

The **Noblesville Board of Zoning Appeals** met on Monday, December 2, 2024. Members in attendance were as follows:

Mike FieldChairman
Dave BurtnerVice-Chairman
Dan MacInnis.....Citizen Member
Lauren WahlCitizen Member

Others in attendance included Principal Planner Denise Aschleman, Senior Planner Amy Steffens, Associate Planner Brett Willaman, and Attorney Jonathan Hughes.

Chairman Field calls the meeting to order at 6:00 p.m.

APPROVAL OF MINUTES

Ms. Aschleman states there are no minutes ready for approval.

APPROVAL OF FINDINGS OF FACT

Ms. Aschleman states there are no findings of fact ready for approval

NEW BUSINESS

1. BZNA 0210-2024, BZNA 0220-2024 and BZNA 0224-2024	
Location:	20570 Overdorf Road
Applicant:	Robert Smits and Sarah LeBlanc Smits
Description:	<div>a) UDO § 8.B.2.a – Board to consider a variance of use application to allow a second dwelling unit on an R1-zoned lot.</div> <div>b) UDO § 9.B.2.C.3 – Board of consider a variance of development standards application to allow the construction of an accessory structures that exceeds the maximum height permitted</div> <div>c) UDO § 9.B.2.C.3 – Board to consider a variance of development standards application to allow the combined square footage of all accessory structures to exceed the maximum square footage permitted.</div>
Staff Contact:	Brett Willaman

Mr. Brett Willaman states we have three variance cases for 20570 Overdorf Road. The first one would be to allow a second dwelling unit on an R1 lot, the second being the construction of an accessory structure that exceeds the maximum height permitted, and the third being the combined square footage of all accessory structures exceeding the maximum square footage permitted on the property. The property itself is an R1 low density single family residential lot. The property currently contains one primary dwelling unit, which is a roughly 2400 square feet, and an accessory structure of about 1500 square feet, with 1200 square feet enclosed currently, and about 300 square feet of open patio space on that property as well.

Mr. Field asks is that like an equipment storage shed.

Mr. Willaman states it is yes, they use it for storage. They use it for a workshop as well. And here's a picture of what that looks like for you. This is the existing structure on site. The first variance that they are requesting is a second dwelling unit on the R1 lot. This would be requesting a one story addition to this existing accessory structure. The proposed addition would be roughly 2,688 square feet of detached residential dwelling. So they want to propose just this square footage for a residential purpose, but it will be attached to this accessory structure as well. What they are proposing is one single accessory structure, dwelling unit, or accessory structure, as you can see here in this site image. On the far left, you can see the existing accessory building as existing. The center piece is a second proposed accessory unit that would be attached to the existing accessory structure. This proposed structure would be also about 2,688 square feet in size. So combined with the existing and the two proposed additions they are requesting, about a 6,876 square foot building. Of that about 2,688 square feet are the proposed second dwelling unit as a part of the structure.

Mr. Field asks is this property connected to Noblesville water and sewer.

Mr. Willaman states it is not. They have their own septic system on this property. And they understood that if this gets approved, that they would have to create a separate septic system, or separate septic and well for water for this new addition, because it shall be metered through separate water well and septic system.

Mr. Field states so you say shall be metered through separate water well and septic system. So you're not talking about gas or water services you just talking about well and septic.

