

Zoning Board of Appeals
Wednesday, October 5, 2016
6:00 PM Town Hall

Edinburgh Zoning Board of Appeals met on Wednesday, October 5, 2016, 6:00 p.m., Edinburgh Town Hall to hear **Case #BZA 2016-04-Aaron & Dayna Weathers – 506 S Walnut Street – Developmental Standard Variance**

Members Present: Keith Sells
Ron Hamm
Lloyd Flory
Richard Pile

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

Keith Sells presented minutes from the June 1, 2016 meeting. Richard Pile made a motion to approve minutes. Ron Hamm seconded. Keith Sells asked for all in favor to say aye. All ayes. Minutes approved.

Keith Sells advised the audience of the sign in sheet that if they would like to get any further information concerning tonight's meeting, they would need to give their contact information. He also advised the audience that if they wished to speak during tonight's meeting they would need to be sworn in by the attorney.

Dustin Huddleston swore in audience members who wished to speak either for or against tonight's petition.

Keith Sells asked Wade Watson to present his report for the next item on the agenda, case #BZA 2016-04, Aaron & Dayna Weathers, 506 S Walnut Street.

Wade Watson presented his power point presentation on the variance request to those in attendance (see attached staff report). The property is located at 506 S Walnut Street, on a 1.19 acre lot and is in R4 Medium Density Residential Zoning. The property is surrounded by the R4 zoning on the North, South, East and West sides.

The request is for a variance from Division 2 Article 156.271 and 156.029 of the Town of Edinburgh Zoning Ordinance to construct a 30' X 42' accessory building with 12' sidewalls, with a 28' overall height, and to permit an accessory building to be used as a residential dwelling unit on the second floor, therefore having two residential dwelling units on a single lot.

The petitioner has satisfied all documentation requirements, legal and public notifications as 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 HISTORY:

This property is listed in the National Register of Historic Places, existing within Edinburgh's South Walnut Historic District. It is one of the finest historic homes in the district and the only one of its type here. The house was built around 1910 - 1912 by Martin Woodsides for John A. Thompson, owner of the John A Thompson Bank in Edinburgh.

The current owner acquired the property on April 26, 2016 and began a general cleanup of the grounds and a historic restoration of the entire property. They had hoped to salvage and rebuild the Carriage House in the back yard but determined it beyond saving due to gross neglect over the past several years. The loft area of the original Carriage House was furnished as dwelling quarters for a servant of the Thompson family. The Weathers have salvaged the brick from this structure and have plans to rebuild the carriage house making provisional space in the loft that could serve in the future as a dwelling place for an aging parent. Their plans are to include historic features to compliment this Mission-style residence.

Wade Watson advised the board that the first consideration for the variance is the building size and covered the following information.

CASE CONSIDERATIONS FOR BUILDING SIZE:

1. Town of Edinburgh Zoning Ordinance, Division 11, Section 156.271 establishes the definition of a "PRIVATE GARAGE" as: "An accessory building with capacity for not more than two (2) motor vehicles per family, provided that said accessory building shall be no larger than 24-feet by 30-feet with 9-foot sidewalls", and Division 11, Section 156.271 (e) establishes that the maximum height of an accessory building "shall be no higher than 18 feet above ground level."
 - Petitioner is seeking a variance to construct a thirty (30) foot by forty-two (42) feet with twelve (12) foot side walls, having overall height of twenty-eight (28) feet.
2. Division 11, Section 156.271 establishes the definition of a "REAR YARD" as: "A yard extending across the full width of the lot between the rear of the principal building and the rear lot line unoccupied other than by accessory buildings which do not occupy more than 30% of the required space, and steps, walks, terraces, driveways, lamp posts, and similar structures, the depth of which is the least distance between the rear lot line and rear of the principal building."
 - The rear yard of the property is approximately one hundred seventy six feet (176) by one hundred fifty six (156) feet between the rear of the principal building and the rear lot line or approximately six-tenths (0.60) of an acre. The proposed structure is twelve hundred sixty (1,260) square feet which represents approximately less than 5% of the space existing in the rear yard of this lot.

