

Zoning Board of Appeals
 Wednesday, May 2, 2012
 6:00 PM Town Hall

Edinburgh Zoning Board of Appeals met on Wednesday, May 2, 2012, 6:00 p.m., Edinburgh Town Hall.

Members Present: Keith Sells
 Becky Wilhelm
 Richard Pile
 Lloyd Flory
 Ron Hamm
 Rhonda Barrett, Secretary

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 here.

Keith Sells presented the April 4, 2012 meeting minutes for approval, and asked for a motion to approve the minutes. Becky Wilhelm made motion to approve minutes. Ron Hamm seconded. Keith Sells asked for all in favor to say aye. All ayes. Motion approved.

Keith Sells then presented the sign in sheet for anyone in attendance who wished to receive notification of any further information concerning tonight's meeting.

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

Keith Sells asked Wade Watson to present his report regarding the variance request.

Wade Watson presented case ZB 2012 V - 4, which is a request from Terry & Sandra England, 516 S Main Street, Edinburgh, Indiana, to receive a Developmental Standards Variance to allow the conversion of an accessory building into a residential building and allowing two residential buildings on a single lot. Wade stated that the size of the lot is important because of the zoning requirements. The lot is a 74 foot wide by 160 foot deep lot, and is zoned R-4 and is not in a flood plain. All legal and publication notifications have been satisfied by the England's. Wade gave a power point presentation concerning the case and presented considerations outlined in his attached staff report. Wade also reviewed four similar variance requests that have been considered by the Zoning Board within the past ten years. Of those four requests, one was approved and three were denied. Based on the investigation findings, staff recommendation is for approval with the following five conditions:

1. The building shall be compliant with International Residential Building Codes adopted by the State of Indiana for residential structures.
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.
4. That no fence or any other obstruction ever be erected or placed along the north side of the property that would in any way limit or hinder access to the rear of the property by Fire and/or Rescue personnel or equipment.
5. That prior to the conversion of the accessory building, the Petitioners must submit the conversion plans to the Town Building Inspector for review and approval.

Keith Sells asked if anyone had any questions or comments for Wade Watson.

Lloyd Flory asked about there being two variances. One for two residences on one lot and the other for minimum square feet.

Wade Watson stated that the minimum square feet could have been listed as part of the variance request but that should be considered as the conversion. The first variance is to allow the conversion of the accessory building which includes the square footage and the second variance would be to permit the two dwellings on a single residential lot.

Lloyd Flory asked Wade Watson if he had assessed the alley for easement purposes that he could not get through the alley with his personal truck. Lloyd Flory felt that utility trucks would struggle to get through the alley, as well as an ambulance. Lloyd Flory was concerned with the future access to the structure being through the alley, if request approved then this variance going to the future owners.

Wade Watson stated that the alley is narrow, and there are a number of issues where there is encroachment on the right of way in the alleys. The right of way is not part of the platted lot. There is a designated 18 feet that should be between the alleys throughout the community and there is not in most places, a lot of property lines infringe on that. Since the zoning does not require a permit to install fences, the property owner is not required to come to the town before installing a fence as it is considered landscaping. Recently Wade Watson and Kevin Rubush, Electric Superintendent, have established a Utility Easement Policy that is being enforced, requiring the home owners to keep a clear easement for power access to repair power lines or emergency equipment to access.

Lloyd Flory asked if the original plats were done with an 18 foot alley. Wade Watson stated that they vary from plat to plat, some of the older plats were anticipating horses and wagons as opposed to utility vehicles, and most alleys in the community were part of the original plat to provide access as opposed to just having a right of way on the property. The Utility Easement Policy that is in place covers both situations.

After some further discussion, Keith Sells asked if anyone else had any questions for Wade Watson.

Ron Hamm asked if the neighbors were notified and if there were any complaints from them.

Wade Watson stated that he had no letters or complaints from anyone.

Keith Sells asked if no one else had any questions for Wade Watson, then would the petitioners like to speak.

The petitioners had no further comments or questions.

Keith Sells then asked the board if they would like to make a motion to either approve or deny the requests.

Dustin Huddleston reminded the board that they had two variances as well as recommending conditions by the building inspector.

Richard Pile stated that he thought there was only one variance that covered both items.

Dustin Huddleston stated that there were two separate variances.

Wade Watson stated that one was for the conversion and one was to allow two family dwellings on a single lot.

Keith Sells stated that if the first request is denied then there would not be a need for the second request.

Dustin Huddleston informed him that was correct, that the first motion would be whether or not to allow the conversion.

Richard Pile made a motion to accept the variance for the conversion of the building waving the minimum square foot requirements with the conditions as outlined in Wade Watson's staff report.

