

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

Regular meeting to be held in the Commissioners Meeting Room,  
Third Floor, Historic Courthouse,  
Boonville, Indiana  
June 24, 2019 at 6:00 P.M.

**PLEDGE OF ALLEGIANCE**

**MEMBERS PRESENT:** Jeff Valiant, Chairman; Terry Dayvolt, Doris Horn, Paul Keller, Mike Moesner, and Jeff Willis..

Also present were Morrie Doll, Attorney, and Molly Barnhill, Assistant Director.

**MEMBERS ABSENT:** Mike Winge

**MINUTES:** Chairman Valiant called for a motion to approve the minutes from the May 28, 2019.

Doris Horn made a motion to approve the minutes from May 28, 2019 as circulated.

The motion was seconded by Mike Moesner and approved unanimously.

Chairman Valiant explained the rules and procedures.

**SPECIAL USES:**

**BZA-SU-19-11**

**APPLICANT:** Custom Sign & Engineering, Inc. by Scott B. Elpers, President

**OWNER:** RYJO Enterprises, LLC by Ryan Franks, Member

**PREMISES AFFECTED:** Property located on the west side of Orchard Ln. approximately 150 feet north of the intersection formed by Orchard Ln. and SR 66, lot number 1 in Warrick Place IV Subdivision as recorded in the Warrick County Recorder's Office Doc.# 2018R-005026. Ohio Township. 7950 Apple Center Dr.

**NATURE OF CASE:** Applicant requests a Special Use, SU 8, 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 4x6 foot electronic message board in a "C-4" General Commercial Zoning District. (*Advertised in The Standard June 13, 2019*)

Scott Elpers, President of Custom Signs and Joey Pilcher, member were present.

Chairman Valiant called for a Staff Report.

We have all of the return receipts except one for the State of Indiana. She said if they get that back to please bring it in.

She said the existing land use is a car wash. She stated the surrounding zoning and land uses are zoning to the north is "C-4" with a strip mall and to the east is "C-4" with McDonald's. She said to the south is "C-4", which is vacant and Bayer Plumbing and "C-3", which is Wendy's. She stated the zoning to the west is "C-4" with Raben Tire. She stated there is no flood plain. She said they have access to Orchard Lane by Apple Center Drive. She stated on the applicant's statement, it says, "We are requesting a special use to install an electronic EMU sign on the pole sign at new location." She said they have answered all of the questions and everything is in order.

Chairman Valiant asked if there was anything to add to the staff report.

Scott Elpers said no.

Chairman Valiant asked if there were any questions from the Board. He asked if this is adding to an existing sign, or a new sign all together.

Mrs. Barnhill said it is a new sign.

Chairman Valiant said okay.

Scott Elpers said he thought it might be listed as an existing sign because they have permitted the sign already. He said so there is a permit for the sign, he is just adding it but it is all new signage. He said none of it is installed at this time.

Chairman Valiant said thank you sir. He asked if there were any remonstrators for or against the project and if so, please step forward. He asked the Board if there were any more questions and if not, he would entertain a motion.

I, Mike Moesner, make 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.

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 an Improvement Location Permit being obtained.
4. Subject to any required Building Permits being obtained.
5. 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.
6. Subject to no use of the words, “stop”, “danger”, “look”, or any other word which would confuse traffic.
7. Subject to no revolving beams of light or strobe lights.

Doris Horn seconded the motion.

All in favor and the motion passed unanimously.

Mrs. Barnhill said their approval will be ready Wednesday.

**BZA-SU-19-13**

**APPLICANT:** Eastham Flower Farm by Emily Eastham, owner

**OWNER:** Jonathan Eastham

**PREMISES AFFECTED:** Property located on the north side of Lincoln Trail Rd. approximately 780 feet east of the intersection formed by Lincoln Trail Rd. and Lamar Rd. Parcel 1 in Eastham Parcelization as recorded in the Warrick County Recorder’s Office Doc. # 2014R-004967. Pigeon Township 32-4-6. 7744 Lincoln Trail Rd.

