

Hamilton County Board of Zoning Appeals - North District
January 26, 2022

Mrs. Johnson called the official meeting of the Hamilton County Board of Zoning Appeals - North District to order at 7:00 p.m.

Members Present: Frank Habig III, Gerald Kirby, Kristin Johnson, Ron Hall, and Tim Clark.
Also present: C. J. Taylor, Director; Aaron Culp, Legal Counsel; and Linda Burdett, Secretary.

Declaration of Quorum: Mrs. Johnson declared a quorum with five out of five members present.

Guests: See sign-in sheet.

Communications/Reports: Mrs. Burdett stated that everything had been passed out.

Approval of Minutes: ***Mrs. Johnson identified the minutes from the November 10, 2021 meeting.***

Mr. Habig made a motion to approve.

Mr. Hall seconded.

With no comments or corrections... Mrs. Johnson called for the vote. ***5 yes votes... 0 no votes.***

Election of Officers: Mrs. Johnson identified the position of Chairman. Could I have a motion?

Mr. Habig nominated Mrs. Johnson to serve as Chairman of the board.

Mr. Hall seconded.

With no other nominations being made... Mrs. Johnson called for the vote. ***5 yes votes... 0 no votes.***

Mrs. Johnson identified the position of Vice Chairman.

Mr. Hall nominated Gerald Kirby for Vice Chairman.

Mr. Habig seconded.

With no other nominations being made... Mrs. Johnson called for the vote. ***5 yes votes... 0 no votes.***

Mrs. Johnson identified the position of Secretary.

Mr. Clark nominated Linda Burdett.

Mr. Hall seconded.

With no further nominations being made... Mrs. Johnson called for the vote. **5 yes votes... 0 no votes.**

Old Business: Mrs. Johnson began with **NBZA-R.V.-0007-07-2021** a Requirement Variance. It was tabled at the November meeting at the petitioner's request. This is concerning *reducing the front yard setback from the required 135.0 ft. down to 88.0 ft. or greater measured from the centerline of Strawtown Avenue. Also, to allow gravel parking area with no concrete curbs.* Location: 13070 Strawtown Avenue, Noblesville, Indiana. Would you please step forward and present your project?

Travis Elbert, of 958 Quiet Bay Circle, Cicero, stated his name and address for the record. I recently purchased the property and would like to build a boat and R.V. storage facility. At the last meeting I was asked for architecture and lighting plans. May I approach the board? I have separated out the three buildings. I need to reduce the building setback because it is too close to the drop-off to the river.

Mr. Hall stated that he just got three pieces of paper. Am I missing the lighting plan? (2) Are they over each door?

Mr. Elbert stated that the lighting was the "red dot" over the doors. They are down-shielded lighting. (2) Yes.

Mr. Kirby asked if the building the cars were parked in front of was going to be the office. (2) Does it have an opening other than a service door?

Mr. Elbert stated that that was the existing building that was there now. I was going to use that to store my boats and stuff in. I didn't really have plans for using it for an office. (2) Yeah. It has an overhead door in it as well.

Mr. Hall asked why there is a light at every single door. (2) That seems like an awful lot of light for the people living across the street to look at. And it seems like an over-kill for security. (3) What would be the purpose of a light at every door? (4) There are no other lights around the parking area or at the ends of the buildings or anything?

Mr. Elbert stated that that is the way the architect drew it. (2) I don't know that you can have an over-kill for security in a storage facility. (3) I'm sure the architect had the intent of it being well-lit for security. (4) No.

Mrs. Johnson asked if there were lights inside each of the storage units.

Mr. Elbert answered, the building that is there now currently has electricity. My intent was to put a light in each unit hooked to a motion sensor so when the door opens a light would kick on.

Mr. Kirby asked what wattage the bulbs would be.

Mr. Elbert answered, he could use a lower watt bulb if that was a concern.

Mr. Hall asked Mr. Taylor if he knew of any standard an architect would be referring to on this.

Mr. Taylor answered, no. But we do have standards as far as light emitting off the property. Part of his building permit review would be that it has to have that residential character. I'm sure we can work together on both of those things.

Mr. Elbert stated that he bought enough brick to do the front in brick 4 feet up on those buildings.

Mr. Hall asked for clarification that would be a brick face, 4 feet up. (2) And then it would be steel above that? (3) What do the garage doors look like?

Mr. Elbert answered, yeah. Just a brick wainscot. (2) Yeah. (3) It will be a track-type overhead door.

Mr. Habig asked about the barrier along the road. There is no fence, correct? (2) So you're just doing the shrubs?

Mr. Elbert answered, correct. (2) Yeah.

