



BOARD OF ZONING APPEALS FINDINGS OF FACT

APPLICATION(S): BZNA-0126-2019

PROPERTY ADDRESS: 2222 Sheridan Road, Noblesville, Indiana

A Variance of Use application was submitted to the Noblesville Department of Planning and Development for the above referenced location. The application, submitted by Transformations Center for Healing, Inc., requested that approval be granted to a Variance of Use application seeking relief from UDO § 8.B.2.B and Appendix C to permit a convalescent facility in an R-1 (Low-Density Single-Family Residential) zoning district. The Noblesville Board of Zoning Appeals conducted a hearing regarding this application on November 4, 2019. After testimony was given and evidence was presented to the Board, a motion to approve, with conditions, was made, and the motion carried 5-0.

VARIANCE OF USE FINDINGS

Indiana Code 36-7-4-918.4 states that a Variance of Use may be approved only upon a determination in writing that the five standards below are true. In its deliberations, the Noblesville Board of Zoning Appeals weighed the evidence associated with the following standards and made the following findings in granting the request for a Variance of Use.

1. The approval will not be injurious to the public health, safety, morals, and general welfare of the community:

The use has proven, over the past three years, to be without adverse impact to the public health, safety, morals, and general welfare of the community. As there are no proposed changes in methods of operation, there is no reason to believe any future adverse impacts will be forthcoming. We believe this standard has been met.

2. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner:

There is no evidence that the use or value of adjacent property has been compromised. The numerous improvements made to this property, as outlined in the Supplemental Questions sheet of the application, might, in fact, argue toward improvement of adjacent property value, particularly the hooking up of a new septic system to the public sewer line via a grinder pit. We believe this standard has been met.

3. The need for the variance arises from some condition peculiar to the property involved:

Life Church Assembly of God owns the property, but does not wish to use the structure as a single-family residence or a parsonage, and does not want to sell the property. Before the applicant's use of the structure as a convalescent facility, this attitude resulted in the structure being vacant for a number of years. Use of the structure by the applicant means habitation of the property, physical improvement through documented investments, and, through the relationship between property owner and applicant, a rent fee of zero dollars, which likely could not be obtained elsewhere. We believe this standard has been met.

4. 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:

Strict application of the terms of the zoning ordinance would require the use of the structure to revert to a use permitted in the R-1 zoning district. Given the physical improvements made to the property by the applicant over the past three years, requiring the relocation of the use to another property seems an unnecessary hardship, especially as the use does not result in alteration of the local character. We believe this standard has been met.

5. The approval does not interfere substantially with the Comprehensive Plan adopted by the Noblesville Plan Commission and Council:

The Comprehensive Master Plan calls for this lot and area to be Mixed-Density Single-Family Residential in the future. Life Church Assembly of God controls the subject site, plus two parcels to its east (as measured along the Sheridan Road frontage) and the large parcel on which its church sits. It thus effectively hinders efforts to consolidate many parcels of land for the purpose of subdivision development between Pasadena Road and South Harbour Drive unless it sells the parcel on which the church sits and the parcel through which access to the church is achieved. In the case of such a sale, the church would most likely also sell its two lots on either side of the access drive, including the subject site. Thus, we do not believe the use of this site as proposed is hindering development of the area for the Mixed-Density Single-Family Residential purposes envisioned in the Comprehensive Plan. In any case, the structure can revert back to residential use in the future, and retains the appearance of residential use in the present. We believe this standard has been met.

The findings of fact contained herein are adopted by the Noblesville Board of Zoning Appeals on December 2, 2019.

