



Town of Edinburgh

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

Robert Overton, Building Commissioner

Email: roverton@edinburgh.in.us

BZA STAFF REPORT

To: BOARD OF ZONING APPEALS MEMBERS
From: Robert Overton, Building Commissioner
Date: May 1, 2023
Re: Case ZB2023-02 UV (USE VARIANCE)

GENERAL INFORMATION:

Applicant: QC Communications, Inc.
7925 W 100 S
Wabash, IN 46992

Property Address: 5753 E 800 S ("Hospital Road"), Edinburgh, IN 46124

Property Owner: Parmerlee Farms, Inc.
3477 W Alamo Ave.
Littleton, CO 80126-2801

Property Number: 41-12-32-011-002.000-001
Lot Size: 62.01 Acres (approximately)
Zoning: R1 Suburban Residential
Land Use: Agricultural
FEMA Flood Plain: Portions of this parcel exists within a designated flood area

SURROUNDING ZONING:

North: R1:
South: R1:
East: R1:
West: R1:

SURROUNDING LAND USE:

Residential & Agricultural
Agricultural /Military – Camp Atterbury
Agricultural
Commercial Business/ Military –
Camp Atterbury

REQUEST:

CASE ZB2023-02 UV QC Communications, Inc. requests a Use Variance to allow the operation of Commercial Business in a district zoned as Suburban Residential (R1). This request is for variances from Zoning Ordinance Division 2, Section 156.036; Permitted Uses and Special Exceptions.

DOCUMENTATION AND 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. Staff has received no oral or written remonstrance in response to this petition prior to completion of this report.

PURPOSE OF STANDARDS:

The intent of the Edinburgh zoning standards is to promote public health, safety, and general welfare of the community. Districts designated for residential use are limited to dwellings and public and semi-public uses which are normally associated with residential neighborhoods. The only uses permitted in the residential districts are those which would not detract from the residential character of the neighborhood. The purpose of these districts is to create an attractive, stable, and orderly residential environment.

The establishment of compact districts for specific business types is to provide for more efficient traffic movement, parking facilities, fire protection, and police protection. The purpose of these districts is to provide unified shopping and service districts conveniently located in areas appropriate for business use and to establish standards for the design of sites, buildings, structures, plantings, signs, street hardware and such other improvements that are visible to the public.

CASE CONSIDERATIONS:

1. This property exists outside the corporate limits of the town of Edinburgh but is within its two-mile territorial jurisdiction for the purpose of planning, zoning and land uses. The Building Commissioner is responsible to review development in this area for compliance to our zoning standards before issuing a letter of Buffer Approval for the project. Additionally, site development for this property is subject to the requirements of the Johnson County Planning Department, the Johnson County Drainage Board and compliance with all other State and Local regulations.
2. QC Communications requested the same Use Variance in 2020 for the construction of the current structure. See Board of Zoning Appeals Case #2020-01 UV. This request is required to expand the outdoor storage area necessary for materials and supplies scheduled for installation on communication projects.
3. Previous communications from representatives of Camp Atterbury have expressed a strong opposition to any residential development in this area because of ongoing training exercises and flight activities regularly conducted near this site.
4. Zoning for this property is Suburban Residential (R1). Edinburgh Zoning Ordinance §156.036 makes no provision for commercial business to operate within districts zoned for residential uses. Commercial Businesses are permitted to operate within districts zoned as Local Business (LB), General Business (GB), Roadside Business (RB), and the Central Business District (CBD). Within these standards, this type of business would also be permitted without a variance to operate in a district zoned as Open Industrial (OI).

5. There are three residential dwellings directly across from north along Hospital Road and a fourth residential dwelling approximately eight hundred (800) feet northeast of the proposed development site.
6. The proposed development on this lot is to be a compacted gravel surface enclosed by a security fence.
7. The proposed new parcel is approximately 7.001 acres (four-tenths of a mile) from the intersection of US 31 and St Rd 252 making the development visible from said intersection. This area is considered a Town gateway into our community. The Town of Edinburgh Comprehensive Plan adopted May 9th, 2011, lists "improving existing Town gateways and creating new gateways, as a priority consideration. Therefore, protecting the aesthetic beautification of this area is consistent with the goals and objectives of the Comprehensive Plan.
8. A portion of the 7.001-acre parcel exists within an identified floodplain. The exterior storage of materials and installation of a fence may require additional consideration prior to the development.
9. There has been considerable discussion with the property owner regarding the potential of rezoning the developable portions of the Parmerlee property adjacent to Hospital Road to a district more agreeable to Camp Atterbury acceptable uses. At this time nothing formal has been submitted for consideration. The designation of "Roadside Business" (RB) has been considered which would provide development for commercial uses and more in concert expressed concern from Camp Atterbury.
10. Division 2, Table 2 of §156.037 of the Edinburgh Zoning Ordinances establishes the following District standards for development on property designated as Roadside Business:
 - Minimum Front Depth of 75' (seventy-five feet)
 - Minimum side set back of 20' (twenty feet)
 - Minimum rear set back of 20' (twenty feet)
 - Maximum height of 35' (thirty-five feet)

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** result in a practical difficulty in the use of this property.

(As previously stated in this report, historic communications to the Town of Edinburgh by representatives of Camp Atterbury have expressed strong opposition to residential development in this area.)

- 4. Unnecessary Hardship: The strict application of the terms of the Ordinance will constitute an unnecessary hardship if applied to the property for which the variance is sought.**

STAFF FINDINGS:

The strict application of the terms of the ordinance **will** result in an unnecessary hardship if applied to this property.

- 5. Comprehensive Plan: The approval does not interfere substantially with the Edinburgh Comprehensive Plan.**

STAFF FINDINGS:

The approval of this variance **will not** interfere with or be inconsistent with the goals and objectives of the Comprehensive Plan.

STAFF RECOMMENDATION

Based on these investigation findings, staff recommends **APPROVAL** of the petition for a Use Variance to operate the Commercial Business on this property being zoned as Suburban Residential, with the following condition:

1. That this decision is only granted to the Petitioner, and the Use Variance not transferable to any other property owner(s) not directly associated with the Petitioner, and
2. That this decision is null, and void should the Petitioner fail to develop the subject parcel within two (2) years of the date of the BZA Findings of Fact, and
3. That all parking areas servicing the office building shall be paved with asphalt within ninety (90) days of the completion of the construction project, and
4. That the development be compliant with FEMA standards established for development in the floodplain Zones X and AE, and
5. That consistent with § 156.031 of the Town of Edinburgh Zoning Ordinance, a planting screen maintained to a width of at least six feet and a height of at least six feet shall be provided in order to mask any parking areas, accessory buildings, accessory uses, and expected ground activity from the view of abutting or opposite properties. Said planting screen shall be implemented within one hundred twenty (120) days from the commencement of the construction project, and
6. That all aspects of this project development be compliant with all applicable Building Codes adopted by the State of Indiana, the requirements of Johnson County Planning Department and the developmental requirements of the Edinburgh Zoning Ordinances for properties in Districts zoned as Roadside Business, for which variances are not granted; and,
7. That prior to commencement of any construction at the subject property, the Petitioner be issued a Buffer Approval letter from the Town of Edinburgh Building Commissioner and acquire all required State and Johnson County permits as applicable.

Respectively Submitted,

Robert Overton
Building Commissioner
Town of Edinburgh