Richard Pile asked if there was an alley behind or on either side of the property. Wade Watson stated that there is not an alley behind the property, and that there had been an alley on the north side of the property which was vacated by a previous property owner.

Wade Watson advised the board that the second consideration is for a future consideration. While advertising and coming before the board for a the building size variance, the property owners wanted to include the variance for two dwellings in the event an aging parent were to need a place to dwell nearby in the future.

CASE CONSIDERATIONS FOR TWO DWELLINGS:

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 506 S Walnut Street exceeds the minimum standard requirements established by the Zoning Ordinance for the Town of Edinburgh, Section 156.036 for both a 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 ground floor area of the proposed structure is approximately twelve hundred sixty (1,260) square feet; however only the loft area of the proposed structure is to be used as future dwelling area. The loft area of the accessory building proposed to be used as a residential space is approximately 24’ X 42’ garage having approximately one thousand eight (1,008) square feet of floor area in the loft.
5. 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 property currently meets or exceeds the minimum parking requirements.
6. 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.
7. Staff has made a review of six 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.
 - f. On June 1, 2016 the board considered a variance request 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 for property located at 808 E Main Cross St. This variance request was approved with specific conditions.

STAFF RECOMMENDATION

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

1. The building shall be compliant with International Residential Building Codes adopted by the State of Indiana, and all other requirements of the Edinburgh Zoning Ordinances.

2. That prior to converting the loft area into a dwelling unit or being occupied, the Property owner must submit construction plans to the Town Building Commissioner for review/approval and a new Improvement Permit be issued for this phase of the project.
3. That prior to this building being occupied, a separate street address be established to afford maximum safety to the residence for Fire and Rescue,
4. That all utilities shall be separated from the existing principal building and established as a new service address.
5. That no fence or any other obstruction ever be erected or placed on the property that would in any way limit or hinder access of Fire and/or Rescue personnel or equipment to the accessory structure.

Wade Watson asked the board if they had any questions.

Lloyd Flory asked that if they are not planning to use it as a separate residence, and install a separate electric meter, then would that create an unnecessary expense if it is not going to be used for several years?

Wade Watson stated that it was a decision that the property owners would need to make based on their own judgement. He also commented that several residences within the community have a separate electric meter on their accessory buildings. If they decide to energize the accessory structure from their current electrical supply, they would be required to install a separate meter on the accessory structure once they decide to use it as a separate residential dwelling.

Keith Sells asked if there were any other questions for Wade.

Richard Pile asked if the same entrance/driveway would be used for the main house and the dwelling in the accessory structure.

Wade Watson confirmed that access to both structures would be from Walnut Street.

Lloyd Flory asked if there used to be access from the vacated alley.

Wade Watson stated that there is an access on the vacated alley that could be used, but the primary entrance will be on Walnut Street.

Ron Hamm asked if there had been any complaints from any of the neighbors.

Wade Watson stated that he had one neighbor inquire, but once he explained what they were wanting to do, the neighbor had no objections.

Keith Sells asked the Weathers if they had any questions or comments about the petition.

Aaron Weathers thanked Wade and the Street department for their help in getting the brush cleaned up from the property.

Lloyd Flory asked if the variance was approved would it carry to future owners of the property.

Dustin Huddleston advised Lloyd Flory that if the variance is approved, there could be a condition that the variance applies only to the current owners. If the property is sold at any future time, the variance would not travel with the property. Any new owners would be required to apply for a new variance.

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

Richard Pile made a motion to approve the variance with Wade's and Lloyd's recommendations:

- The building shall be compliant with International Residential Building Codes adopted by the State of Indiana, and all other requirements of the Edinburgh Zoning Ordinances.

