

Board of Zoning Appeals

MEETING DATE: January 19, 2021
TIME: 7:00 p.m.
LOCATION: Pendleton Town Hall
100 W. State Street Pendleton, Indiana

ORDER OF BUSINESS

I. CALL TO ORDER

Meeting was called to order by Jamila Zafar at 7:08 p.m.

II. ROLL CALL AND DETERMINATION OF QUORUM

Board members in attendance were Jamila Zafar, Kirby McCrocklin and Jenny Sisson. A quorum was established. Individuals representing the Town were Planning and Zoning Administrator Kayla Hassett and Town Attorney Jeff Graham. Also, in attendance, was Carol Hanna as well as representing Silverthorne Homes were Caitlin Dopher, Christian Rector and Scott Beck.

III. OATHS OF OFFICE

No Oaths of Office taken.

IV. ELECTION OF OFFICERS

Jeff Graham provided BZA members with a detailed explanation as to their options for election of officers. Specifically, Graham advised they can either opt to table to the next meeting or proceed with vote with the members present in order to hear and vote on any January Agenda items before the BZA members.

- A. President – Motion to nominate Kyle Eichhorn as President was made by Jenny Sisson; seconded by Jamila Zafar, roll call taken and all members present voted in favor of the motion; motion carried.
- B. Vice President – Motion to nominate Jamila Zafar as Vice-President was made by Jenny Sisson; seconded by Kirby McCrocklin, roll call taken and all members present voted in favor of the motion; motion carried.

V. APPROVAL OF MINUTES OF PREVIOUS MEETING

Motion to Table the Approval of the November 17, 2020 Meeting Minutes made by Kirby McCrocklin; seconded by Jenny Sisson; roll call was taken and all members present voted in favor of the motion; motion carried.

VI. OLD BUSINESS

Before discussion of the Findings of Facts, Jeff Graham clarified for the BZA members that Findings of Facts are for requests such as special uses and variances, in which State Law and Town Ordinances require to provide the Finding of Facts based on material presented as follows:

- What findings, evidence in record led to the finding of fact
- What was said, what was presented to lead to the finding of fact
- Based on substantial evidence provided in different platforms such as report on the internet, spoken at hearing, email, petitions and/or staff report
- Not based on beliefs, but must have been presented at the hearing

Graham also advised that Meeting Minutes are only a recitation of what was said at the meeting; can use to rely on, but can always opt to have Meeting Minutes prepared prior to drafting the Findings of Fact. Graham also advised that at times, it is helpful to table and take under advisement until the Meeting Minutes are prepared. Graham also explained the following:

- At some point, a decision has to be made as deadlocks can occur, however, 98% commonly do not raise controversy.
- Findings of Facts are not held at the same level of review as a Judge, yet Statute does require findings not to be bias.
- Findings of Facts can be signed digitally or board members can come in to sign after the board members have voted to approve.

A. CU01212020-01: 103 W. High St. (West High Street, LLC) Sign finding of fact.

Kayla Hassett reported the following information:

- Petition was originally brought before BZA in February 2020.
- Proper landscaping plans now in place and should have been presented and approved last year.

As all members not present for signing, Kayla Hassett stated that she will upload the Finding of Fact to Google Drive and allow time for the BZA Board Members to review. Should all members agree that the Finding of Fact looks good and gains consent from each member, then Chairperson can sign on behalf of the Board. Jeff Graham confirmed that this approach is permitted; therefore, no need for formal vote at the meeting. Such approach will be followed for this finding as fact as well as all other findings of fact listed under Old Business (B-D). In the meantime, each will be deemed tabled.

- B. CU01212020-02: 228 S. Pendleton Ave. (West High Street, LLC) – Sign finding of fact.
 C. CU11172020-01: 525 East State St. (B&L Brown Construction Services, LLC, dba Swackhamer Masonry & Concrete)- Sign finding of fact.
 D. V11172020-01: 739 N. Pendleton Ave. (Ronald R. Jones) – Sign finding of fact.

