

**Minutes**  
**WARRICK COUNTY AREA BOARD OF ZONING APPEALS**

Regular meeting held in the Commissioners Meeting Room,  
Third Floor, Historic Courthouse,  
Boonville, Indiana  
August 27, 2012 at 6:00 P.M.

**PLEDGE OF ALLEGIANCE** A moment of silence was held followed by the Pledge of Allegiance.

**ROLL CALL:** Larry Willis, Chairman; Don Mottley, Judy Writsel, Mike Winge, Jeff Valiant

Also present were Morrie Doll, Attorney; Sherri Rector, Executive Director; Sheila Lacer and Molly MacGregor, Staff.

**MEMBERS ABSENT:** Tina Baxter, Terry Daywolt

**MINUTES:** Upon a motion made by Mike Winge and seconded by Judy Writsel, the minutes of the last regular meeting held July 23, 2012, were approved as circulated.

The Chairman explained the Rules of Procedure to the audience.

**SPECIAL USE:**

**BZA-SU-12-19**

**APPLICANT/OWNER:** Phillip A Turner

**PREMISES:** Property located on the E side of Third St. approximately 0 feet NE of the intersection formed by Third St and Mulberry St, lot number 113 & 110 in Town Elberfeld Subdivision. Greer Twp. (Complete legal on file) 275 S. *Third St.*

**NATURE OF CASE:** Applicant request a Special Use (SU 12-Home Occupation) from the requirements as set forth in the Comprehensive Zoning Ordinance in effect for Warrick County, IN to allow a home occupation of a part time lawn mowing business not occupying more than 25% of the first floor area in an "R-1A" Single Family Dwelling zoning district. *Advertised in the Boonville Standard August 16, 2012.*

Phillip Turner was present.

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 adjacent property owners. Mrs. Rector said he is requesting a Home Occupation to allow a part time lawn mowing business. Mrs. Rector stated they are allowed to occupy 25% of the first floor area. Mrs. Rector said per the square footage of the house they could have up to a 375 square foot office; they are proposing a 10'X10' area which is 100 square feet. Mrs. Rector

stated the existing land use is a single family dwelling and unattached accessory building. Mrs. Rector added that all the surrounding property is zoned "R-1A" with residences, there is no flood plain and the driveway is off Third Street in Elberfeld.

Mrs. Rector stated that the applicant answered the questions on the proposed use statement. Mrs. Rector said they also state *this is a side business that I only work about 10 hrs a week at. I have a Ford F150 which is a regular size pick-up. I also use this as my personal vehicle and is registered as such. Also have a trailer, 1 riding lawn mower, weed eater, blower, and a push mower. Everything is in my personal name. I use this stuff on my personal yard as well. I keep everything in the barn on my property. I don't advertise from my home. There are no signs. My truck does have a sticker on the door of it. I keep it parked in the barn as well.*

Mrs. Rector stated there was a formal complaint filed July 7, 2012 by Mr. Mike DeClue saying *Resident is running a lawn mowing business out of his home. He has two employees that work for him. They speed pass my house on the way to cut grass with children all around. He is also draining water from his pole barn onto the street. Drains are supposed to be drained into a ditch, yard, or underground drain, not into the street.*

Mrs. Rector stated that they have nothing to do with drains, and how fast he is traveling down the street. Mrs. Rector said the applicant was aware that Mr. Declue was going to start filing complaints against different individuals in town, so he immediately emailed the office to see what he needed to file to have his Home Occupation. Mrs. Rector said that we informed him to file the Special Use, to which he came in and filed the application on July 18<sup>th</sup> to come into compliance. Mrs. Rector stated that the application is in order.

The Chairman asked Mr. Turner if he had anything to add to the Executive Directors report.

Mr. Turner stated this is a part time job and there is no water ran out to his barn so he does not know what Mr. Declue was referring to.

The Chairman suggested that it was from rain runoff.

Mr. Turner stated that may be it.

The Chairman asked if the Board had any questions.

Mrs. Rector stated the conditions of home occupation do not allow any signage at the residence, nor does it allow it to change the appearance in any way. Mrs. Rector added that he parks his vehicles in the barn, but that he could have his truck and lawnmower sitting in his driveway if he wanted. Mrs. Rector said Mr. Turner is aware of the regulations he must follow.

