

MINUTES

WARRICK COUNTY AREA BOARD OF ZONING APPEALS

Regular meeting held in Commissioners Meeting Room,
Third Floor, Court House,
Boonville, IN
Monday, June 26, 2010, 6:00 P.M.

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

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

MEMBERS ABSENT: Tony Curtis and Judy Writsel.

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 Terry Dayvolt, and seconded by Don Mottley, the minutes of the last regular meeting held June 28, 2010, were approved as circulated.

The Chairman explained the Rules of Procedure to the audience.

SPECIAL USE:

BZA-SU-10-17 APPLICANT: Northwoods Church by Ed Collins, Ex. Pastor. OWNER: RCG Venture by Tim Cook, Representative.

PREMISES: Property located on the N side of Fruitwood Ln. approximately 320' W of the intersection formed by Taylor Dr. and Fruitwood Ln. Lt 5 Warrick Place Replat Lots 5 & 6. Ohio Twp. 7844 W SR 66.

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 "C-4" General Commercial Zoning District.

Present were Ed Collins and Tim Cook.

The Chairman called for a staff report.

Mrs. Rector stated they do have all the return receipts from certified mail of notice of this meeting to the adjoining property owner. She stated this is a request for a Special Use, SU-19, to

allow for a church, religious facility. She stated it is a part of the building that is Apple Center with the different businesses. She stated she believes this is going to be located where the steak place was on the end. She stated all the surrounding property is zoned commercial with business to the East, South, and West. She stated to the North is Engelbrecht Place which is residential, but zoned Commercial. She stated there is no flood plain on the property. She stated it fronts SR 66, which is limited access, and their access is through Fruitwood Lane and Orchard Lane. She stated they did fill out a proposed use statement which is a part of the application.

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

Mr. Collin stated he did not.

The Chairman called for questions by the Board.

Mrs. Rector asked on the application it shows class rooms, are those for Sunday school or are they planning on having a school there.

Mr. Collins stated they are just for Sunday school.

Mr. Willis asked the attorney if CVS selling alcohol would interfere with operation of the Church being to close.

Attorney doll stated it would be a pre-existing permit at that location and the church moving to the neighborhood, does not disqualify CVS.

There being no remonstrators and no further questions by the Board, the Chairman called for a motion.

Mike Winge made a motion finding 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 State or Local permits being obtained.
2. Subject to the property being in compliance at all times with the applicable zoning ordinances 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 utility easement and facilities in place.

The motion was seconded by Don Mottley and unanimously carried.

BZA-SU-10-18 APPLICANT: Audra Spencer OWNER: Albert Spencer, Sr.

PREMISES: Property located on the S side of Crescent Dr. approximately 0' W of the intersection formed by Crescent Dr. and Crescent Ct. Lt 20 in Crescent Heights B. Ohio Twp. 6833 Crescent Dr.

NATURE OF CASE: Applicant requests a Special Use (SU 27) from the requirements as set forth in the Comprehensive Zoning Ordinance in effect for Warrick County, IN to allow a child care center with at least 7 and no more than 12 children not related to the provider in an "R-3" Resort Zoning District.

Present were Albert and Audra Spencer.

The Chairman called for a staff report.

Mrs. Rector stated they have all return receipts from certified mail of notice of this meeting to the adjoining property owners. She stated this is lot 20 in Crescent Heights subdivision section B which is approximately .33 acres located on the South side of Crescent Dr. She stated this is a Special Use request for a child care center with at least 7 and no more than 12 children not related to the provider in an "R=3" Resort zoning district. She stated the property to the North and West is zoned the same with apartments, the property to the East is R-2 with residences, and to the South is "R-1A" and vacant. She stated there is no flood plain on the property. She stated the home does front on Crescent Drive and the applicant shows on her application that

she is providing two parking places, one existing and one is proposed. She stated getting this will put her into compliance with the requirements of the Class 1 licensed home daycare. She stated she has answered her proposed use statement in the application.

The Chairman asked the applicants if they had anything further to add to the staff report.

Mrs. Spencer stated no.

The Chairman called for questions by the Board.

Mr. Winge asked how many children she is allowed.