Mr. Willaman states since it would be a second dwelling unit, they would be required to have a septic system for it. So that is the first variance that they are requesting. The second variance would be for the accessory structure height overall. The R1 district in Noblesville, for a property greater than five acres, allows for up to 20 feet in height for an accessory structure, they're proposing about 24.25 feet in height for the accessory structure. That would be the center proposed garage that you see on this image. The proposed quarters for relatives, or the proposed second dwelling unit on the property would be about 14 feet in height, but this center piece is what they're proposing to be 24.25 feet in height, which is 4.25 feet over what we allow in the city limits for an R1 property greater than five acres. In the notes that Ms. Aschleman passed out to you earlier, they wanted it to be known that the existing property is roughly about 24.96 feet in height, as they've done the measurements. So this proposed addition would not be technically taller than the existing residential structure on the site, but it is still taller than what we allow for accessory structure. Finally, the final variance that they're requesting is for the combined square footage of all the accessory structures on the property. So again, the proposed garage that they're proposing would be roughly 2688 square feet in the center of the accessory structure. And with that, combined with the existing 1500 square foot structure, they would be roughly 188 square feet over what we allow within city limits for an R1 lot over five acres which is 4000 square feet. With that proposal they are at about 4188 square feet for the accessory structure purpose only, which is why they're requesting that variance as well. In the conditions we felt like it was necessary to include the unenclosed portion of the existing accessory structure be enclosed if approved, because if it was not enclosed, then it would technically still be two separate accessory structures, because you can't connect an unenclosed portion to an enclosed portion and call it a single structure, which the property owners have agreed to. If approved with those three variances in mind, the planning department has recommended denial of all three variance cases in which we will give reasoning behind these denials now. The first, will be the approval will not be injurious to the public health, safety, morals and general welfare of the community. For this, we recognize that the structure will exceed the maximum 4000 square feet allowed at roughly 180 square feet over the accessory structured allowed limit. In addition the proposed accessory structure with the proposed second dwelling unit will overtake the primary residence and square footage, and this was written before we found out that it will be roughly the same height as the primary dwelling unit on the property. For that reason, we recommend the now for that for that purpose. For the second reasoning, the use and value of the area adjacent to the property, including the variance, will not be affected in a substantially adverse manner. For this reason, we put the proposed structures height will be greater than the primary residence while being located closer to an adjacent R1 residential lot, and in addition, the proposed second dwelling unit will require an additional septic field and water well to be located on this property as well. I have another exhibit to show for this purpose. You can see the proposed structure on the site will be located closer to the property to the direct south of the property. You can see in the top left corner, the existing residence with the with their pool, and then you can see to the right of that the existing workshop, and then the proposed addition that they're proposing in addition to that workshop. While this does still meet the setback requirements for an R1 lot, it is much closer to the adjacent property to the south, and it will require a separate septic field and water well as well, so that would also be closer to the adjacent property. Then the third one, the third reason the strict application of the terms of zoning ordinance will result in practical difficulties in the use of the property. We recognize the desire for this space to be utilized as indoor storage, indoor recreation as they wish to use this space, however, we felt that this could be done without exceeding the maximum of 4000 square feet allowed of accessory structure, as they are only 188 square feet over what we recommend for accessory structure on the property. So that is the third reason why we recommend denial.

Mr. Field states so basically we are just talking about 188 square feet.

Mr. Willaman states for the accessory structure size yes. The structure will contain a second dwelling unit of which the square footage is not included in this amount. The entire structure is about 6700 square feet.

Mr. Field asks what is the difference between this and like the carriage houses in the old part of town, where you have a dwelling unit over the top of a garage. Is this any different than that.

Ms. Aschleman states they aren't really different, but they are also not permitted in Old Town any longer either. We only allow accessory dwelling units attached to the primary structure.

Mr. Field states I can remember being on an old town committee where we were talking about encouraging that.

Ms. Aschleman states this is basically a policy decision. Staff has had the conversation with Council several times. It's time to have the conversation again, but based on their recommendations it is not permitted by right to have them in accessory structures.

Mr. MacInnis asks if there has been any communication with the Health Department as to where the septic might be. Any soil testing.

Mr. Willaman states he can not answer that. It will need to be addressed by the property owner.

Mr. MacInnis asks does the city require space, as the county does, for the replacement septic system if it fails.

Ms. Aschleman states because the county requires it, we by default require it also because they are required to provide a copy of the septic permit to the city.

Mr. Robert Smits, 20570 Overdorf Road, states he goes by Pat. When we first moved in the accessory structure, I loves basketball and all my kids play, and I actually have to run from here over to the high school because I am the freshman coach. We looked at converting the existing structure into an indoor basketball court, because four months out of the year it's so cold I can't shoot. So that's why the height variance in the middle. The biggest thing, though, deals with family. My father in law, Steve and his wife, Marilyn, the quarters would be for them. We've, from a long distance, watched as they had to care for aging parents. They live in Memphis, both sets of their parents lived in New Orleans, and they had to navigate that complexity from a long distance. Even though we hope they have 20 plus years left, we would like to provide an environment where they could move and live close and then be able to have a ranch dwelling where we could help care for them as they age. That was the precipitous or the onus for what started this conversation in this project.

Chairman Field opened the public hearing.