Keith Sells asked the petitioners if they could accept the requirements that Wade Watson had presented, and the petitioners stated that they had discussed this with Wade and they would be able to meet those requirements.

Keith Sells stated that there is a motion on the table that needs to be seconded.

Ron Hamm seconded the motion.

Keith Sells stated that there was a motion that had been properly seconded and asked for all in favor to say aye. Keith Sells – Aye, Becky Wilhelm – Aye, Ron Hamm – Aye, and Richard Pile – Aye. Keith then asked for those opposed to say aye. Lloyd Flory – Aye. Motion passed with a vote of 4 – 1.

Keith Sells then stated that there was one more variance that needed a motion.

Richard Pile made a motion to approve the request to allow two family dwellings on one lot.

Keith Sells stated that there was a motion on the second variance that needed to be seconded.

Becky Wilhelm seconded the motion.

Keith Sells asked for all in favor to say aye. Keith Sells – Aye, Becky Wilhelm – Aye, Ron Hamm – Aye, and Richard Pile – Aye. Keith then asked for those opposed to say aye. Lloyd Flory – Aye. Motion passed with a vote of 4 - 1.

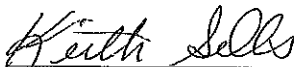
Sandy England, petitioner asked the board if they ever decide to sell the property would this be considered as rental property for future owners.

Wade Watson stated that he had suggested in his report that it would probably become a rental property later on, that was one of the reasons for his suggested requirements.

Dustin Huddleston stated that tonight's meeting approval will be in writing as findings and will be signed by Keith Sells. Those findings will be recorded, so that any future owners of the property would be subject to abide by those restrictions that were imposed concerning the fences and other items listed in Wade's requirements. There is no condition about not renting the property.

Keith Sells asked if there was any further business.

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



Keith Sells, Chairman



Rhonda Barrett, Secretary



TOWN OF Edinburgh

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BZA Staff Report - *REVISED*

To: BOARD OF ZONING APPEALS MEMBERS
From: Wade D. Watson, Building Commissioner
Date: May 2, 2012
Re: Case ZB 2012 (V 4) USE VARIANCE

GENERAL INFORMATION:

Applicant: Terry L. & Sandra L. England
516 S Main Street
Edinburgh, IN 46124

Agent: None

Property Address: 516 S Main Street, Edinburgh, IN 46124

Property Owner: Same

Property Number: 41-12-34-033-083.000-0002

Legal Description: Melville's Addition, Lot 4

Acreage: .02718 acre (11,840 Square Ft.)

Lot Size: 74' X 160'

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

SURROUNDING LAND USE:

Medium Density Residential
Medium Density Residential
Medium Density Residential
Medium Density Residential

REQUEST:

Case ZB 2011 (V4) Terry L. & Sandra L. England. 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 and to permit two residential dwelling units on a single lot.

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".
3. The lot size of the property located at 516 S. Main Street exceeds the minimum standard requirements established by the Zoning Ordinance for the Town of Edinburgh, Section 156.036 for both single family dwelling unit and/or for a two family dwelling unit.
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 24' X 30' garage having a total of 720 square feet of floor area.
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, or minimum Rear 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. 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.
8. While it is the expressed statement that the petitioner does not intend that this building be used as a rental property now or at any time in the future, the Board should consider that once conversion is completed, the opportunity exists for this to occur at some point in the future under different property ownership.
9. Staff has made a review of four similar variance requests that have been considered by the Town of Edinburgh Zoning Board within the past ten years. Following is a brief summary of these reviews:
 - a. On May 8, 2003 the Board considered a variance request to convert 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.

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,
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.
4. That no fence or any other obstruction ever be erected or placed along the north side of the property that would in any way limit or hinder access to the rear of the property by Fire and/or Rescue personnel or equipment.
5. That prior to the conversion of the accessory building, the Petitioners must submit the conversion plans to the Town Building Inspector for review and approval.

Respectively Submitted,



Wade D. Watson
Building Commissioner
Town of Edinburgh

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Zoning Board of Appeals
Thursday, May 8, 2003
6:00PM Town Hall

Edinburgh Zoning Board of Appeals met in special session on Thursday, May 8, 2003, 6:00 p.m.
Edinburgh Town Hall.

Members Present: Larry Whitlock, Chairman
Jeff Simpson
Keith Sells
Irene Sierp
Rhonda Barrett, Secretary

Also Present: Jim Wray, Building Commissioner

Chairman Whitlock opened the meeting at 6:00 p.m. Minutes of the previous meeting were read and approved.

The first item of business on the agenda was a developmental standard variance request from Melvin Eubank, 607 Sunset Drive, to add an addition to existing garage making it larger than is allowed by ordinance.

Jim Wray, Building Commissioner presented the variance request for Mr. Eubank. The current garage is 24 X 30 and the addition will be 12 X 24 making the garage a 42 X 24. The addition to the garage is to be used as storage for Mr. Eubank's matchbox car collection.

