

MINUTES

WARRICK COUNTY AREA BOARD OF ZONING APPEALS

Regular meeting held in Commissioners Meeting Room,
Third Floor, Court House,
Boonville, IN

Monday, June 28, 2010, 6:00 P.M.

MEMBERS PRESENT: Larry Willis, Chairman; Mike Winge, Vice Chairman; Tina Baxter, Don Mottley, Judy Writsel, and Terry Dayvolt.

Also present were: Sherri Rector, Executive Director and Secretary; Morrie Doll, Attorney; and Christy Powell, staff.

MEMBERS ABSENT: Tony Curtis.

The meeting was called to order by the Chairman. Roll call was taken and a quorum was declared present.

MINUTES: Upon a motion made by Don Mottley and seconded by Mike Winge, the minutes of the last regular meeting held May 24, 2010, were approved as circulated.

The Chairman explained the Rules of Procedure to the audience.

SPECIAL USE:

BZA-SU-10-14 APPLICANT: New Hope Community Church of Chandler, Indiana Inc. by Milton Stuart, Treasurer. **OWNER:** Loyal Order of Moose, Inc. Newburgh Lodge No. 2439 by James Bryan Administrator of Moose Lodge #2439.

PREMISES: Property located on the N side of Vann Rd. (S 350) approximately 2210' E of the intersection formed by Prospect Dr. and Vann Rd. (S 350) Lt 12 Warrick Research & Industrial Center #1 and Lt. 13 Warrick Research & Industrial Center #2, Ohio Twp. 5422 Vann Rd.

NATURE OF CASE: Applicant requests a Special Use (SU 19) from the requirements as set forth in the Comprehensive Zoning Ordinance in effect for Warrick County, IN to allow a church in a proposed "C-4" General Commercial Zoning District. *Advertised in the Boonville Standard June 17, 2010*

Milton Stuart, Treasurer for New Hope Community Church, approached the podium.

James Bryan, Administrator and Power of Attorney for Moose Lodge, approached the podium.

The Chairman asked for a staff report.

Mrs. Rector stated they have all the return receipts from certified mail to the adjacent property owners. She stated this request is for a Special Use – 19 which is for a church or a religious facility. She stated in the Board Members packets, the petitioners have answered the questions relating to the proposed use. She stated the building had previously been used as the Moose Lodge. She stated the property to the north, east, and west is zoned "M-2" General Industrial with a repair shop to the east, vacant to the north, and Civitan to the west. She stated the property to the South is zoned "A" Agriculture and is the Vann Road

Ball Park. She stated there is no flood plain on the property and it does front Vann Rd. She stated the rezoning petition was approved by the County Commissioners today so therefore the zoning is now "C-4" General Commercial which they had to do in order to have a church in this building. She stated they are not adding anything at this time to the existing structure of the Moose Lodge. She stated the other lot will be used for parking and such and she doesn't believe they have any plans to expand at this time. She stated they do have a recorded power of attorney to allow Mr. Bryan to act on behalf of Moose International, Inc. and the application is in order.

The Chairman asked if the petitioner had anything to add to the staff report.

Mr. Stuart stated no.

The Chairman asked if there were any questions by the Board. Being none he asked for remonstrators for or against this petition. There being none he entertained a motion.

Don Mottley made a motion findings of fact be made as follows from the testimony and proposed use statement:

1. The USE is deemed essential or desirable to the public convenience or welfare.
2. The USE is in harmony with the various elements or objectives of the Land Use Plan for Warrick County.
3. The USE will not be a nuisance or serious hazard to vehicles, pedestrians, or residents.
4. The USE as developed will not adversely affect the surrounding area.
5. Adequate and appropriate facilities will be provided for proper operation of the USE.
6. The specific site is appropriate for the USE.
7. The USE will provide the service of a church.

And the Application be approved in accordance to the application and plans on file, subject to the following conditions:

1. Subject to any required Local or State Permits.
2. Subject to the property being in compliance at all times with the applicable zoning ordinance of Warrick County.
3. Subject to any required Building Permit or Remodeling Permit from the Warrick County Building Department being obtained.
4. Subject to all public utility easements and facilities in place.

Mike Winge seconded and the motion carried.

Mrs. Rector stated their approval will be done by Wednesday and they asked that it be mailed.

VARIANCE:

BZA-V-10-16 APPLICANTS AND OWNERS: Kevin & Dana Mills

PREMISES: Property located on the W side of Kenyon Ridge Ct. approximately 170' N of the intersection formed by Kenyon Ridge Ct. and Laurel Ridge Dr. Lt 66 in the Corrected Plat of Lakeridge Crossing Subdivision Section D, Ohio Twp. *2199 Kenyon Ridge Ct.*

NATURE OF CASE: Applicant requests a variance from the requirements as set forth in the Comprehensive Zoning Ordinance in effect for Warrick County, IN to allow an Improvement Location Permit to be issued for the construction of an addition to an existing residence not meeting the minimum rear yard requirements of 25'. Applicants are proposing a rear yard of 19'; thus requesting a 6' relaxation in an "R-1" Single Family Zoning District. *Advertised in the Boonville Standard June 17, 2010.*

Les Shively, Attorney for the owner, approached the podium.

Kevin Mills, Owner, approached the podium.

The Chairman asked for a staff report.