Mike Field, Chairman

Sarah Reed, Secretary



BOARD OF ZONING APPEALS FINDINGS OF FACT

APPLICATION(S): BZNA 0131-2019 / BZNA 0132-2019 /
BZNA 0144-2019

PROPERTY ADDRESS: 3501 Conner Street, Noblesville, Indiana

A Variance of Use, Conditional Use, and Variance of Development Standards applications were submitted to the Noblesville Planning Department for the above referenced location. The applications submitted by Jeff Meyer requested that approval be granted to a Variance of Use application pursuant to Unified Development Ordinance §8.C.4.F and §Appendix C to permit outdoor storage in Planned Business zoning district; to a Conditional Use application pursuant to UDO § 8.C.4.D and §Appendix C to permit outdoor display use; and to a Variance of Development Standards application pursuant to UDO § 11.C.1.F.3.a and 11.C.1.F.5 to permit a designation sign in an integrated development on a property that does not have minimum 300 feet of frontage and to permit construction of a designation sign taller than permitted. The Noblesville Board of Zoning Appeals conducted a hearing regarding these applications on November 4, 2019. After testimony was given and evidence was presented to the Board, a motion to APPROVE was made, and the motion carried 5-0.

VARIANCE OF USE FINDINGS

In its deliberations, the Noblesville Board of Zoning Appeals weighed the evidence associated with the following criteria and made the following findings in granting the request for a Variance of Use. Indiana Code §36-7-4-918.4 states that a Variance of Use may be approved only upon a determination in writing that the following are true:

1. The approval will not be injurious to the public health, safety, morals, and general welfare of the community:

It is likely that this variance will NOT be injurious to the public health, safety, morals, and general welfare of the community. The storage area is mostly used to park vehicles, equipment and landscaping materials. The vacant and agricultural properties around should not be affected by this operation. In proposed variance conditions, staff recommends following several outdoor storage screening regulations, usually applied to the permitted outdoor storage areas, to screen the view to this area and maintain a commercial/light industrial look of the nearby area.

2. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner:

It is likely that the use and value of real estate adjacent to the subject site will NOT be affected in a substantially adverse manner by allowing the requested variance.

Nearby property owners may remonstrate against this petition if they believe this request will have significant adverse effects on adjacent properties. Should nothing contrary be brought to light by adjacent owners at the public hearing, it is presumed that the approval of this variance request will not have a substantially adverse effect on the use and value of adjacent properties.

3. The need for the variance arises from some condition peculiar to the property involved:
The need for the variance does arise from a condition peculiar to the property involved. The property was developed with warehouses long time ago giving it an industrial look. However the property is zoned commercial not allowing outdoor storage. At the same time, several uses around are either vacant, close to industrial uses (truck service center), or are industrial (grain elevators). The property with the grain elevators to the north is in the plan to be rezoned to industrial zoning district as part of the bigger development. About 600 feet south from the subject site is industrially-zoned Pleasant Street Commercial Park where outdoor storage is permitted. Thus, while the zoning of the property does not allow outdoor storage, the way that the property and surrounding areas have been developed created a light industrial character.
4. 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:
The strict application of the terms of the zoning ordinance WILL result in practical difficulties in the use of the property. The Comprehensive Plan indicates that this area shall be an employment center. The number of tenants on the subject site keeps increasing meeting the intent of this area. However, many tenants need an area to store their own vehicles, work vehicles and equipment, which is not currently permitted outside, or on the existing parking lot. Allowing an outdoor storage area would attract a lot of business that will provide jobs to the community, as intended by the Comprehensive Plan. Otherwise, the lot that was sold on a contract together with the developed lot 2, will be of little use.
5. The approval does not interfere substantially with the comprehensive plan adopted by the Noblesville Plan Commission and Council:
The approval does not interfere substantially with the comprehensive plan. The Comprehensive Plan shows this area Office/Industrial Flex that permits light industrial uses with outdoor storage areas.

CONDITIONAL USE FINDINGS

In its deliberations, the Noblesville Board of Zoning Appeals weighed the evidence associated with the following criteria and made the following findings in granting the request for a Conditional Use. Indiana Code §36-7-4-918.2 states that a Conditional Use request may be approved only upon a determination in writing that the following nine (9) standards are met:

1. The proposed Conditional Use is, in fact, a conditional use established within the specific zoning district involved.

Pursuant to UDO § 8.C.4.D and Appendix C, outside display and sales is a conditional use in the PB (Planned Business) zoning district.