The Chairman asked Mr. Turner if he had any employees that work for him.

Mr. Turner stated he contracts some work out for landscaping but they are not employees.

Ascertaining there were no other comments from the Board and being no remonstrators present the Chairman called for a motion.

Don Mottley 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 is part-time and will not change the residential appearance of the property.

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 ordinances of Warrick County.
2. Subject to all public utility easements and facilities in place.
3. Subject to no identifying or business sign being erected or placed on any site for with the SU 12 has been granted by the Board of Zoning Appeals.
4. Except for the shipment and receipt of goods, products or items necessary for the SU 12, the use shall not be visible from the exterior of the premises.
5. No person or persons may be employed in the SU 12 home occupations at site other than the resident (residents) of the site for which the SU 12 has been granted.
6. Subject to the Special Use not being altered to become any other use nor expanded than that which was approved by the Board of Zoning Appeals.
7. Subject to all mowing equipment and trailer be stored within an unattached garage when not in use.

The motion was seconded by Jeff Valiant and unanimously carried.

**BZA-SU-12-20**

**APPLICANT:** Heidi A. Taylor **OWNER:** Corey A. Taylor & Heidi A. Taylor

**PREMISES:** Property located on the N side of SR 62 approximately 0 feet W of the intersection formed by SR 62 and Shady Lane. Boon Twp. (Complete legal on file) *1466 E ST Rd 62.*

**NATURE OF CASE:** Applicant requests a Special Use (SU 12-Home Occupation) from the requirements as set forth in the Comprehensive Zoning Ordinance in effect for Warrick County, IN to allow a home occupation of a beauty salon with one chair, and one operator, not occupying more than 25% of the first floor area in an “A” Agricultural zoning district. *Advertised in the Boonville Standard August 16, 2012.*

Corey and Heidi Taylor were present.

The Chairman called for a staff report.

Mrs. Rector stated they do have all return receipts from certified mail of notice of this meeting to the adjacent property owners. Mrs. Rector said this is a request for a Home Occupation to allow a beauty salon with one chair, and one operator. Mrs. Rector said they are allowed to occupy 25% of first floor area and per the square footage of the house they could have up to 507 square foot salon; they are proposing a 20’X14’ area which is 280 square feet. Mrs. Rector stated the existing use is a single family dwelling and unattached accessory building. Mrs. Rector said all the surrounding property is zoned “A” with residences and farm ground, there is no flood plain, and their access is Shady Lane. Mrs. Rector added that the applicant has answered the questions on the proposed use statement. Mrs. Rector said the applicant states there is adequate parking in their driveway and a walking path that leads around the home to the front entrance. Mrs. Rector added that we have a letter from the Health Department that states the existing septic system is sufficient for the proposed use and the application is in order.

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

Mrs. Taylor stated they had nothing to add.

Attorney Doll said the application states that there will be one employee, he questioned if that was referring to the applicant.

Mrs. Taylor said yes it was.

The Chairman questioned if there was adequate room for their customers to turn around in the driveway so they would not have to back out onto Highway 62.

Mrs. Taylor said yes there was.

Ascertaining there were no other comments from the Board and being no remonstrators present 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 not change the residential appearance.

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 ordinances of Warrick County.
2. Subject to all public utility easements and facilities in place.
3. Subject to no identifying or business sign being erected or placed on any site for with the SU 12 has been granted by the Board of Zoning Appeals.
4. Except for the shipment and receipt of goods, products or items necessary for the SU 12, the use shall not be visible from the exterior of the premises.
5. No person or persons may be employed in the SU 12 home occupations at site other than the resident (residents) of the site for which the SU 12 has been granted.
6. Subject to the Special Use not being altered to become any other use nor expanded than that which was approved by the Board of Zoning Appeals.
7. Subject to the rules and regulations of the Health Department.
8. Subject to any State or Local permits.

The motion was seconded by Judy Writsel and unanimously carried.

