On May 8, 2003 the Board considered a variance request to convert an existing garage into living quarters at 501 S Main Street. Motion carried 3-1.
 - b. On September 9, 2004 the Board considered a variance request to convert an accessory building into two sleeping rooms at 111 N Walnut Street. The absence of available off-street parking and letters from remonstrators were factors that were discussed at the meeting. The variance request was denied.
 - c. On April 20, 2006 the Board considered a variance request to convert a single family dwelling into a two-family dwelling (2 apartments) at 506 S Holland Street. The size of the lot ("too small") and inaccessibility of off-street parking due to the narrow rear alley were discussed. The variance request was denied.
 - d. On February 16, 2007 the Board considered a variance request to convert an accessory building (storage/workshop) into living quarters at 513 S Main Street. (A former owner of this property had made this same request and had been denied by the Zoning Board on June 7, 1989.) The absence of available off-street parking, citizen concerns related to rental property in the area and the previous denial were factors that were discussed at the meeting. The variance request was denied.
 - e. On May 2, 2012 the Board considered a variance request to convert an existing garage into living quarters at 516 S Main Street. The variance request was approved with specific conditions.

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, with the condition of requiring that:

1. The building shall be compliant with International Residential Building Codes adopted by the State of Indiana for residential structures, and all other requirements of the Edinburgh Zoning Ordinances.
2. A separate street address be established to afford maximum safety to the residence for Fire and Rescue.
3. All utilities shall be separated from the existing principal building and established as a new service address.

Respectively Submitted,



Wade D. Watson

Town of Edinburgh