2. The proposed Conditional Use will be harmonious with and in accordance with the general objectives or with any specific objective of the City's Comprehensive Plan and the Unified Development Ordinance.

The proposed Conditional Use will be harmonious with and in accordance with the general objectives of the City's Comprehensive Plan and with the Unified Development Ordinance. The Comprehensive Plan shows this area as Office/Industrial Flex. It that permits light industrial uses with small outdoor storage areas. Currently, outdoor display is only permitted as a conditional use in PB and I1 industrial zoning districts, which matches the future proposed designation of this area.

3. The proposed Conditional Use will be designed, constructed, operated, and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and will not change the essential character of the same area.

It is strictly for display of merchandise. The display area is very small and looks like an extension of a parking lot.

4. The proposed Conditional Use will not be hazardous or disturbing to existing neighboring uses.

It is believed that the proposed use will be operated in a manner that will not be hazardous or disturbing to the surrounding area. It is located far from the road and will not block anyone's view.

5. The proposed Conditional Use will be served adequately by essential public facilities and services such as highways, streets, police and fire protection, drainage structures, refuse disposal, water and sewer, and schools; or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately any such services.

It is unlikely that the proposed project will experience any lack in essential public facilities and services. The only proposed change to site is adding an asphalt pad that will not need additional utilities or service. The utilities to the site and all other services are already in place.

6. The proposed Conditional Use will not create excessive additional requirements at public expense for public facilities and services and will not be detrimental to the economic welfare of the community.

It is unlikely that the proposed project will create excessive additional requirements at public expense for public facilities and services. The subject property is already served by public services.

7. The proposed Conditional Use will not involve uses, activities, processes, materials, equipment and conditions of operation that will be detrimental to any persons, property, or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare or odors.

The excessive production of smoke, fumes, glare or odors is not anticipated from the proposed use.

8. The proposed Conditional Use will not result in the destruction, loss, or damage of a natural, scenic, or historic feature of major importance.

The existing driveway and parking already serves the area.

9. The proposed Conditional Use will not result in the destruction, loss, or damage of a natural, scenic, or historic feature of major importance.

There do not appear to be any significant natural, scenic or historic features of major importance located on the subject property.

VARIANCE OF DEVELOPMENT STANDARDS FINDINGS

In its deliberations, the Noblesville Board of Zoning Appeals weighed the evidence associated with the following criteria and made the following findings in granting the request for a Variance of Development Standards. Indiana Code §36-7-4-918.5 states that a Variance of Development Standards may be approved only upon a determination in writing that the following are true:

1. The approval will not be injurious to the public health, safety, morals, and general welfare of the community:

It is likely that this variance will NOT be injurious to the public health, safety, morals, and general welfare of the community. Combining all signage in Gill Subdivision in one place on the designation sign will increase the general welfare of the community. It will replace old ineffective ground signage into a new legible sign. At the same time, the sign is proposed far from the road, so it won't be blocking vision of the drivers. A slight increase of sign's height will ensure that the sign is legible.

2. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner:

It is likely that the use and value of real estate adjacent to the subject site will NOT be affected in a substantially adverse manner by allowing the requested variance. Nearby property owners may remonstrate against this petition if they believe this request will have significant adverse effects on adjacent properties. Should nothing contrary be brought to light by adjacent owners at the public hearing, it is presumed that the approval of this variance request will not have a substantially adverse effect on the use and value of adjacent properties.

3. 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:

The strict application of the terms of the zoning ordinance WILL result in practical difficulties in the use of the property. Currently, the ordinance allows only one wall sign per tenant. The buildings are located far from the road, have little wall space left, and are blocked by the surrounding developments making wall signs ineffective in the main function of the sign: informing people of business's presence. The only reason why a designation sign is not allowed here is that the property does not have enough of street frontage due to the odd shape of the lots that narrow down closer to the road. A slight increase in sign's height is needed to compensate for the site conditions: the closest place to the road where the designation sign may be installed is also the lowest elevation on site.

The findings of fact contained herein are adopted by the Noblesville Board of Zoning Appeals on December 2, 2019.