**NATURE OF CASE:** Applicant requests a Special Use, SU 26 (a temporary road side stand), from the requirements as set forth in the Comprehensive Zoning Ordinance in effect for Warrick County, IN to allow a “you-pick” flower farm in an “A” Agricultural Zoning District. (*Advertised in The Standard June 13, 2019*) Complete legal on file

Jonathan and Emily Eastham were present and stated their name for the record.

Chairman Valiant called for a staff report.

Mrs. Barnhill said they have all the green return receipts from the certified mail to the adjacent property owners. She stated the existing land use is a single family dwelling and some barns that are located on the property. She said the surrounding zoning and land use is the zoning to the north, south, east, and west are all “A” and either vacant or residences. She stated there is no flood zone. She said they have an existing residential drive on Lincoln Trail Road. She said their applicant

statement said, "We plan to have a you-pick flower farm on certain weekends from the months of May thru October. We will also have a large sunflower field available for photographers." She said they have answered all of the questions in the proposed use statement and everything is in order.

Chairman Valiant asked if there was anything to add to the report.

Mr. Eastham said no, sir.

Chairman Valiant asked if there are any questions from the Board. He asked in relation to the property where would, and he is just asking because he lives out past Bluegrass and he knows how this sunflower picture deal will go, that be located.

Mr. Eastham said in the north east corner, right behind hydrangeas.

Chairman Valiant said okay.

Mrs. Barnhill said it is on his plot plan.

Chairman Valiant said hey, he can look at that then. He said he was just looking at the overhead shot, sorry.

Mike Moesner asked approximately how many acres will they have for sunflowers.

Mr. Eastham said they have a half acre for sunflowers and another half to three quarters of an acre of other flowers to cut.

Mike Moesner asked if they are going to make a permanent stand or building and is it open or closed.

Mr. Eastham said they are using an old cattle barn and they are just going to clear out an area to have tables set up. He said Mrs. Eastham will teach how to make bouquets.

Chairman Valiant said he is assuming the sunflower field will be open to the public.

Mr. Eastham said yes, sir.

Chairman Valiant said that is kind of what he is getting at. He said he is sure they have seen it too, how traffic can kind of get crazy out there. He said he is just making sure they are prepared.

Mrs. Eastham said they would have scheduled times. She said it is not going to be like a..

Chairman Valiant said wide open anytime thing.

Mrs. Eastham said they would either have a photographer on hand and have 30 min sessions or something like that.

Chairman Valiant said okay, so you're not just letting anybody, okay.

Mrs. Eastham said yes.

Chairman Valiant said he is sure she understands, she has been out there, and at times there is less than one lane going through. He asked if there were any remonstrators for or against the project and to please step forward. He asked if there are any questions, and if not he would entertain a motion.

I, Paul Keller, make 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.

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

1. 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.
2. Subject to the property being in compliance at all times with the applicable zoning ordinances of Warrick County.
3. Subject to months of operation May through October.

Doris Horn seconded the motion.

All in favor and the motion passed unanimously.

Mrs. Barnhill said their approval will be ready Wednesday.

**BZA-V-19-09**

**APPLICANT:** Alvey's Signs by Jill Steinsultz, Bus. Dev.

**OWNER:** Swish LLC, by Phil Rawley, CEO

**PREMISES AFFECTED:** Property located on the north side of Warrick Trail approximately 0 feet northeast of the intersection formed by Warrick Trail and Epworth Rd., Ohio Township. Lots No 1 & 2 in Allen Medical Subdivision as recorded in the Warrick County Recorder's Office Doc. # 2017R-006701. *10388 Warrick Trail*

**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 an 11x10 foot monument sign located within a Lake Maintenance and Storm Drainage Easement in a "C-4" General Commercial Zoning District. (*Advertised in The Standard June 13, 2019*)

Jill Steinsultz, Business Development with Alvey's Signs was present.

Chairman Valiant called for a staff report.

Attorney Doll asked if a representative of Swish, LLC is present.

Jill Steinsultz said no, she has a limited power of attorney signed.