**BZA-SU-12-23**

**APPLICANT:** Dotson Construction Inc. by Melvin Dotson, President **OWNERS:** Melvin L. Dotson

**PREMISES:** Property located on the E side of Yankeetown Rd. approximately 2200 feet N of the intersection formed by Yankeetown Rd (W200) & Mt. Gilead Rd. (S150) Boon Twp. (Complete legal on file) *1188 S. Yankeetown Rd.*

**NATURE OF CASE:** Applicant requests a Special Use (SU 28-Home Work Shop) from the requirements as set forth in the Comprehensive Zoning Ordinance in effect for Warrick County, IN to allow a home workshop with three employees and three vehicles. Business is a sub-contractor for cable companies. Property zoned “CON” Recreation and Conservancy zoning district. *Advertised in the Boonville Standard August 16, 2012.*

Melvin Dotson was present.

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 adjacent property owners. Mrs. Rector stated this is a request for a Home Workshop (SU-28) with three employees and three vehicles, and the business is a sub-contractor for cable companies. Mrs. Rector said they are allowed 1 employee for every one thousand square feet of the building to be used as the home workshop; the proposed workshop is 75’X40’ for a total of 3,000 sq. ft. allowing for 3 employees additional to the owner. Mrs. Rector added that the property is a “CON” Recreation and Conservancy zoning district with a single family dwelling and unattached garage, and all surrounding property is zoned “CON” with residences. Mrs. Rector said there are no flood plains and the entrance is off of Yankeetown Road. Mrs. Rector stated that the applicant has answered the questions on the proposed use statement.

Mrs. Rector said the applicant met with the Site Review Committee and was determined he would qualify as a Home Workshop, which includes building trades.

Mrs. Rector stated to qualify as a home workshop it must meet the following requirements, which it does.

1. A person/owner operating the home workshop shall be a resident of the premises. In addition to the owner/operator there shall not be more than one (1) employee for every one thousand (1000) square feet of the building being used as the home workshop.
2. In no case shall a home workshop be permitted in an accessory building prior to occupancy of the principal dwelling on the lot, parcel or tract of land by the owner.
3. The building in which the home workshop is located if other than the residence cannot be closer to the road than the residence.
4. Outside storage must be enclosed in a solid fence and not exceed the square footage of the building.
5. There shall be no more than one (1) commercial vehicle maintained for every one (1000) square feet of the building used for the home workshop and shall not be visible from adjacent properties and public roadways.

Mrs. Rector stated the Health Department states *the current septic system is sufficient for the proposed usage of Dotson Construction Inc. As long as the proposed use stays the same, we can allow the system to be used. If any changes occur, we will need to revisit the project.*

Mrs. Rector added the County Highway Engineer states no improvements are required to the existing drive due to the property remaining "CON" zoned and not commercial. Mrs. Rector stated that the application is all in order.

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

Mr. Dotson stated the situation with the company has changed drastically since he met with the committee. Mr. Dotson said the company is getting a lot smaller than it already has and that they have lost 50% of their work. Mr. Dotson added that he is not going to be chasing any more work. Mr. Dotson said they will be doing about 50% of what was originally being proposed, and that he stated in the site review meeting that this could happen and that it did. Mr. Dotson stated that Time Warner bought Insight and they brought in another contract and gave them 50% of his work. Mr. Dotson stated he has let 2 employees go and told one of his office employees this morning to start looking for another job, so they are getting ready to get a lot smaller. Mr. Dotson stated he wanted to see what he needed to do for the proposed barn to be about 1000 sq. ft. smaller.

Mr. Winge stated that Mr. Dotson should probably leave it the way he has it because he would have to come back if he expanded it later on.

Mrs. Rector stated he could ask to amend his application tonight, to go less not more, and they could vote on that if Mr. Dotson is sure that he wants to reduce it because to go larger later he would have to come back again.

The Chairman said it's a business decision to decide what Mr. Dotson might want to do tonight.

Mrs. Rector stated the question to Attorney Doll that if Mr. Dotson was approved for a 3,000 sq. ft. building tonight, and built less, that they could give him a permit for a building up to 3,000 sq. ft.

Attorney Doll stated he agreed with Mrs. Rector, and he could leave it as it is and build a smaller building but Mr. Dotson must understand that he can only have one employee for every 1000 sq. ft. of the building. Attorney Doll said so theoretically if Mr. Dotson built 1000 sq. ft. building he could have one employee besides himself, 2000 sq. ft. he could have 2 employees. Attorney Doll added that he could only have one commercial vehicle per 1000 sq. ft. Attorney Doll questioned in light of that, is Mr. Dotson positive that he will never have a need for this big of building.