There being no remonstrators present, Larry asked for a motion to either deny or approve the variance request. Jeff Simpson made a motion to approve the request, Larry seconded. Motion passed.

The second item on the agenda was for a use variance from James & Pamela Burton, 501 S. Main Street, to convert existing garage into an apartment for his parents as a hardship case.

Jim Wray presented a video of James & Pamela Burtons property and presented the request for a variance to convert existing garage into living quarters for his parents. Jim Wray also informed the board that James & Pamela Burton had come before the zoning board on Wednesday, September 28, 1994, requesting a variance to convert the present garage into living quarters and attach the garage to the house with a breezeway. At that time the variance was approved. After the variance had been approved, James & Pamela Burton decided not to do the conversion.

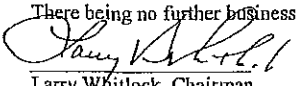
Keith Sells questioned Mr. Burton if after the hardship for his parents ceased, would the converted living quarters be used as a rental property. Mr. Burton stated that the property probably would be used as a rental. Jim Wray stated that there are several rental properties surrounding the subject property.

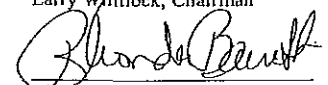
After some further discussion, Mr. Whitlock asked for a motion to either approve or deny the request. Irene Sierp made a motion to approve the request. Larry seconded the motion. Motion carried 3-1, with vote being as follows:

Larry Whitlock - Aye
Jeff Simpson - Aye

Irene Sierp - Aye
Keith Sells - Nay

There being no further business the meeting was adjourned.


Larry Whitlock, Chairman


Rhonda Barrett, Secretary

Zoning Board of Appeals
Thursday, September 9, 2004
6:00PM Town Hall

Edinburgh Zoning Board of Appeals met in special session on Thursday, September 9, 2004, 6:00 p.m.
Edinburgh Town Hall.

Members Present: Larry Whitlock, Chairman
Arvis Sneed
Irene Sierp
Lloyd Flory
Keith Sells
Rhonda Barrett, Secretary

Also Present: Jim Wray, Building Commissioner

Chairman Whitlock opened the meeting at 6:00 p.m. Minutes of the previous meeting were read and approved.

Jim Wray presented a special exception variance from Robert Simpson to convert a free standing building into sleeping rooms at 111 N Walnut Street. The building would have two sleeping rooms with a common bathroom in the middle for the two tenants to share. The property is zoned local business. The property is a legal existing non-conforming use at the present time. To approve the special exception, Ordinance 156.175 section 1 requires off street parking. The property does not provide any off street parking. The board has received three letters in opposition of the variance. Letters were received from Salin Bank & Trust, Shirley Jones, and Lee & Sharon Norris. Concerns about parking and more traffic in the area were mentioned in the letters. Letters are on file. Due to the requirements for off street parking and the letters and phone calls received, staff recommends denial of variance.

Rose Lewis was in attendance with Robert Simpson, and presented the plans for the parking for the sleeping rooms. The sleeping rooms would bring in income for Mr. Simpson who has a physical handicap. Ms. Lewis stated that Mr. Simpson does have rules for tenants to abide by.

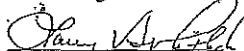
After some further discussion, Chairman Whitlock asked if the board had any questions. There were no questions from the board.

Chairman Whitlock stated that to start converting empty buildings into sleeping rooms would be taking a step back in time as to what the town has tried to improve upon in the past. Chairman Whitlock asked for a motion to either deny or approve the variance.

Keith Sells made a motion for denial based on staff recommendation and due to the opposition of the neighbors. Lloyd Flory seconded. Motion carried.

Keith Sells made a motion to adjourn meeting. Lloyd Flory seconded. Motion carried.

There being no further business the meeting was adjourned.


Larry Whitlock, Chairman


Rhonda Barrett, Secretary

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Zoning Board of Appeals
Thursday, April 20, 2006
6:00 PM Town Hall

Edinburgh Zoning Board of Appeals met in special session on Thursday, April 20, 2006, 6:00 p.m. Edinburgh Town Hall.

Members Present: Larry Whitlock, Chairman
Arvis Sneed
Irene Sierp
Keith Sells
Lloyd Flory
Rhonda Barrett, Secretary

Also Present: Jim Wray, Building Commissioner

Chairman Whitlock opened the meeting at 6:00 p.m. Minutes of the previous meeting were presented and approved.

Election of officers for 2006 was held. Arvis Sneed made a motion to leave the officers as they were last year with Larry Whitlock as Chairman. Irene Sierp seconded. Motion carried.