Mike Field, Chairman

Sarah Reed, Secretary



BOARD OF ZONING APPEALS FINDINGS OF FACT

APPLICATION(S): BZNA-0133-2019 / BZNA-0143-2019

PROPERTY ADDRESS: 21585 Cicero Road, Noblesville, Indiana

A Variance of Development Standards application was submitted to the Noblesville Planning Department for the above referenced location. The application submitted by Thomas Weinschenk requested that approval be granted to the following applications:

- a) UDO §Table 8.B – Variance of Development Standards to permit office suites and commercial self-storage in the PB (Planned Business) zoning district.
- b) UDO § 9.B.2.A and § 9.B.2.E – Variance of Development Standards to permit an existing barn on a future lot without a primary residential use.

The Noblesville Board of Zoning Appeals conducted a hearing regarding this application on November 4, 2019. After testimony was given and evidence was presented to the Board, a motion to APPROVE was made, and the motion carried 5-0.

VARIANCE OF DEVELOPMENT STANDARDS FINDINGS

In its deliberations, the Noblesville Board of Zoning Appeals weighed the evidence associated with the following criteria and made the following findings in granting the request for a Variance of Development Standards. Indiana Code §36-7-4-918.5 states that a Variance of Development Standards may be approved only upon a determination in writing that the following are true:

1. The approval will not be injurious to the public health, safety, morals, and general welfare of the community:

It is likely that this variance will NOT be injurious to the public health, safety, morals, and general welfare of the community. The petitioner is requesting the approval of both variances in order to move forward with a 2-lot residential subdivision including a right-of-way dedication to State Road 19. The single family residence and associated accessory buildings will remain on Lot 1, which is less than the required 3 acres. While Lot 2 is larger, over a third of the lot is undevelopable due to existing gas pipeline and regulated drain easements. The existing pole barn will remain on Lot 2 and be used for storage during the construction of the proposed primary residence. The proposed residential use will blend with the rural residential character of the surrounding community. It is not anticipated that the proposed residential use will be injurious to the public health, safety, morals and general welfare of the community if the variances are granted.

2. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner:

It is likely that the use and value of real estate adjacent to the subject site will NOT be affected in a substantially adverse manner by allowing the requested variance. Nearby property owners may remonstrate against this petition if they believe this request will have significant adverse effects on adjacent properties. Should nothing contrary be brought to light by adjacent owners at the public hearing, it is presumed that the approval of this variance request will not have a substantially adverse effect on the use and value of adjacent properties. There is no change to the underlying R-1 zoning district. The proposed use will remain single family residential. However, proposed Lot 1 will be 1.83 acres instead of the required 3 acres and Lot 2 will temporarily have a detached accessory structure without a primary residential house. Per the conditions of approval for these variance requests, a building permit for a single family residence on Lot 2 must be obtained within five (5) years of approval. The proposed 2-lot residential subdivision will blend with the existing rural residential nature of the surrounding neighborhood.

3. 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:

The strict application of the terms of the zoning ordinance WILL result in practical difficulties in the use of the property because the property has several development constraints that contribute to the variance request for a reduction in the minimum lot size from 3 acres to 1.8 acres, including existing gas pipeline and regulated drain easements on approximately 2.5 acres of the southern portion of the property, a 2.16 acre right-of-way dedication to State Road 19, the need to use the existing south driveway for proposed Lot 2 and have the existing barn remain on Lot 2. The location of the existing driveway, constructed by a previous property owner, and barn determined the proposed property line between the two lots and ultimately, the size of the lots, since irregular shaped lots are discouraged. The variance request to allow the existing barn to remain on proposed Lot 2 without an existing primary residential use would allow the barn to be used for the storage of construction materials and equipment as well as personal items during the construction of the new single family home. The petitioner is eager to move forward with the construction process and has agreed to obtain a building permit for a single family residence on Lot 2 within five (5) years of variance approvals.

The findings of fact contained herein are adopted by the Noblesville Board of Zoning Appeals on December 2, 2019.

Mike Field, Chairman

Sarah Reed, Secretary