

## MINUTES

### City of Franklin, Indiana BOARD OF ZONING APPEALS

January 7, 2015

#### **Members Present:**

Tim Holmes	President
Phil Barrow	Vice-President
Jim Martin	Secretary
Brian Alsip	Member
Rev. Richard Martin	Member

#### **Others Present:**

Alex Getchell	Associate Planner
Lynn Gray	Legal Counsel
Jaime Shilts	Recording Secretary

#### **Call to Order:**

Tim Holmes called the meeting to order at 7:00 p.m.

#### **Election of Officers:**

Phil Barrow made a motion to nominate Tim Holmes as President. Brian Alsip seconded the motion. Nominations were closed. The motion passed unanimously.

Brian Alsip made a motion to nominate Phil Barrow as Vice President. Jim Martin seconded the motion. Nominations were closed. The motion passed unanimously.

Rev. Martin made a motion to nominate Jim Martin as Secretary. Phil Barrow seconded the motion. Nominations were closed. The motion passed unanimously.

#### **Appointment of Legal Counsel:**

Jim Martin made a motion to reappoint Lynn Gray as the BZA attorney. Phil Barrow seconded the motion. The motion passed unanimously.

#### **Approval of Minutes:**

Jim Martin made a motion to approve the December 3, 2014 minutes as submitted. Rev. Martin seconded the motion. The members voted to approve the minutes.

#### **Revised Calendar:**

The filing deadline has been moved back a week in December of 2015 to allow Staff more time to prepare reports.

Rev. Martin made a motion to approve the revised calendar. Phil Barrow seconded the motion. The motion carried unanimously.

**Swearing In:**

Lynn Gray swore in the audience en masse.

**Old Business:**

None.

**New Business:**

**ZB 2014-17 (SE & V) Roger Hill:**

The petition is for a special exception and also a developmental standards variance. The special exception is to allow an accessory dwelling in the RSN zoning district. The developmental standards variance is from Article 7, Chapter 3 to allow the accessory dwelling to be located on the ground floor of a detached garage. A variance is needed as accessory dwellings are only permitted to be located on the second floor of a detached garage or workshop or be attached to the primary structure.

Roger Hill stated he owns the property at 1065 E King Street. He stated they are proposing to demolish the current detached two car garage, build a three car garage with living quarters attached to the back of it. He stated the living quarters would be used by a family member that has a medical issue. Ms. Gray questioned how it is not a secondary dwelling. Mr. Getchell stated the ordinance does allow for a completely separate subordinate dwelling unit on the property so long as it's less than 1000 sq ft and it's supposed to be attached to the primary structure or on the second floor of the secondary structure. The variance they are going for is to allow it on the first floor of the secondary structure. Mr. Barrow questioned what the term subordinate refers to. Mr. Getchell stated that it is smaller in size and is located and constructed in a way that it is not the primary focus of the property. Mr. Hill stated they would have the same utility meters. Ms. Gray stated when a structure is attached to the main building it is an accessory to the main dwelling. She expressed her concern with approving the case as it could be used in the future as a rental. Mr. Hill stated the whole purpose is to have a larger facility and to have a location for the family member to live and not have to go into assisted living. He stated the living quarters would be attached to the garage on the main floor. Mr. Hill stated he is staying away from the word rental, because that is not at all the objective.

Mr. Hill stated the approval will not be injurious to the general welfare of the community. He stated even with a ground floor accessory, it will not affect the general welfare.

Mr. Hill stated the adjacent property will not be affected in an adverse manner. He stated he feels it is in tune with the existing neighborhood. It will not lessen anyone's property value. He stated he doesn't want to have a garage larger than his house which is why he doesn't want to put the living quarters on the second floor. He stated he has been very cautious about the size and redesigning the garage. He stated a two story detached garage as required, would likely exceed the maximum height allowed by the zoning ordinance.

Mr. Hill stated there will be a practical difficulty as they will be unable to construct a dwelling unit of rational size on the back of the detached garage. He stated that his request actually falls more in line with the zoning ordinance.

Mr. Hill stated the approval of the special exception will not injurious to the public. He stated there is sufficient parking. The accessory dwelling is less than 500 square feet, and it would not go any closer to neighboring properties. He stated there would only be a one bedroom unit on the property.

Mr. Hill stated the adjacent property will not be affected adversely. The new structure will remain within his property lines and would not go any closer to neighboring properties.

Mr. Hill stated the granting of the special exception will not be contrary to the zoning ordinance.

Mr. Hill stated the variance will not affect the comprehensive plan, as it states it also encourages the occasional incorporation of accessory residences.

Mr. Hill stated there will be three garage doors facing King Street. The existing garage is 24x24. The proposed garage is 44 x 36 and will be set back the same distance along the property line.

Mr. Alsip questioned what Mr. Hill will do with the apartment after the family member lives there. Mr. Hill stated that he has a large piece of land so he is secluded and doesn't want to rent the property out. Ms. Gray stated that it essentially turns the property into a two dwelling property.

Mr. George Gerding stated that the dwelling is for his wife. She has meniere syndrome and he drives back and forth each week to Cincinnati to take care of her and would like to move her closer to him. She can't climb steps due to the equilibrium part of her illness which is why they want the apartment on the first floor.

Ms. Gray expressed her concern with the apartment being rented out after it is used for family. Mr. Getchell stated special exception approval goes with the applicant unless otherwise specified by the Board. The Board may also limit the time period and use. Ms. Gray stated the Board can put restrictions on the variance.

Mr. Alsip questioned if Mr. Hill would accept as a condition not to use the property as a rental. Mr. Hill stated he agreed to the condition.

Staff recommends approval of the Special Exception with the following conditions:

- a. An Improvement Location Permit shall be obtained prior to construction of the proposed accessory dwelling and detached garage structure.
- b. The accessory dwelling shall be constructed as shown on the building plans submitted with the application.
- c. The accessory dwelling and property shall not be used as a rental unit or rental property.

Staff recommends approval of the Variance with the following conditions:

- a. An Improvement Location Permit shall be obtained prior to construction of the proposed accessory dwelling and detached garage structure.
- b. The accessory dwelling shall be constructed as shown on the building plans submitted with the application.
- c. The accessory dwelling and property shall not be used as a rental unit or rental property.

**Action taken on ZB 2014-17 (SE & V) Roger Hill:**

Jim Martin made a motion to approve the Special Exception subject to Staff comments and the petitioner's commitments:

- a. An Improvement Location Permit shall be obtained prior to construction of the proposed accessory dwelling and detached garage structure.
- b. The accessory dwelling shall be constructed as shown on the building plans submitted with the application.
- c. The accessory dwelling and property shall not be used as a rental unit or rental property.

Rev Martin seconded the motion.

The special exception was granted.

Phil Barrow made a motion to approve the Variance subject to Staff comments and the petitioner's commitments:

- a. An Improvement Location Permit shall be obtained prior to construction of the proposed accessory dwelling and detached garage structure.
- b. The accessory dwelling shall be constructed as shown on the building plans submitted with the application.
- c. The accessory dwelling and property shall not be used as a rental unit or rental property.

Jim Martin seconded the motion.

The variance was granted.

**Other:**

None

**Adjournment:**

There being no further business, the meeting was adjourned.

Respectfully submitted this 4<sup>th</sup> day of February, 2015.

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Tim Holmes, Chairman

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Jim Martin, Secretary