Jim Wray presented a developmental standard variance request from Bobbie Toler. Bobbie Toler is requesting to convert a single family dwelling residence located at 506 S Holland Street, into 2 apartments. The property is zoned R-4, which requires a 7000 square foot lot for a single-family dwelling. The property has 6120 square feet, and is a legal existing non-conforming use. The R-4 zoning requires an 8000 square foot lot for a 2 family dwelling, and requires 2 off street parking for each dwelling unit. There is room at the back of the house for the parking. Access to the back of the property would be through a narrow alley located behind the house. The street department is unable to get a dump truck down the alley to put down gravel or do snow removal.

Chairman Whitlock asked Bobbie Toler if she had any further information or any questions. She did not have any further comments. There were no remonstrators to the variance request.

Chairman Whitlock polled the board for any comments or questions. Keith Sells stated that after hearing the presentation, that there were no good reasons to approve the request, the lot is too small; parking in the back is inaccessible. Lloyd Flory had no comments. Arvis Sneed commented on the size of the alley, and the fact that he had a hard time getting his truck down the alley. Irene Sierp commented on the size of the lot.

Bobbie Toler commented that on the video of the property, which Jim presented, showed a box truck located in the back yard, which had traveled down the alley to the back yard.

Arvis Sneed stated that the alley was too narrow to maintain properly with gravel and snow removal.

Larry Whitlock asked for a motion to either approve or deny the variance request. Keith Sells made a motion to deny the request. Irene Sierp seconded. Motion carried to deny the request.

Bobbie Toler asked what her next step would be to get the approval for the 2 dwellings. Jim Wray suggested she contact an attorney, and that it would need to be taken to the courts. As is the property could still be used as a single-family dwelling.

Jim Wray presented a special exception request from Paul Burton. Paul Burton is requesting to operate a funeral home in a building that is located at 502 W Center Cross. The property is zoned Local Business, and this zoning requires a special exception variance to operate a funeral home. The building has approximately 3000 square feet, according to building owner Tom Crow, who was in attendance. The ordinance requirement for funeral home parking is 1 parking space per each 100 square feet of floor area. This would require 30 parking spaces; currently there are 15 or 16 parking spaces for the building. The property owner stated that he owns 35 feet past the back of the fence located behind the building, which would allow more parking in the back of the building. Ordinance requires hard paving for parking. Parking space requirements vary by type of business.

Zoning Board of Appeals
Thursday, August 16, 2007
6:00 PM Town Hall

Edinburgh Zoning Board of Appeals met in special session on Thursday, August 16, 2007, 6:00 p.m. Edinburgh Town Hall.

Members Present: Larry Whitlock
Irene Sierp
Keith Sells
Arvis Sneed
Rhonda Barrett, Secretary

Others Present: Brad Teter, Building Commissioner
Billie & Mike McCarthy, Petitioners
Dennis Carnes representing Gillmans

Chairman Whitlock opened the meeting at 6:00 p.m.

Minutes from meetings on February 20, 2007 and July 12, 2007 were approved.

Brad Teter presented the two variance requests from Billie McCarthy for property located at 513 South Main Street. The first request is for a use variance to convert storage/workshop area to living quarters. The second request is for a developmental standard variance to allow multi-family on property that is zoned R-4 which only allows for single and two family dwellings.

Billie McCarthy presented a packet to the board and stated that she has talked with a local contractor about doing the construction to convert the building.

Ron Hoffman, nearby property owner was concerned with the on street parking and also with having another rental property in the area.

On June 7, 1989, previous property owner, Clarence DeCoursey had petitioned this same request for this property and was denied.

Brad Teter, Building Commissioner was concerned with the request being made to correct a hardship caused by the owners by creating a space for renting that was not allowed. Staff recommendation is for denial of the requests.

Arvis Sneed was concerned with not enough off-street parking. Irene Sierp stated that the request had been denied to the previous owners and could not see any changes to the property that would allow for approval.

After some further discussion, Larry Whitlock asked for a motion to approve or deny the request.

Arvis Sneed made a motion to deny both requests. Irene Sierp seconded. With a vote of 3 - 1 with Keith Sells casting the opposing vote, both requests were denied.

Next item on the agenda was a request from Charlie Gillman, Gillmans Hardware, for a developmental standard variance to erect a sign exceeding the dimensions allowed by the sign ordinance.

Brad Teter presented the request from Gillman to erect a sign that is 22 feet tall. Ordinance allows for a 4 - 5 foot tall sign. The sign is in accordance with other signs already existing for the Jay-C food store and CVS pharmacy. The sign will be on U.S. 31. Staff recommendation is for approval.

After some further discussion, Larry Whitlock asked for a motion to approve or deny the request.

Keith Sells made a motion to approve the request. Irene Sierp seconded. All in attendance voted for approval. Motion passed.