



Administrative Offices: 107 South Holland Street, Edinburgh, IN 46124 Robert Overton roverton@edinburgh.in.us

BZA Staff Report

To: BOARD OF ZONING APPEALS
From: Robert Overton
Date: August 25, 2023
Re: Case BZ 2023 – 09 V (Variance from Developmental Standards)

GENERAL INFORMATION:

Applicant: Ted Lucas
1125 Constitution Drive
Edinburgh, IN 46124

Property Address: 1125 Constitution Drive, Edinburgh, IN 46124

Property Owner: Ted & Karen Lucas
1125 Constitution Drive
Edinburgh, IN 46124

Property Number: 73-13-35-300-038.000-025

Legal Description: Reagan Park at Timbergate, Lot 18

Acreage: 0.40 – (136'x 128')

Zoning: Residential (R3) – Medium Density- 4 units per acre

Current Land Use: Single-family Dwelling

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

SURROUNDING ZONING:

North: R3
South: R3
East: R3
West: R3

SURROUNDING LAND USE:

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



REQUEST:

CASE ZB 2023 – 09 V Ted Lucas is petitioning for a **variance** from the Town of Edinburgh Zoning Ordinance, to be allowed a primary structure (addition to the residence) within the required front yard setback of Capitol Drive and rear yard setback on a residential lot located at 1125 Constitution Drive, Edinburgh, IN. This request is for a variance from Title XV, Chapter 156, Division 2, Section 156.037 – Lot and Yard Requirements.

NOTIFICATION:

Petitioner has satisfied all documentation requirements for legal and public notifications as specified in the Town of Edinburgh Zoning Board of Appeals Application Packet.

PURPOSE OF STANDARDS:

An ordinance establishing a Zoning Ordinance for the Town of Edinburgh, Indiana and providing for the administration, enforcement, and amendment thereof in accordance with the provisions of I.C. 36—7 et. seq. and for the repeal of all ordinances in conflict herewith.

DECLARATION OF NECESSITY:

This Chapter is further deemed necessary by the Town Council in order:

To preserve, promote and protect the public health, safety comfort, morals, convenience, and general welfare of the Town;

To provide for adequate light, air and privacy, to secure safety from fire, flood and other danger, and to prevent overcrowding of the land and undue congestion of population.

(Other necessities omitted.)

CONSIDERATIONS:

1. The recorded plat of Reagan Park at Timbergate identifies all of the setbacks on the property as D & U ESMT or Drainage and Utility Easement in addition to either a Building Setback Line or Rear Building Setback Line.
 - Can the BZA grant a variance that places a structure in the Drainage and Utility Easement?
2. Section 156.037 Lot and Yard Requirements. The minimum lot area, minimum width of lot, minimum depth of front yard, minimum width of each side yard, minimum depth of rear yard and minimum ground floor area for each district shall be as shown on the following Table 2:
 - R-3 Minimum Depth Front Yard² – 25'. Where 25% or more of the lots in a block frontage are occupied by buildings, the average setback of the buildings determines the location of the building setback line.
 - i. The average setback of the primary structure on Capitol Drive between Constitution Drive and the dead-end Streets is 28.67' from the edge of the sidewalk.
 - ii. The Lucas primary structure will be approximately 20' from the property line & 21' from the edge of the sidewalk.
 - R-3 Minimum Depth Rear Yard - 20'. The Lucas primary structure will be approximately 8.5' from the rear property line. (Corner Lot)
3. If the Lucas property were not on a corner, the minimum depth of the side yard would be 5' in Reagan Park at Timbergate.



CRITERIA FOR DECISIONS:

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:

Front Yard Setback- The loss of front yard setback on one lot moves the average setback towards the street. This has been an issue largely unchecked in town. The front corner of the Lucas house is 26.5' from the property line- less than the average of the houses on Capitol Drive. The reduction of the front yard **will be** injurious to the public (mental) health due to the loss of open space.

Rear Yard Setback- Because of the fact that corner lot rear yards appear to passers-by as side yards, the loss of rear or rear yard **will not** be injurious to the public (mental) health due to the loss of open space.

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 due to the installation of the room addition.

3. **Practical Difficulty:** The strict application of the terms of the ordinance will result in 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 practical difficulty in the use of this property. The addition of an additional room will not result in a difficulty in the use of the property.

STAFF RECOMMENDATION

Given that two associations of the home owners are required to approve the waiver of the covenants and the proposed addition will match the existing exterior materials, I recommend **APPROVAL with conditions** of this petition.

VARIANCE CONDITIONS:

1. That this decision is only granted to the Petitioner, and the Developmental Variance not transferable to any other property owner(s) not directly associated with the Petitioner;
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;
3. The petitioner shall have the Drainage & utility Easement removed or a variance to permit the encroachment prior to the issuance of a building permit;
4. The petitioner shall obtain written approval from the HOA and Timbergate Architectural Control Committee prior to issuance of a building permit;
5. That the subject structure be compliant with the Indiana Residential Code adopted by the State of Indiana, and all other requirements of the Edinburgh Zoning Ordinances for which a variance is not granted;
6. Prior to commencement of any construction, the Petitioner submits construction plans to the Town Building Official for review/approval and new permit issuance(s) by the Planning Department as applicable.

Respectively Submitted,

Robert Overton,
Building Commissioner
Town of Edinburgh