VII. NEW BUSINESS

- A. V01192021-01: The Falls Subdivision (Silverthorne Homes) – Increased lot coverage request for 56 lots.
(Presentation and aerial map provided in Google Drive)

Planning and Zoning Administrator Kayla Hassett presented the following:

- Caitlin Dopher, Christian Rector and Scott Beck all present, representing Silverthorne Homes in this petition.
- Petition relates to the subdivision- The Falls and located on Old 132 with entrance at Cayuga Drive and including streets – Pintail Way, Pekin Way, Teal Way and Mallard Drive.
- Replat submitted in 2018, included stub out to the field to the north for future development.
- Subdivision zoned Single-Family and approval was given in 2008 with variance., providing for smaller lot size.
- Subdivision a part of the Town of Pendleton since 2008, but laid dormant until 2018. Ten (10) homes currently permitted.
- Petition outlines:
 - Request for increased lot coverage from 30% to 50% for Single Family Zoning.
 - Considering smaller lot size, 30% quickly met with building/home, concrete driveway, roof covering, patios and landscape.
 - Increase will allow for items to be added later such as patio, pool & driveway extensions.
 - Ranch plans will not fit on the lot with 30% lot coverage limit if patio included - one floor plan reaching 33% and one reaching 37% coverage.
- Variances for these items were approved based on the higher quality building materials that the developer promised in 2008.
- It is Staff's belief that the lot coverage was overlooked as a problematic issue in 2008.
- Areas with smaller lot size requirements are generally allowed higher lot coverage maximums.
 - Historic Residential – 50% lot coverage on 7,200 SF lots
 - Carrick Glen was granted a similar variance as part of platting
- Staff Findings & Recommendations:
 - Approve up to 50% lot coverage.
 - Lot coverage includes patios, drives, house area, and other impermeable surfaces that homeowner may choose to install.
- The following discussions took place leading to decision:
 - Jenny Sisson commented that comparison to the Pines at Deerfield may be more appropriate than the Historic Residential District. Kayla Hassett replied that both the Historic Residential District and Carrick Glen both allow 50% lot coverage. Hassett further stated that in 2008, Planning Staff did discuss variances, density, lot size, lot width and front yard setbacks for The Falls, but there were no comments made as to the lot coverage. Hassett believes this was an oversight as did not anticipate lot coverage to be an issue.

- Jenny Sisson suggested that language regarding deviations as to dwellings versus other surfaces, such as patios and driveways are visually different. Sisson added that as to Carrick Glen, the deviation was permitted as the developer provided walkways, shared spaces and parks to accommodate the request. In respect to The Falls, there is no grand entrance, no shared spaces nor signage in place. Sisson, concerned with crowding and esthetics, also expressed that BZA members need to be careful in setting precedence and need to consider the Unified Development Ordinance.
- Kayla Hassett explained that the BZA members may either approve the application as submitted, approve with modification, deny as well as continue to the next BZA meeting. Hassett also stated that there is a landscaping easement plan approved by Planning Staff and wish to give Caitlin Dopher an opportunity to present.
- Jenny Sisson stated that she did not want the findings to leave out historical data that previous decisions have been made, adding that with the pocket of growth, the BZA members need to establish a caveat, with understandings in place. Kirby McCrocklin expressed agreement with the esthetic concern if allow the 50% lot coverage as homeowners will want to add to outbuildings & landscaping at a later date. Kayla Hassett clarified that the 50% would have to include those items.
- Caitlin Dopher, Entitlement Manager for Silverthorne Homes introduced herself as well as Christian Rector, Director of Land Acquisition, and Scott Beck, Sales Person. Dopher also reported the following:
 - Silverthorne came into The Falls in 2018 and bought lots from the developer Coronado, 10 years after Plat was approved.
 - Seeing more two-story homes as ranch floor plans put over the 30% lot coverage limit.
 - With floor plans, feel lot coverage at 40% would be okay, but asking for 50% for the owner's future plans and not have to come back individually.
 - 40% would include patio option and sunroom option.
 - Most items requested putting over 30% allowance is patios and screened porches.
- Kayla Hassett stated that most requests that come into the Planning Department after the home has been built include backyard improvements and driveway expansions, but that HOA may rule out some of these requests.
- Additional comments made and discussion took place:
 - Caitlin Dopher confirmed that The Falls does have an HOA, but believes mini-barns are allowed.
 - Scott Beck also confirmed that the developer is asking for renderings and dimensions, but will be up to the HOA to oversee once the subdivision is full. Beck also confirmed that mini-barns will have to resemble the home, cannot compete with the home/garage, secured on concrete pad/pebbles, shingled on top and cannot be aluminum. Further, Beck explained that there will not be limit as to size, but controlled by allowed lot coverage.
 - Caitlin Dopher stated that spacing between home will be 10% of lot width. Kayla Hassett stated that spacing for Carrick Glen is minimum of 5%.
 - Caitlin Dopher stated the following details:
 - Homes in the center track of the subdivision will be back-to-back, but homes in center already sold.
 - Available lots are those in the perimeter of the neighborhood. Dopher also stated that square footage of homes range from 2200 – 2300 square feet depending on the model.

