

The Westfield-Washington Township Board of Zoning Appeals met at 7:00 p.m. on Tuesday, January 8, 2019 at Westfield City Hall.

Members present: Jeannine Fortier, Ken Kingshill, Martin Raines, Dave Schmitz, and Robert Smith.

City staff present: Pam Howard, Senior Planner; Daine Crabtree, Associate Planner; and Brian Zaiger, City Attorney.

ROLE CALL

Noted presence of a quorum.

ELECTION OF OFFICERS

Motion: Nominate and elect Dave Schmitz as Chairperson for 2019

Motion: Kingshill; Second: Raines

Motion: Close nominations

Motion: Kingshill; Second: Raines

Motion to nominate and elect Dave Schmitz as Chairman passed. Vote 5-0

Motion: Nominate and elect Jeannine Fortier as Vice-Chairperson for 2019

Motion: Raines; Second: Smith

Motion: Close nominations

Motion: Raines; Second: Smith

Motion to nominate and elect Jeannine Fortier as Vice-Chairperson passed. Vote 5-0

Motion: Nominate and elect Ken Kingshill as Pro-Tempore for 2019

Motion: Smith; Second: Raines

Motion: Close nominations

Motion: Smith; Second: Raines

Motion to nominate and elect Ken Kingshill as Pro-Tempore passed. Vote 5-0

APPROVAL OF MINUTES

Motion:

Motion: Kingshill motioned to approve the November 13, 2018 meeting minutes.

Raines seconded. Motion passed. Vote 5-0.

REVIEW OF RULES AND PROCEDURES

Howard reviewed BZA rules and procedures.

ITEMS OF BUSINESS

1901-VS-01
[PUBLIC HEARING]

North of and adjacent to 1106 E. 191st Street

Martin Cody

The petitioner is requesting Variances of Development Standard to permit two (2) Accessory Buildings on a Lot with no Principal Building and to reduce the Minimum Lot Area, Minimum Lot Frontage, and Minimum Building Setback Line in the AG-SF1: Agriculture / Single-Family Rural District (Articles 6.1(D), 4.2(C-E)).

(Planner: Daine Crabtree - DCrabtree@westfield.in.gov)

Crabtree overviewed these requests. The Petitioner is requesting Variances of Development Standard for two (2) Accessory Buildings that currently exist on the Property. The Property, as well as the parcel to the south (1106 E. 191st Street), are zoned AG-SF1: Agriculture/Single-Family Rural. Both parcels exist under the same ownership, FMH Limited Partnership (the "Owner"). The property is being rented by the Petitioner.

Schmitz asked what brought about this petition. Was it due to enforcement?

- Crabtree responded yes, enforcement officer determined enforcement was not necessary; however, the buildings on the property are not compliant with setbacks

Smith asked how long have the buildings been on the property.

- Martin Cody, the petitioner, responded these portable buildings have been in place for four to five months

Schmitz asked Cody if he is renting the home as well.

- Cody replied yes.

Kingshill asked why not combining parcels

- Crabtree replies that would result in losing the legal conforming status.

Schmitz asked why they are considered two parcels when they have the same ownership.

- Crabtree and Howard addressed that the tax parcels are also used for zoning purposes.

Public Hearing for 1901-VS-01 opened at 7:10 p.m.

Dan Klingensmith, 19136 Tomlinson Road; said his back yard backs up to the petitioner's back yard. He said there were three small utility buildings on the property, not two. He said there are several cars on property that he works on and said he was not sure if the petitioner was running a business. He stated he is concerned about the situation as the area is residential.

- Smith asked Klingensmith if this situation impacts his property values and if so, why?
 - o Klingensmith replied yes, cars being worked on in residential neighborhood negatively affects their personal enjoyment as well as the value of their property.

Sharon Cordero, 19150 Tomlinson Road; said her home is on the L shaped lot that abuts the petitioner's lot. She stated a concern for the lowering of property values as a result of the situation. She asked how they can get a variance if the petitioner does not own the property. She pointed out that the cars shown in the pictures are very close to her property/fence. She asked that if these variances were approved would it result in making it easier for the property owner to rezone. She said the yard is messy.

- Schmitz and Crabtree responded that the property owner consented to the application.
- Schmitz responded that rezoning would be a separate matter.

Darleen Klingensmith, 19136 Tomlinson Road; asked when was this property made into two parcels? What does it mean that there is no principle building? She said it would not be fair to current residents to change the zoning as the property had always been zoned single-family/agricultural and that was the basis for the current residents to purchase their land.

- Smith asked how this situation impacts her.
- She replied the noise coming from his auto repairs is loud and lowers her property value. She said that could make it selling her property more difficult.