Mrs. Johnson asked what the smaller shrubs were on the drawings.

Mr. Elbert answered, yews.

Mr. Taylor asked Mr. Elbert for clarification. You're not doing any outdoor storage anyway? (2) So you don't need a fence for security purposes.

Mr. Elbert answered, no. (2) Right. I don't want to do that in the future either.

Mr. Hall asked about the RV that has frequently been at the property... is that what you intend to store in this building? (2) Will the roof lines be gabled or flat?

Mr. Elbert stated that that belong to a friend of his. It is not there anymore. He just needed a place to park it for a few weeks. But something similar to that yes. (2) Gabled.

With no further questions from the board... Mrs. Johnson opened the hearing to the public at 7:13 p.m. and with no one stepping forward to address the board... Mrs. Johnson closed the hearing to the public at 7:14 p.m. Do I have any motions?

Mr. Hall moved to approve the request contingent upon the representations Mr. Elbert has made here and that there will be a brick wainscot, gable roofs, and garage-style overhead doors.

Mr. Kirby seconded.

Mrs. Johnson asked about outside storage.

Mr. Hall stated that the ordinance doesn't allow for outside storage.

Mr. Clark asked how tall the side wall was.

Mr. Elbert answered, 16 feet.

Mr. Hall stated that he hasn't been very excited about this project, but I will say Mr. Elbert has done a very good job in trying to address the concerns that we had at the last meeting. He has made very good efforts to try to put this into a residential buffer zone which C-1 is supposed to be. I'm in favor of what he has represented to us that is going to be there in the end.

Mrs. Johnson agreed. I think he has done a really nice job on all of this and he has done everything that we've asked him.

Mr. Hall stated that he has made it, I believe, look like someone wouldn't mind having it next to their house. He's going to make it a nice asset there.

Mr. Habig stated that it is a tough piece of ground.

Mr. Clark asked for clarification that there would be no restroom facilities.

Mrs. Johnson answered, no.

With no further comments... Mrs. Johnson *called for the vote* on **NBZA-R.V.-0007-07-2021 with the following conditions: that there will be a gabled roofline, garage-style overhead doors, and 4 ft. brick wainscoting. 5 yes votes... 0 no votes.** Your variance is approved. Congratulations. Good luck with your project.

New Business: Mrs. Johnson began with **NBZA-R.V.-0001-01-2022** a Requirement Variance. This is concerning allowing an 11 acre parcel to be split into two lots. One to be seven (7) acres and one to be four (4) acres; whereas the minimum required lot size in an A-2 District is 10 acres. (2) Allowing a reduction in the road frontage requirement from the minimum required 150 feet to 134 feet for the north lot and 118 feet for the south lot. **Location: 0 Dunbar Road, Atlanta, Indiana. (Parcel no. 01-01-12-00-00-014.111 eleven acres.)** Would whoever is presenting the petition please come forward, state your name and address for the record, and then tell us about your petition?

Mr. Hall asked Mr. Taylor for clarification that they were listening to an ordinance variance requirement and not a land use requirement.

Mr. Taylor answered, correct.

Erica Vinson, of 6104 Pebblebrook Road, Whitestown, Indiana, stated her name and address for the record. I purchased the land on Dunbar Road. My desire with the land is to split it with my sister-in-law and brother-in-law and build our houses on there. We are requesting to build on less than 10 acres and then also the road frontage is being decreased as well.

Mr. Clark asked for clarification. Did you say you already bought it?

Mrs. Vinson answered yes.

Mr. Habig asked how long ago she purchased the property.

Mrs. Vinson stated that they closed in September.

Mr. Hall asked Mrs. Vinson why the five acres carved out in front of it? (2) I see there is a home or some type of improvement on that five acres. Is that correct? (3) Is it an old farmhouse or is it a new home?

Mrs. Vinson stated that she honestly didn't know specifics on it. I bought the land from a farmer. He just farmed around that. The 5 acres in the middle is still someone who is a part of that family. (2) Yes. There is a home. (3) It is an older home.

Mr. Hall asked if staff knew anything about the splits.

Mr. Taylor stated that part of the split happened in 1999 but I don't have a clear answer to what happened and how it happened.

Mrs. Vinson stated that there was a variance on the land in 2005 because they provided her with paperwork at closing. The names on the variance at that time have the same last name as the people who owned the five acres in the middle. Not the same persons but the same last name. It was originally 10 acres not eleven, so they added an extra acre. They had a variance approved to make that a buildable lot.

Mr. Hall asked if we had a record of a variance.

Mr. Taylor stated that he did not.

Mrs. Vinson gave the variance application to Mr. Taylor to review.