- Silverthorne Homes is not the developer and just buying lots from Coronado.
 - HOA will be responsible for landscape maintenance and will have a budget for such.
- Christian Rector confirmed that the developer Coronado will start up a HOA fund. Rector also confirmed that Silverthorne Homes will be responsible to develop the landscaping as lots are developed, an agreement between Coronado and Silverthorne. Kayla Hassett also added that it is the Coronado's responsibility for landscaping beyond the easement, noting that no drawing and/or renderings have been recently turned in, yet one was submitted in 2008.
- In response to Jenny Sisson's concerns that the developer Coronado is not present at the meeting, Christian Rector provided the following responses:
 - Existing relationship between Silverthorne Homes and Coronado, with Silverthorne Homes purchasing lots, a part of the lot purchase agreement, but not all lots in the subdivision.
 - Coronado did provide the original drawings.
 - Owner Coronado is aware of the January BZA meeting and that an Owner's Consent Form was signed by Coronado. Copy can be provided to the BZA members.
- Jenny Sisson expressed concern that the request feels very gluggy with a different approach and big time gap. Jamila Zafar also shared concern with lots 35 and 36 backing up to lot 34. Zafar further concerned regarding the middle lots having backyards facing each other where the majority of additions take place.
- Christian Rector stated that the lot coverage limit will affect the entire lot, such as with a third car garage and driveway extensions, as all will be pieced milled together to reach to maximum lot coverage. Rector further added that 99% of their buyers will plan to add on backyard patios, but will be subject to backyard setbacks (30 feet) and lot coverage.
- Carol Hanna, member of the public, asked if in 2008, did the engineers look at the drainage needs with the understanding that lot coverage will be set at 30%. Christian Rector replied that as to permeable surfaces, they have very minute differences as to lot coverage and drainage counts in storms.
- Jamila Zafar stated that she would like for Board Member Kyle Eichhorn to be present for these conversations.
- Jenny Sisson commented that the BZA needs to review further and BZA needs to think about it more before setting a precedence. Sisson suggested for the BZA to look at:
 - Historic District and surroundings
 - Decisions made in other subdivisions such as Carrick Glen
 - Unified Ordinance and Development Guidelines
- Carol Hanna added that she would like to see landscape plans along Old 132.
- Jenny Sisson commented that she would also like to see shared space between homeowners and Pines at Deerfield. Sisson also stated that she believes Pines at Deerfield signed on with the subdivision with the understanding of limiting to a 30% lot coverage. Sisson added that with Carrick Glen, Pines at Deerfield had the opportunity to listen and to be heard.
- Christian Rector stated that Silverthorne Homes is not asking for rezone, but asking for a variance overlooked when the original approval took place. Rector added that Silverthorne Homes wish to add diversity and value to the home, giving hardy plank, brick exterior and rear-yard setbacks. Rector then stated that they want to give their buyers the option to add patios and third car garages.

- Caitlin Dopher commented that Silverthorne Homes provided notice to property owners within 300 feet of the neighborhood and no one reached out to the Petitioner or Planning Department.
- Jenny Sisson again stressed that this decision would set precedence, effects issues as to min-barn allowances and esthetics. Sisson stated that the BZA needs to keep this in mind and here to represent the Town.
- Carol Hanna asked if there are plans for bike/walk path on Old 132. Kayla Hassett replied that there are plans for a 6 feet sidewalk on Old 132 (that will dead-end for the time being) as well as between two lots at the Pines at Deerfield to provide connectivity to Falls Park.
- Jenny Sisson outlined needs that she feels that BZA members will want answered with formal documentation in support:
 - Understanding of landscape commitments at the front of the subdivision
 - HOA rules as to what can and cannot go in the backyards
 - Placement of mini-barns and materials to be used
 - If home built without a third car garage, will HOA allow such to be added later and if so, what will it look like?
 - Third driveway cut requirements
- Carol Hanna asked if some of the lots can be allowed up to the 50% lot coverage, with others capped at a lower percentage. Kayla Hassett replied that the smaller lots are only 9500 square feet while others go up to 21,000 square feet. Hanna commented that on a 21,000 square feet lot, one would not want to see 50% lot coverage.
- Jenny Sisson suggested that Silverthorne Homes consider home model placement to eliminate crowding. Christian Rector replied that they have this practice in place.

Motion to Table V01192021-01: The Falls Subdivision (Silverthorne Homes) – Increased lot coverage request for 56 lots – to the next BZA meeting made by Jenny Sisson; seconded by Kirby McCrocklin; all members present in favor of motion; motion carried.

VIII. ADJOURNMENT

Motion to adjourn meeting made by Jenny Sisson; seconded by Jamila Zafar, all members present in favor of motion; motion carried.

Meeting was adjourned at 8:21 p.m.

Next meeting February 16, 2021