Mr. Dotson said no that he is not positive.

Attorney Doll suggested they leave the proposed application alone, then Mr. Dotson can apply for an ILP and get a permit for a smaller building with the understanding that they will be subject to those limitations.

Mr. Dotson then stated he had timber cleared on his property and found a spoil that required 8 ft. fill, so they pushed dirt in from the top, but now they need to cock the building slightly so they are not building on top of the fill. Mr. Dotson stated there is ample room to do this, the building will not be forward of the home, and it works out better for him.

Attorney Doll stated that Mr. Dotson would ask to amend his application to twist the building a little bit on the property.

Mr. Dotson said it is not a substantial amount, just enough to get out of the fill.

Mr. Winge stated that Mr. Dotson would need to do that because when the inspector goes out to the building site he will stop him if he is building on loose fill.

Mrs. Rector said that Mr. Dotson's application is showing the building to be 5 ft from the property line.

Attorney Doll stated they should have Mr. Dotson mark on the original application the changes he wants approved and sign and date it tonight.

Mrs. Rector asked if Mr. Dotson knew where he wanted it.

Mr. Dotson said it was in the same spot, only turned. Mr. Dotson said the original was to be facing the west, and now it will be facing the southwest.

Mrs. Rector questioned that it was going to be flipped.

The Chairman stated that Mr. Dotson was taking the building out of being squared and putting it at a diagonal.

Mr. Dotson stated there was a big spoil that he did not realize how deep it was until the woods were cut down, and it required 8 ft of fill.

Mrs. Rector questioned if it will still be at least 5 ft off of the property line.

Mr. Dotson said it will be more than that.

Mrs. Rector asked that since they need to draw to scale, they allow Mr. Dotson to come into the office tomorrow to draw the changes and that they allow him to amend the plot plan as long as it meets the building setbacks.

Attorney Doll stated that it was up to the Board.

The Chairman stated he thought in order to go ahead, as a small business and to save on cash flow, that they let Mr. Dotson come in to amend the drawing as to where it is going to be located if it does pass the Board this evening.

Attorney Doll stated they make that part of the motion. Attorney Doll said everybody understands what he is asking for and tonight's motion will have a sentence that somebody will add that says subject to the modification of turning the building ¼ turn, which will be supplied by drawing tomorrow.

The Chairman stated that as he understood it one corner will still be 5 ft from the property line, and the rest of the building will pivot a little bit.

Mr. Dotson said yes, none of the building will be closer to the property line and that he spoke with the neighbor who stated that they have no issues with the change.

The Chairman asked if Mr. Dotson had anything else to add.

Mr. Dotson said he will leave it the same size but he does need to turn the building.

Ascertaining there were no other comments from the Board and being no remonstrators present 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 opportunity for growth of a small business.

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

1. Subject to the owner making changes to the drawing on the application in the Area Plan office.
2. Subject to the property being in compliance at all times with the applicable zoning ordinance of Warrick County.

3. Subject to all public utility easements and facilities in place.
4. Subject to no more than 3 employees in addition to the owners, based on the 3000 square foot building.
5. Subject to the owner remaining a resident of the residence.
6. Subject to the home workshop remaining in the existing 3000 square foot building as shown on the plot plan.
7. Subject to no more than 3 commercial vehicles and they shall not be visible from the adjacent property or roadway.
8. Any outside storage shall be completely enclosed within an outside fence and shall not exceed 3000 square feet.
9. A sign not exceeding 25 square feet may be erected to identify the home workshop. The sign requires an ILP.
10. Subject to Health Department regulations regarding the septic system.

The motion was seconded by Don Mottley and unanimously carried.

**VARIANCE:**

**BZA-V-12-21**

**APPLICANT/OWNER:** Scott Barmes & Kimberly A. Heath (Barmes)

**PREMISES:** Property located on the W side of Jessica Lane approximately 460 feet N of the intersection formed by Jessica Lane and Charles Court. Anderson Twp. Lot number 5 in Haury Heights Subdivision. *5733 Jessica Lane.*

**NATURE OF CASE:** Applicant request 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 a single family dwelling on a property with an existing single family dwelling (living quarters located within an unattached accessory building to be removed) in "A" Agriculture zoning district. *Advertised in the Boonville Standard August 16, 2012.*

Scott Barmes was present.