Discussion followed with Mr. Taylor and the board.

Mr. Habig stated that they have an ordinance where you have to have 10 acres to build. So you have to prove some kind of a hardship as to why this property can't be used as such. I'm not seeing a hardship. I understand that you would like to divide it, and, in that case, I would say come back in front of us with some kind of a subdivision plan.

Mrs. Vison stated that they discussed a subdivision plan initially and after a lot of deliberation we decided the variance would be ok. The hardship was really unforeseen when I bought the land. I thought if it didn't work out, I would just resell the land. Then I got it appraised and the appraiser had to adjust the appraisal according to her report based on the undesirable nature of the irregular shape of the land. So, my concern is I'll be stuck with land I can't sell.

Mr. Clark stated that the hardship is on the land. If you had a pipeline going through the back and you couldn't set your house as far back as you were supposed to then you come in and ask for a

variance. Then you could see if you could move forward 10 or 20 feet. The hardship doesn't concern finance or money at all.

Mr. Taylor stated that he and Mr. Culp have spoken about this several times. Because of the way the ordinance is written the only way to subdivide that parcel into smaller than 10 acre lots is by a variance by the board of zoning appeals. There is nothing in the subdivision control ordinance that overrules that 10 acre minimum.

Mr. Hall stated that if they went that route, they would have to get it re-zoned first and then a subdivision plat approved.

Mr. Culp answered, right.

Discussion followed on the process.

Mr. Kirby stated that there are properties with 8 acres, the one in front is 5 acres, down the road is 5 acres, 8.56 acres, there is an 8.51 acre that are all right beside them.

Discussion followed on the properties in the area.

Mr. Hall stated that the petitioner certainly isn't responsible for getting into this situation, but I really hate being backed into these kinds of approvals because somebody else chopped something up and didn't get the proper approvals. That being said, she brought in a variance that we apparently approved and created this difficult situation.

Discussion followed.

Mr. Clark stated that this wasn't a hardship. It could still be used as one parcel building.

Mr. Habig asked Mrs. Vinson what the reason was for the 7 and 4 acres instead of splitting it 5 ½ and 5 and ½.

Mrs. Vinson stated that she wanted more land than her sister-in-law did.

With no further questions from the board... Mrs. Johnson opened the hearing to the public at 7:45 p.m. and with on one stepping forward to address the board... Mrs. Johnson closed the public portion of the hearing at 7:45 p.m. May I have a motion?

Mr. Hall moved to approve as presented.

Mr. Kirby seconded.

Mr. Hall stated that he thought there was a tinge of hardship because somebody has created it. We were responsible for that by approving it, but it looks to me like we had a solution there. By having added the other parcel to it, that is a relatively useless piece of addition that they put on the side there. It makes two great entrances – one on each side of the five acres. They can't do anything more with it than a driveway. They could possibly grow a garden in there.

Mrs. Johnson added but then you'll have two entrances with frontages that don't meet our ordinance.

Mr. Kirby stated that if all the other lots around were 10 acres that might be a little different. But when they're five, six, five acres your right with what's in the area.

Mr. Hall agreed that it was compatible with what was in the area.

Mrs. Johnson stated that, personally, I always hate to see houses behind another house. It's there forever and it is always going to be back there. Now there will be two.

After minimal discussion... Mrs. Johnson called for the vote. **3 yes votes... 2 no votes.** Mr. Clark and Mrs. Johnson voting no. Your variance is approved.

Director's Report: Mr. Taylor stated that they were just getting started in reviewing the zoning ordinances. I am working on the U.S. 31 Overlay and going through our current zoning ordinance line by line and seeing things that I think are problematic, things that need to be clarified, and making my recommendations for the revisions that I then share with the entire work group and then the work group will narrow that back down or clean that up. When that is all done that will all be presented to the plan commission.

Legal Counsel Report: Mr. Culp stated that the work group of himself, Mr. Taylor, Mrs. Corrie Meyer, Mr. Settles, and Mr. Conner Sullivan are currently focused on zoning along U.S. 31. After that is done, we will start focusing on the bigger area.

The next BZA meeting will be Wednesday, February 23, 2022.

With nothing further to come before the board... Mrs. Johnson asked for a motion to adjourn.

Mr. Habig made a motion to adjourn.

Mr. Kirby seconded.

With no further comments... Mrs. Johnson called for the vote. **5 yes votes... 0 no votes.** Meeting adjourned at 7:59 p.m.

Minutes approved as mailed on February 23, 2022 by a vote of 5 yes... 0 no.

Frank Habig, III

Ron Hall

Linda Burdett, Secretary

Gerald Kirby

Tim Clark

Kristin Johnson