Mrs. Rector stated they have all the return receipts of certified mail to the adjacent property owners. She stated this is a request to construct an addition to a residence not meeting the minimum rear yard requirements of 25'. She stated the property owners proposed addition will be 19' from the back property line. She stated there is a letter from Attorney Shively included in the Board Member's packets stating "The hardship necessitating the filing of the variance is created by the lot dimensions of the subject property and necessitates the relaxation of the rear yard requirements." She stated the existing land use is a residence. She stated the surrounding properties are all residences. She stated to the north is Lakeridge Crossing Sec A zoned "R-1A" and to the south, east and west is Lakeridge Crossing Sec D zoned "R-1". She stated there is no flood plain on the property. She stated the property fronts on Kenyon Ridge Ct. She stated they have a sign off from Ron McGillem, the developer, that there are no additional easements other than what is shown on the plot plan and the recorded plat. She stated the addition will be a covered porch and family room and the application is in order. She stated there is a statement in the Board Member's packets.

The Chairman asked if the petitioner had anything to add.

Attorney Shively stated just one additional thing. He passed out a plot plan to the Board Members. He stated he just wanted to point out that although it says relaxation to 19' he wants the Board to see the little circle on the plot plan and notice that is only one point where it will be 19'. He stated the rest of the house will be in conformity. He stated the one corner of the family room addition will actually be 33 feet away. He stated that is the only place they need the Variance and it is because it is on a cul-de-sac, it is the configuration of the lot. He stated Mr. Mills contacted his neighbors, told them what he is doing, and the neighbor most affected is the one behind him and they are the ones that sold him the house and they don't have any problem with it. He stated obviously his clients believe it will enhance the value of their property and surrounding properties. He stated again this is the configuration of the property that creates this problem and because of the nature of the request this is the full extent of the Variance because that would be what will be shown for the permit for those two additions. He stated Mr. Arden would be here but he is in the hospital passing a kidney stone. He stated they would be happy to answer any questions the Board might have.

The Chairman asked for any questions by the Board.

Ms. Writsel stated he answered hers already.

The Chairman asked for any remonstrators. There being none he entertained a motion.

Mike Winge made a motion to approve the Variance Application based upon and including the following findings of fact:

1. The grant of the Variance will not be injurious to the public health, safety, morals, and general welfare of the Community. As such, it is further found that the granting of the Variance shall not be materially detrimental to the public welfare.
2. The use or value of the area adjacent to the property included in the Variance will not be affected in a substantially adverse manner. As such, it is further found that the granting of the Variance shall not result in substantial detriment to adjacent property or the surrounding neighborhood.
3. The need for the Variance arises from some condition peculiar to the property involved. The peculiar condition constituting a hardship is unique to the property involved or so limited to such a small number of properties that it constitutes a marked exception to the property in the neighborhood. Such condition is the shape of the property and the configuration of the house because of the shape of the property.
4. The strict application of the terms of the Warrick County Comprehensive Zoning Ordinance will constitute a practical difficulty, unusual and unnecessary hardship if applied to the property for which the Variance is sought.
5. The approval does not interfere substantially with the Warrick County Comprehensive Zoning Ordinance adopted pursuant to IC 36-7-4-500 et seq.
6. The granting of the Variance is necessary in order to preserve a substantial property right of the petitioner to use the property in a reasonable manner, and not merely to allow the petitioner some opportunity to use his property in a more profitable way or to sell it at a greater profit.
7. That the hardship to the applicant's use of the property was not self-created by any person having an interest in the property nor is the result of mere disregard for or ignorance of the provisions of the Warrick County Comprehensive Zoning Ordinance.
8. The approval of the requested Variance is the least modification of applicable regulations possible so that the substantial intent and purpose of those regulations contained in the Warrick County Comprehensive Zoning Ordinance shall be preserved.
9. This Variance shall expire six (6) months after this date, UNLESS a Permit based upon and incorporating this Variance is obtained within the aforesaid six (6) month period or unless the provision of the Variance are adhered to within the aforesaid six (6) month period. Upon advance written application for good cause, a renewal for an additional six (6) month period may be granted by the Secretary of the Area Plan Commission.
10. The Variance Application is subject to the terms contained therein and the plans on file subject to the following additional conditions:

- a) Subject to an Improvement Location Permit being obtained.
- b) Subject to any required Building Permit from the Warrick County Building Department being obtained.
- c) Subject to the property being in compliance at all times with the applicable zoning ordinances of Warrick County.
- d) Subject to all utility easement and facilities in place.

Don Mottley seconded and the motion carried.

Mrs. Rector stated the office would have his approval ready Wednesday and he could come and get his permit.

OTHER BUSINESS:

Mrs. Rector stated they have a vacancy in the office and she is going to send a request to the Commissioner's office for County employees, if someone wanted to change positions, and she is also going to advertise the opening in the paper. She stated she will be doing interviews in a few weeks. She stated it is a Planner III position and makes approximately \$22,000 a year.

ATTORNEY BUSINESS:

None.

EXECUTIVE DIRECTOR BUSINESS:

None.

Being no other business the meeting adjourned at 6:18 pm.

Larry Willis, Chairman

ATTEST:

The undersigned Secretary of the Warrick County Area of Zoning Appeals does hereby certify the above and foregoing is a full and complete record of the Minutes of said Board at their monthly meeting held June 28, 2010.

Sherri Rector, Executive Director & Secretary