Mrs. Spencer stated she can have 10 with her licenses and if she would choose to employ a helper then she could have 12, so she is sticking with 10. She stated it will probably be less than 10.

Mr. Willis asked in the neighborhood where the bus stops are for the children of the neighborhood.

Mrs. Spence stated she is the last home on the street before you get to the apartment complex.

Mr. Spencer stated they are approximately 100 yards east of the residence toward Russell Road.

Mr. Willis stated one of the concerns is the children walking down the street and the cars backing out of their drive.

Mr. Winge asked if there was someone out there when the children leave.

Mr. Spencer stated there are four houses between the bus stop and their home and it is a clear view. He stated they can even hear them. He stated as far as the traffic there really is not any because there are only the two apartment buildings.

Mr. Mottley asked how many vehicle they have.

Mrs. Spence stated two.

Mr. Willis asked if there was an attached garage.

Mrs. Spence stated yes.

Mr. Willis asked if one of their vehicles can be in the garage.

Mrs. Spence stated yes.

Mr. Willis asked if it was a single car garage or a double.

Mr. Spence stated it was a single.

Mr. Dayvolt asked if she already had her license.

Mrs. Spence stated she needs this and her inspections for her license.

Mr. Dayvolt asked if she had her inspection yet.

Mrs. Spence stated no.

Mr. Dayvolt asked if this was an intricate part to obtaining her permit.

Mrs. Spence stated yes.

Mr. Dayvolt asked how big her house was.

Mrs. Spence stated 1300 square feet. She stated there is a license that has a square footage requirement, but she is not going for that. She stated she is Class 1. She stated when she has her inspection they may tell her she can only have so many, but not always.

Mr. Dayvolt asked what ages of children she is going to have.

She stated she can watch birth to age 10. She stated she is going to have mainly toddlers. She stated the only way she would have school age children is if it was before or after school situation and they had a sibling in her child care.

Mr. Dayvolt asked if the dotted line on the plot plan was the fence area.

Mr. Spence stated yes.

Mr. Dayvolt asked if the fence had to be up before she gets her license.

Mrs. Spence stated yes.

Mr. Winge asked Attorney Doll if this all goes, can they make this pending that everything else works out.

Attorney Doll stated that creates a problem. He stated she needs this before she can get her license from the State. He stated they can make it exclusively to this applicant, so she can't operate it there if she does not get the State license, but he does not recommend that they make it condition of the State.

Mr. Mottley asked if two parking places were enough.

Mrs. Rector stated it is adequate for a single family dwelling.

Attorney Doll stated there are no requirements for them to regulate that.

Mrs. Rector stated they can when it comes commercial, but not with residential.

Mr. Winge stated not only that but they have yard sales up and down the road everywhere.

Mr. Willis asked if she could foresee the parents will be bringing the children all at one time, or staggering them.

Mrs. Spencer stated they would definitely be staggered in the morning that is for a specific clientele.

Mr. Spencer stated that is something that is very hard to tell. He stated right now she has been watching 4 kids for a year now and it has changed several times.

Mrs. Spencer stated if it becomes an issue she can expand her parking.

Mr. Willis stated one of his biggest concerns is the kids that ride the school bus walking back and forth and there are three or four parents trying to back out of the driveway and there is a 7 year old out there horsing around.

Mr. Spencer stated that is a concern of his everyday because there are no sidewalks.

Mr. Willis stated even though you do not have any control over this, but he would like for them to talk to the parents of the children and remind them that they are in a residential neighborhood and there are school children walking up and down the street.

There being no further questions by the Board and no remonstrator, the Chairman called for a motion.

Terry Dayvolt made a motion finding 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 licensed childcare in the area.

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

1. Subject to the property being in compliance at all times with the applicable zoning ordinance of Warrick County.
2. Subject to all public utility easements and facilities in place.
3. Subject to all required permits from the Warrick County Building Department.
4. Subject to all required State permits and licensing.

The motion was seconded by Mike Winge and unanimously carried.

OTHER BUSINESS: None

ATTORNEY BUSINESS: None.

EXECUTIVE DIRECTOR BUSINESS: None.

Being no other business the meeting adjourned at 6:30 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 July 26, 2010.

Sherri Rector, Executive Director & Secretary