- That prior to converting the loft area into a dwelling unit or being occupied, the Property owner must submit construction plans to the Town Building Commissioner for review/approval and a new Improvement Permit be issued for this phase of the project.
- That prior to this building being occupied, a separate street address be established to afford maximum safety to the residence for Fire and Rescue,
- That all utilities shall be separated from the existing principal building and established as a new service address.
- That no fence or any other obstruction ever be erected or placed on the property that would in any way limit or hinder access of Fire and/or Rescue personnel or equipment to the accessory structure.
- That this variance is subject to the petitioners only and if the petitioners ever sell the property that the new owners will need to reapply for the variance for a second dwelling.

Lloyd Flory seconded.

Keith Sells 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. Keith Sells seconded.

Keith asked for all in favor to say aye. All ayes. Motion passed, meeting adjourned.

Keith Sells, Chairman

Rhonda Barrett, Secretary



**TOWN
OF
Edinburgh**

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, Building Commissioner
Date: October 5, 2016
Re: Case BZA 2016-04 VARIANCE FROM DEVELOPMENT STANDARDS

GENERAL INFORMATION:

Applicant / Owner: Aaron and Dayna Weathers
506 S Walnut Street
Edinburgh, IN 46124

Property Address: 506 S Walnut Street, Edinburgh, IN 46124

Parcel Number: 41-12-34-033-104.000-002

Legal Description: W SW S34 T11 R5 - Blue River Township

Acreage: 1.19 acres (51,836 Square Ft.)

Lot Size: 176' X 294'

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 BZA 2016-04 AARON & DAYNA WEATHERS: Petitioner is requesting a Variance from Developmental Standards of Division 2, Article 156.271 of the Town of Edinburgh Zoning Ordinance to allow the construction of a 30-foot by 42-foot, 28-foot tall accessory building and a variance from Article 156.029 to allow the accessory building to be used as a residential dwelling, thus having two residential dwellings 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.

CASE HISTORY:

This property is listed in the National Register of Historic Places, existing within Edinburgh's South Walnut Historic District. It is one of the finest historic homes in the district and the only one of its type here. The house was built around 1910 - 1912 by Martin Woodside for John A. Thompson, owner of the John A. Thompson Bank in Edinburgh.

The current owner acquired the property on April 26, 2016 and began a general cleanup of the grounds and a historic restoration of the entire property. They had hoped to salvage and rebuild the Carriage House in the back yard but determined it beyond saving due to gross neglect over the past several years. The loft area of the original Carriage House was furnished as dwelling quarters for a servant of the Thompson family. The Weathers have salvaged the brick from this structure and have plans to rebuild the carriage house making provisional space in the loft that could serve in the future as a dwelling place for an aging parent. Their plans are to include historic features to compliment this Mission-style residence.

CASE CONSIDERATIONS FOR BUILDING SIZE:

1. Town of Edinburgh Zoning Ordinance, Division 11, Section 156.271 establishes the definition of a "PRIVATE GARAGE" as: "An accessory building with capacity for not more than two (2) motor vehicles per family, provided that said accessory building shall be no larger than 24-feet by 30-feet with 9-foot sidewalls", and Division 11, Section 156.271 (e) establishes that the maximum height of an accessory building "shall be no higher than 18 feet above ground level."
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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:

1. The building shall be compliant with International Residential Building Codes adopted by the State of Indiana, and all other requirements of the Edinburgh Zoning Ordinances.
2. That prior to converting the loft area into a dwelling unit or being occupied, the Property owner must submit construction plans to the Town Building Commissioner for review/approval and a new Improvement Permit be issued for this phase of the project.
3. That prior to this building being occupied, a separate street address be established to afford maximum safety to the residence for Fire and Rescue,
4. That all utilities shall be separated from the existing principal building and established as a new service address.
5. That no fence or any other obstruction ever be erected or placed on the property that would in any way limit or hinder access of Fire and/or Rescue personnel or equipment to the accessory structure.

Respectively Submitted,



Wade Watson
Town of Edinburgh

DRAFT