

# Board of Zoning Appeals

MEETING DATE: May 16, 2023

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 Kyle Eichhorn at 7:00 p.m.

### **II. ROLL CALL AND DETERMINATION OF QUORUM**

Board members attending in person: Jerry Burmeister, Kyle Eichhorn, James King, Jenny Sisson, Jamila Zafar. A quorum was established. Individuals representing the Town in person: Planning and Zoning Administrator Denise McKee, Planning Director Hannahrose Urbanski. Representing the Town via Zoom: Town Attorney Jeff Graham. Also attending in person: Marissa Skaggs, Steve Wills of 2417 W SR 38, Bec Harbert of 235 E Water St, Mike Bond of 6150 S Fox Ct

### **III. APPROVAL OF PREVIOUS MEETING MINUTES**

**Kyle Eichhorn requested a motion to approve Meeting Minutes from the March 21, 2023 Meeting, motion made by Jerry Burmeister, seconded by Jenny Sisson. Roll call vote was taken and all members present voted in favor of said motion with revision. Motion carried.**

### **IV. OLD BUSINESS - N/A**

### **V. NEW BUSINESS**

- A. V05162023-01: Variance from Development Standards request to allow accessory structures to be built closer to the property lines less than the minimum ten (10) feet side and rear yard setback requirement – 201 East Water Street, Pendleton Lockup Storage, BexBiz LLC via Becca Harbert

Denise McKee presented Current Use / Site Details: (Images on Google Drive)

- Zoned: Neighborhood Business (NB)
- Property is 1.66 acres
- Legal non-conforming use of land
- Variance in Land Use to allow for expansion of current storage facility by three (3) additional buildings approved at November 2022 BZA meeting

- Land Use conditions include fence installment, paving inside of fenced area within two (2) years of building completion & restrictive use of north/rear gate
- Primary electric utility and stormwater prescriptive easements on west property line
- Stormwater easement and public right-of-way on north property line

Denise McKee presented the Variance from Development Standards as requested by Petitioner:

- Side setback on west property line from 10 feet to 4 feet for two [2] accessory structure storage units, to allow for more room and movement between structures
- Rear setback on north property line from 10 feet to -0- feet setback for one [1] accessory structure storage unit, built on the property line

McKee provided additional information:

- Buildings will be closed in with a fence for security
- With improvements there would be 20-27 feet of space for vehicular movement
- At the rear-end of property there would space of approximately 25 feet
- With a building on the north property line, there would remain approximately 12 feet of space between that and the pavement
- Construction material for buildings will be standing seam metal panels (additional construction information is available in Google Drive folder)

Questions regarding site and petitioner requests:

- Jerry Burmeister asked if the back gate is sufficient for emergency vehicles. Steve Wills confirmed that it is.
- Jenny Sisson asked for clarification on the property north at the end of Hallowell; McKee said that is a residential home and that neighbor has no opposition to this request and felt that these were good improvements. The height of house and structures were questioned; there is no issue.
- Becca Harbert explained that the backside of the buildings facing the park would have designs on them, such as faux windows and storyboards
- Kyle Eichhorn asked if the fence on the west side would be just between the buildings and not around the entire buildings; Harbert confirmed just between

McKee provided that the function of Planning staff is to analyze the petition against approved/relevant plans and ordinances, as well as any existing conditions and/or variances placed upon the site, to present facts and analysis. Based on that analysis, she provided the following comments:

- Properties bordering proposed development are Falls Park and a utility easement to the west and a utility easement, public right-of-way and one [1] neighbor on a no exit road to the north (Hallowell Drive)

- Planning Department asks Petitioner to provide boundary survey with marked public utilities on the west property border (+-25ft on either side of the property line), iron pins are replaced if missing and property corners staked with wooden stakes with ribbon prior to building permit issuance. (To acquire exact location of property lines, electric utilities and easements)
- Electric Department requests Petitioner to relocate the two [2] most northern electric utility poles underground on west property line
- Electric Department requests most southern primary electric utility on west property line to remain in place with a five [5] foot setback from pole
- Park Department seeks support to partial removal of railroad hillside (property owner's side) with reinforced wall
- Stormwater runoff must drain into on-property inlets that are connected to storm water line running west of property. Department requests most southern primary electric utility on west
- There was general discussion and clarification of questions regarding utility lines, poles and placement, grading and retaining walls, stormwater runoff,
- Kyle Eichhorn asked if petitioner is agreeable to conditions: relocating two northernmost utility poles, stake survey, reinforced wall, 5' setback and collecting stormwater
- Petitioner requested to not be required to have a stake survey; Eichhorn recommended a boundary survey, and only the west property line would be needed as a more viable option

Kyle Eichhorn reviewed: Based on Indiana Code and the Town of Pendleton's Unified Development Ordinance, BZA considers the following criteria:

- The approval will not be injurious to the public health, safety, morals, and general welfare of the community
- The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner
- The strict application of the terms of the ordinance will result in practical difficulties in the use of the property
- The variance granted is the minimum necessary
- The variance granted does not correct a hardship caused by a former or current owner of the property

BZA can vote to: Approve (w/wo conditions or commitments) | Deny | Continue

Kyle Eichhorn solicited public comments. There were none.

**Kyle Eichhorn requested a motion to approve as V05162023-01 with discussed conditions: boundary survey of west property line, relocation of noted utility poles, 5ft setback from the primary utility, reinforced wall for the blue building, stormwater runoff to drain on petitioner's property. Motion was made by Jenny Sisson; seconded by Jerry Burmeister. Roll call vote was taken and motion approved by all. Motion carried.**

## B. BZA Rules Update

Hannah Urbanski presented recommended changes to the document; last revisions were completed in 2005

Kyle Eichhorn solicited public comments. There were none.

**Kyle Eichhorn requested a motion to approve BZA Rules Updates, as drafted and discussed. Motion was made by James King; seconded by Jerry Burmeister. Roll call vote was taken and motion approved by all. Motion carried.**

## VI. ADJOURNMENT

Meeting was adjourned by Kyle Eichhorn at 7:44 p.m.

Next meeting June 20, 2023 at 7:00 pm.