Mr. Andrew Stein, 20560 Overdorf Road, states we are the property just to this south of them. So I just wanted to, I guess, speak on it. I can vouch for their love of basketball. I think I hear that ball bouncing just about 24/7 when it is nice, and some days where it's not. I guess the only thing we would say is we're not super thrilled of how close it gets. I didn't know if there's some sort of variance, like, if there's a compromise is like, maybe the shorter half goes closer to us, and you extend, I don't know if there's a room extending the basketball to the other side, something like that.

Mr. Field states we don't have the power to adjust their plans.

Mr. Stein states if there's a decision on the feasibility of moving it not as close, I think we'd be all for it. We're not super thrilled that it's like 77 feet away, but I think if it was some sort of compromise, would be all for it.

Chairman Field closed the public hearing.

Mr. Field states I'm all in favor of families coming together to help care for each other, and looking at the size of the property, I don't know that 188 square feet is a deal breaker for anyone. I don't think anybody would notice it if they didn't know to look for it.

Mrs. Wahl states compared to this scale, everything is pretty minimal, but have you looked at alternative sites just due to it being so close to the adjacent property owner. What is the reasoning for the location, obviously, you have the existing structure there. You're just trying to add on to it.

Mr. Smits states that was the initial piece was the existing structure where it is. As you go further back on the property, if you look at the contours, there's a big bowl in the back that kind of precludes putting anything further back due to floodplains. Absolutely, can we look at compromising for sure on how it angles. We were also going off of the existing footprint and how it moved off. If we were to go behind, it would probably encroach on the setbacks.

Mr. Steven LeBlanc, Cordova, Tennessee, states I went to Ramco to see what you know they could do to help me, and it was quite easy to put that sketch together, and it gave you an overview of what we're trying to do. The purpose of the size of it is to basically put a half basketball court in there and also use it as a garage for our vehicles. We would park vehicles basically at half court, and the kids could still use the other end without damaging the cars.

Motion by Mrs. Wahl, second by Mr. Burtner to approve applications BZNA-0210-2024, BZNA-0220-2024 and BZNA-0224-2024 based upon the following findings of fact:

- **The approval will not be injurious to the public health, safety, morals, and general welfare of the community;**
- **The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner; and**
- **The strict application of the terms of the zoning ordinance will constitute an unnecessary hardship if applied to the property for which the variance is sought.**

With the following specific conditions:

1. The proposed detached accessory building shall not exceed the height or the height of the existing primary dwelling unit, or 24 feet, whichever is less.
2. The second dwelling unit shall be metered through a separate water well and septic system.

- 3. The unenclosed portion of the existing accessory building shall be enclosed to match the accessory structure.
- 4. The combined square footage of accessory structures on the property, including the second dwelling unit, shall not exceed a total of 6,876 square feet.
- 5. Any alterations to the approved building plan or site plan, other than those required by the Board of Zoning Appeals (BZA), shall be submitted to the Planning and Development Department prior to the alterations being made, and if necessary, a BZA hearing shall be held to review such changes.
- 6. The Applicant shall sign the Acknowledgement of Variance document prepared by the Planning and Development Department Staff within 60 days of this approval. Staff will then record this document against the property and a file stamped copy of such recorded document shall be available in the Department of Planning and Development.

AYE: Burtner, Field, MacInnis, Wahl. The motion carries 4-0.

2.	BZNA 0213-2024	CONTINUED
Location:	17927 Little Chicago Road	
Applicant:	John and Patricia Nichols (owner) Jim Shinaver, Nelson & Frankenberger (applicant)	
Description:	UDO § 9.B.2.C.3.a – Board of consider a variance of development standards application to allow the combined square footage of all accessory structures to exceed the maximum square footage permitted.	
Staff Contact:	Brett Willaman	

3.	BZNA 0216-2024	CONTINUED
Location:	107 Waterman Drive West	
Applicant:	Kenton and Robin Ward	
Description:	UDO § 9.B.4.E.3 – Board to consider a variance of development standards application to allow for an eight-foot tall fence in the west rear yard (maximum seven-foot tall fence permitted).	
Staff Contact:	Amy Steffens	

MISCELLANEOUS

ADJOURNMENT

The meeting is adjourned at 6:23 p.m.

_____ Mike Field, Chairman	_____ Caleb P. Gutshall, Secretary
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