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 adjacent property owners. Mrs. Rector said the Variance is to allow an Improvement Location Permit to be issued for a single family dwelling on a property with an existing single family dwelling (existing living quarter located with-in an unattached accessory building to be removed). Mrs. Rector stated that all surrounding property is zoned "CON" with residences and no flood plain. Mrs. Rector said the driveway is off Jessica Lane. Mrs. Rector added that he

applicant states that *in 2005 we bought property and built a post-frame building. I finished out 720 sq. ft. of it to live in until we had children and were able to afford to build a home. We now intend to build a home and remove the living quarters from the pole barn.* Mrs. Rector added that if approved the Board usually gives a time period after the certificate of occupancy has been issued on the new home to remove the existing living quarters. Mrs. Rector stated that we have a letter from the Health Department that states they have sufficient septic for the new home, and the application is in order.

The Chairman asked the applicant if he had anything to add to the Executive Directors report.

Mr. Barmes said no.

The Chairman asked if the Board had any questions.

Attorney Doll asked if we had given an Improvement Location Permit for this in 2005.

Mrs. Rector said yes.

Mr. Winge asked Mr. Barmes if he was going to be building the home.

Mr. Barmes stated that he will be the general contractor, he is having it framed and closed in, and then he will be doing the rest. Mr. Barmes added that Kevin Gourley will be doing the foundation and frame.

Mr. Winge asked if he was going to have to level and clear the building site.

Mr. Barmes stated that it was pretty flat.

Mr. Winge stated that if Mr. Barmes is the general contractor, then he is responsible for any settlement that he may have so make sure that it is on a firm foundation. Mr. Winge added because he is the general contractor, when he pulls the permit he is solely responsible and stuck with any issues that may arise.

Ascertaining there were no other comments from the Board and being no remonstrators present the Chairman called for a motion.

Jeff Valiant made a motion finding of fact be made as follows from the testimony and proposed use statement:

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 that the living quarters are going to be removed therefore there will no longer be two residences on the property so it would not have to be divided into a minor subdivision.
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 a Building Permit 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.
- e) Subject to the living quarters in the unattached accessory building being removed within 60 days from the issuance of the certificate of occupancy.

The motion was seconded by Don Mottley and unanimously carried.

**BZA-V-12-22**

**APPLICANT:** Custom Sign & Engineering by Scott Elpers, President **OWNER:** Elleclair LLC by Scott Elpers, President

**PREMISES:** Property located on the N side of Vann Rd. Approximately ¾ miles E of the intersection formed by Anderson Rd (W600) and Vann Rd. (S350) Ohio Twp. Lot number 16B in Warrick Research & Industrial Center #2 Minor Subdivision of lot 16. *5344 Vann Rd.*

**NATURE OF CASE:** Applicant request 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 to allow a message board encroaching 26’ into a 50’ building setback line in an “M-2” General Industrial zoning district. *Advertised in the Boonville Standard August 16, 2012.*

Withdrawn: APC Board ruled on-premise signs can be located in building setback lines. Message Board approved by this board on March 26, 2012.

Mrs. Rector stated the Planning Commission ruled at their last meeting to allow on premise signs to be located within the building setback line as long as they meet the required setback of the zoning, and she will be preparing an ordinance that will be incorporated into the Zoning Ordinance. Mrs. Rector said she did not think it was ever the intent of the developer to not allow signage down by a roadway for a business when they put 150’ building setback lines. Mrs. Rector said that was done to get the building back off the road and the parking in the front. Mrs. Rector added that this was mainly done by Mr. Ubelhor. Mrs. Rector added that Mr. Ubelhor’s son appeared at the Planning Commission Board meeting and explained it was never their intent for signs to be 150’ back off the road. Mrs. Rector stated the Planning Commission Board put it in their minutes, and they informed Mr. Elpers of the change and he withdrew his application, because they had already approved the message board at the March meeting. Mrs. Rector added that they are in the process of getting the minutes done and approved so she can take it to the State Board of Accounts to get Mr. Elpers his money back.