Attorney Doll said thank you, just checking.

Mrs. Barnhill said we do have all the return receipts. She stated the existing use is a medical hospital. She said the surrounding zoning and land use to the north and east are zoned "C-4" and are vacant. She said to the south is zoned "C-4" and is St. Vincent Epworth Crossing. She stated to the west is zoned "A" which is vacant; "R-1A" with a residence; and "C-4" with commercial businesses. She said there is a lot of AE flood plain and some 500 year. She said they have existing drives on Warrick Trail and Vann Rd. She said they have a limited power of attorney of Philip Rawley for Jill Steinsultz. She stated they have received approval from the Drainage Board to place the sign in their easement. She said the applicant's statement said, "We would like to erect a monument sign in a Lake Maintenance and Storm Drainage easement. The need for a sign on this location is to ensure the traffic will turn onto Warrick Trail for the Main Entrance." She said everything is in order.

Chairman Valiant asked if Mrs. Steinsultz had anything to add.

Mrs. Steinsultz said no, just the reason for the sign is what was stated by Molly. She said that was her main concern.

Attorney Doll said this is for the new hospital, correct.

Mrs. Steinsultz said correct, this is for St. Vincent Orthopedic Hospital on the corner of Warrick Trail and Epworth Rd.

Chairman Valiant asked if there were any questions from the Board. He asked if there were any remonstrators for or against the project and to please step forward. He asked if there are any more questions from the Board.

Jeff Willis asked how the drainage plans went at the drainage board.

Mrs. Barnhill said they did get Drainage Board approval already.

Chairman Valiant said if there are no more questions from the Board he would entertain a motion.

I, Terry Dayvolt, make 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 required retention pond is taking up the area. 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.
4. The approval does not interfere substantially with the Warrick County Comprehensive Zoning Ordinance adopted pursuant to IC 36-7-4-500 et seq.
5. 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.
6. 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.
7. 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.

8. 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.
9. 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 plot plan on file.

Doris Horn seconded the motion.

All in favor and the motion passed unanimously.

Mrs. Barnhill said the approval will be ready Wednesday.

**BZA-V-19-10**

**APPLICANT:** Midwest Contracting by Tim Cook, President

**OWNER:** Donald J. & Celinda C. Sisco

**PREMISES AFFECTED:** Property located on the south side of Golden Dr. approximately 300 feet east of the intersection formed by Golden Dr. and Bell Rd., Ohio Township 27-6-9. *8400 Golden Rd.*

**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 a 1,947 square foot addition to a Commercial Building located on a 40' wide private roadway dedicated by deed/survey only but not maintained in a "C-4" General Commercial Zoning District. *Complete legal on file. . (Advertised in The Standard June 13, 2019)*

Tim Cook, President with Midwest Contracting, and Donald Sisco, owner, were present.

Chairman Valiant called for a staff report.

Mrs. Barnhill said they have all the green cards except for two. She stated the letter from Joshua and Jennifer Meadows was returned. She said they have the white pay receipt for Village Community Partner showing it was mailed correctly. She said the existing land use is a single

Family Dwelling and a commercial business American Hose and Hydraulics. She said the zoning to the north is "R-2B" with Springview Apartments. She stated to the west is zoned "A" with a residence and the zoning to the south is "R-1A" and is Green Spring Valley Pt. 5. She said to the west is "R-O" with a three unit building. She stated there is no flood plain and they have access an existing drive on Golden Road., which is a private road that then goes to Bell Rd. She said BZA-V-98-21 was approved for an unattached accessory building on property with no frontage on a County maintained and dedicated road with access by an easement only. She stated there was also BZA-V-08-15 that was approved for additions on the north and south side of an auto/truck repair shop located on a private roadway dedicated by deed/survey only and said north addition being only 6 feet from the non-dedicated/maintained roadway. She said the applicant's statement was "This is an addition to connect two existing buildings to allow access between the current shop area and office." She said so basically they have a 40 foot road that is not maintained, so anytime he builds or adds on, he has to get a variance. She said everything is in order.