Petitioner responded that he does not run a business; he uses the buildings to store his personal vehicles. He added he has worked on his own cars.

Public Hearing for 1901-VS-01 closed at 7:23 p.m.

Kingshill asked the petitioner about a piece of equipment that was pictured on the property.

- The petitioner replied it was an engine hoist.

Raines asked if he works on his own cars or other people's cars. If so, he asked the petitioner if he was being paid to work on cars.

- Cody replied he only works on his own cars.

Raines asked about the use of the buildings.

- Cody replied they are used for storing his cars and tools.

Raines asked petitioner if he could store his cars on the other parcel, closer to house

- Cody replied yes.

Raines asked if everything could be stored inside the buildings.

- Cody replied no.

Schmitz mentioned that the setback reductions are significant. He also asked about the nature of the enforcement – asking if it was related to use.

- Crabtree replied that the enforcement was regarding reports of oil running off of property. Once the property was inspected that was not found to be valid. It was at this time the setbacks were noticed.

Schmitz said that the setback issue is self-created.

- Cody responded that he didn't think it mattered since it they portable buildings.

Kingshill stated he did not think this variance should be granted

Schmitz doesn't think that practical difficulties are met.

Cody stated that he keeps his property in as nice of condition as the neighbors' properties.

Motion:

Kingshill motioned to deny 1901-VS-01.

Smith seconded. Motion passed. Vote 4-1. Raines voted against the motion.

Motion:

Kingshill motioned to table the staff's Findings of Fact for 1901-VS-01 until next BZA meeting.

Fortier seconded. Motion passed. Vote 5-0.

**1901-VU-1 &
1901-VS-02
[PUBLIC HEARING]**

14925 Bridlewood Drive

Matthew Knowles

The petitioner is requesting a Variance of Use to permit an addition to a Single-Family Dwelling and a Variance of Development Standard to reduce the Minimum Side Yard Setback in the SB-PD: Special Business / Planned Development District (Article 13.2 & 4.22(B)).
(Planner: Pam Howard - PHoward@westfield.in.gov)

Howard explained that a certified mailing for this petition was not competed and said that to proceed the BZA would need to waive the certified mailing rule.

No one was present to speak in this item.

Motion:

Kingshill motioned to waive the requirement of public notice for 1901-VU-01 & 1901-VS-02.

Smith seconded. Motion passed. Vote 5-0.

Howard presented an overview of this request for this a Variance of Use to allow for a side yard setback. The Petitioner requests a Variance of Development Standard to modify the South Side Yard Setback Line from thirty (30) feet to ten (10) feet to allow for the extension and reconfiguration of an attached garage.

Schmitz asked what is required for the setback.

- The petitioner responded 15 feet.

Kingshill asked if the subdivision's homes had predominantly two car garages.

- The petitioner responded yes; but, there are several three car garages.

Public Hearing for 1901-VU-01 & 1901-VS-02 opened at 7:45 p.m.

No public comments.

Public Hearing for 1901-VU-01 & 1901-VS-02 opened at 7:46 p.m.

Motion:

Smith motioned to approve 1901-VU-01 & 1901-VS-02 with the following condition:

- The additions shall be built as shown on the Site Plan Exhibit and Proposed Addition Exhibit attached to the Staff Report.

Kingshill seconded. Motion passed. Vote 5-0.

Motion:

Smith motioned to adopt the staff’s Findings of Fact for 1901-VU-01 & 1901-VS-02.

Kingshill seconded. Motion passed. Vote 5-0.

ITEMS CONTINUED TO A FUTURE MEETING:

1609-AA-01

[CONTINUED]

14939 Ditch Road

Indiana Structural Foundations, LLC

The petitioner is appealing an Administrative Determination (1604-AD-02) regarding standards applicable to a concrete business pursuant to a previously approved Variance of Use (79-V-12).

(Planner: Kevin Todd - KTodd@westfield.in.gov)

1803-AA-01

[CONTINUED]

16708 Dean Road (Bob’s Garage)

Esler Properties, LLC by Morse & Bickel, P.C.

The petitioner is appealing an Administrative Determination (1712-AD-04) regarding the revocation of a variance (1603-VU-03)

(Planner: Pam Howard - PHoward@westfield.in.gov)

REPORTS/COMMENTS

Plan Commission Liaison Report.

Economic and Community Development Department.

ADJOURNMENT

Motion:

Schmitz motioned to adjourn the meeting.

Kingshill seconded. Motion passed. Vote 5-0.

The meeting adjourned at 7:59 p.m.

Chairperson
Dave Schmitz

Secretary
Matthew S. Skelton, Esq., AICP
Director