**BZA-V-12-24**

**APPLICANT:** Custom Sign & Engineer by Scott Elpers, President **OWNER:** First Security Bank of Owensboro by Roger Heathcotte, Vice President.

**PREMISES:** Property located on the S side of SR 66 approximately 100 feet W of the intersection formed by SR 66 and SR 261. Ohio Twp. Lot number 3B in Exempt Division of Lot No. 3 of Evansville Federal Subdivision. (Complete legal on file) *7833 W SR 66.*

**NATURE OF CASE:** Applicant request 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 an electronic message board to be located within a recorded 25’

building setback line in a “C-3” Highway Commercial zoning district. *Advertised in the Boonville Standard August 16, 2012.*

Scott Elpers was present.

The Chairman called for a staff report.

Mrs. Rector stated that they do have all return receipts from certified mail of notice of this meeting to the adjacent property owners. Mrs. Rector said the Variance is to allow an Improvement Location Permit to be issued for an electronic message board to be located within a recorded 25’ building setback line. Mrs. Rector added that they would not have had to file a Variance had the APC Board ruled they can go in the building line before the filing dead line; they would only need to be requesting a Special Use for a message board because they had already obtained a Variance for the sign to be there. Mrs. Rector said it was already advertised as a Variance therefore it was left on the agenda as a Variance because there wasn’t enough time to re-advertise and send out notices, so that is why it is still on there as a Variance. Mrs. Rector said the existing zoning and land use is “C-3” highway commercial zoning district with a financial institution. Mrs. Rector stated the property to the West, South, and East are zoned C-3, property to the North is zoned C-4, and all surrounding properties contain commercial businesses with no flood plain. Mrs. Rector stated there are two entrances off of Evansville Federal Drive. Mrs. Rector said a Variance was obtained in 2000 for the existing sign which allowed for the location of an identification sign in a 25’ building set back line and an identification sign in a 15’ building setback line. Mrs. Rector then asked Attorney Doll if it was proper to go ahead and act on this as a Variance.

Attorney Doll said he thought they did qualify, because of the shape of the lot and the size of the area they could get a Variance, and it is commercial which tends to be more tolerant of Variances.

The Chairman asked the applicant if he had anything to add to the Executive Directors Report.

Mr. Elpers said that this has been previously approved for the sign to be there. Mr. Elpers said the new sign is no larger than what the existing sign is; it is basically a reworking of the existing structure that had been approved by Variance.

Mrs. Rector questioned if it was still going within the same sign.

Mr. Elpers stated that they will not be able to use the existing framework or the faces of the sign. Mr. Elpers said they are using the existing steel poles and concrete footers. Mr. Elpers said they are going to assemble a new sign onto those poles.

The Chairman asked if the new sign would be the cross members and the supporting elements.

Mr. Elpers said that was correct, and it would also be an electronic message board.

Don Mottley questioned if the Variance would be just for the electronic message board.

The Chairman said yes.

Ascertaining there were no other comments from the Board and being no remonstrators present the Chairman called for 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 size, the shape of the lot, the location of the property, and the existing structure previously approved by the BZA.
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:
  1. Subject to any State or Federal Permit
  2. Subject to an Improvement Location Permit being obtained on the existing sign including the new message board.
  3. Subject to any required Building Permits being obtained.
  4. Subject to the property being in compliance at all times with the applicable zoning ordinances of Warrick County.
  5. Subject to all public utility easements and facilities in place.
  6. Subject to no use of the words, 'stop', 'danger', 'look', or any other word which would confuse traffic.
  7. Subject to no rotating or revolving beams of light or strobe lights.
  8. Subject to all conditions of BZA-V-00-13.

The motion was seconded by Jeff Valiant and unanimously carried.

**ATTORNEY BUSINESS:** None

**EXECUTIVE DIRECTOR BUSINESS:** None

Being no other business the meeting adjourned at 7:15 p.m. Motion made by Mike Winge, seconded by Jeff Valiant and unanimously carried.

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Larry Willis, Chairman

ATTEST:

The undersigned Secretary of the Warrick County Board 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 August 27, 2012.

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Sherri Rector, Executive Director