Chairman Valiant asked if there was anything to add to the staff report. He asked if there were any questions from the Board.

Terry Dayvolt asked if the drive off of Bell Road, there is only half of it paved, is that the strip malls half. He asked how does that work.

Donald Sisco said the strip malls half is to the south of that drive on the south side that actually goes all the way back to the apartments. He said when that property was broken up and sold, the last owners sold that front lot but wanted to get rid of that strip which was the driveway. He said so they attached it to that front property.

Terry Dayvolt said okay, so your driveway is the rock driveway.

Donald Sisco said well, actually it is all my driveway. He said the way it was originally set up when the ground was subdivided initially, it was all set up that there was a 40 foot right-of-way that was recorded in the county. He said you can go back and check the records and find it. He said that goes back to the 1960's.

Terry Dayvolt said he was just wondering why they would just pave half of it.

Donald Sisco said well, that has to do with Jack Tubbs that built that building out front. He stated he was supposed to on his original plans, that he submitted to the County, to pave the whole thing. He said he went through a lot of problems with that man when he built there. He said it is unbelievable what he went through dealing with him. He said he only paved half of it and the County never pursued it. He said he doesn't know why he didn't pave it all because his original plans showed him paving it all. He said he has a lot of heavy trucks coming in and out and they use that gravel part so they don't damage the pavement. He said it has started to break away and they want to pave it with some concrete on down the road when time and money permit.

Terry Dayvolt said that has always seemed weird to him.

Donald Sisco said yes, it is weird and he has went through a number of issues with that roadway. He said he has had to have it certified again, again, and again that it was all right-of-way. He said it was originally 40 foot and the apartments trimmed it down to about 35 foot.

Terry Dayvolt said he is familiar with the businesses back there. He asked where the addition is going relative to the offices.

Donald Sisco said on the south end of the building.

Terry Dayvolt asked if the offices were on the south end of the building.

Donald Sisco said the offices are in the house that he used to live in. He said he moved an office into that when he bought the property behind him.

Terry Dayvolt said he is talking about the surface office.

Donald Sisco said that is up front.

Terry Dayvolt asked where it would be in location to that.

Tim Cook said it is south.

Terry Dayvolt said so it is going to be between the house and the building.

Donald Sisco said yes.

Terry Dayvolt said so you are going to connect the house then.

Donald Sisco said yes.

Chairman Valiant asked if there are any remonstrators for or against the project. He asked if there were any more questions from the Board. He said if there are no more questions, he would entertain a motion.

I, Doris Horn, make a motion to approve the Variance Application based upon and including the following findings of fact:

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.

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.

10. 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 land is landlocked.
11. 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.
12. The approval does not interfere substantially with the Warrick County Comprehensive Zoning Ordinance adopted pursuant to IC 36-7-4-500 et seq.
13. 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.
14. 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.
15. 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.
16. 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.
17. The Variance Application is subject to the terms contained therein and the plans on file subject to the following additional conditions:
  - f) Subject to an Improvement Location Permit being obtained.
  - g) Subject to a Building Permit being obtained.
  - h) Subject to the property being in compliance at all times with the applicable zoning ordinances of Warrick County.
  - i) Subject to all utility easement and facilities in place.

Mike Moesner seconded the motion.

All in favor and the motion passed unanimously.

Mrs. Barnhill said the approval will be ready Wednesday. She asked if he would want to get his permit then.

Tim Cook said yes, he submitted the Drainage to Jason Baxter and he is waiting to hear back from him.

Mrs. Barnhill said okay, and something from water and sewer.

Tim Cook said okay, thank you.

**ATTORNEY BUSINESS:**

None

**EXECUTIVE DIRECTOR BUSINESS:**

To transact any other business.

Doris Horn made a motion to adjourn the meeting. The motion was seconded by Chairman Valiant and unanimously carried. The meeting adjourned at 6:34 pm.

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Jeff Valiant

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 the said Board at their monthly meeting held June 24, 2019.

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Molly Barnhill, Assistant Director