

Board of Zoning Appeals

MEETING DATE: June 20, 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. OATH OF OFFICE

Oath of Office was affirmed for new board member Rob Williams

III. ROLL CALL AND DETERMINATION OF QUORUM

Board members attending in person: Kyle Eichhorn, Jenny Sisson, Jamila Zafar, Rob Williams.
Attending via Zoom: James King. A quorum was established. Individuals representing the Town in person: Planning and Zoning Administrator Denise McKee. Representing the Town via Zoom: Town Attorney Jeff Graham. Also attending in person: Brian DeShong; petitioner, Bryan Williams of 122 West Water Street, Pendleton

IV. APPROVAL OF PREVIOUS MEETING MINUTES

Kyle Eichhorn requested a motion to approve Meeting Minutes from the May 16, 2023 Meeting, motion made by Jenny Sisson, seconded by Jamila Zafar. Roll call vote was taken and all members voted in favor of said motion with revision. Motion carried.

V. OLD BUSINESS - Signatures on Updated Rules

VI. NEW BUSINESS

- A. V06202023-01: Variance from Development Standards request to allow for an accessory dwelling unit (ADU) on a property with non-owner-occupied primary residence – 112 West Water Street, Brian DeShong

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

- Zoned: Residential Core Conservancy (RC)
- Property contains 4 separate parcels with approximately 1.66 total acres; Subject parcel is .80 acres

- Previous land use as Manufactured Home Park. Use was discontinued with all mobile home structures removed in 2021-22
- Property contains an 876 sq. ft. Single-Family residential home utilized as long-term rental, with a 480 sq. ft. detached accessory structure, currently used for storage
- Permitted Land Uses in RC Zoning - Single-Family/Multi-Family/Two-Family dwelling, accessory dwelling, residential home for the disabled, owner occupied short-term rental, home occupation, place of worship and/or public park
- Public utilities include Town of Pendleton water & electric and Fall Creek Regional Waste District sewer service

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

- Accessory Dwelling Unit (ADU) on a property with a non-owner-occupied primary residence; An ADU is a permitted use by right in this zoning district IF the primary residence is owner-occupied
- Retain current accessory structure footprint at 55% of primary dwelling unit compared to 50% allowed
- Access property off alley, separate from driveway that serves primary residence

McKee provided additional information:

- Purpose of ADU's – to provide more housing options for elderly parents, family members, caregivers, community members, students, temporary workers in the area
- Owner-occupied ADU's are encouraged statewide and this was included in the Town's UDO about a year and a half ago
- Benefits include affordable housing, maximizing public infrastructure, an investment for the owner/revenue stream, added security to the property
- McKee noted when comparing the standards to the request, all standards were met with the exception of three:
 - This ADU would be on a non-owner-occupied property; per the UDO an ADU is a permitted use by right in this zoning district IF the primary residence is owner-occupied
 - Square footage of proposed ADU is 5% over the maximum allowed based on the size of the primary structure
 - To access property off the alley vs the driveway in order to provide separate parking
- Petitioner has committed to the following:
 - Replace roof and add exterior textures to mirror architectural style, form, materials and colors of primary residence
 - Define living spaces and yards with privacy fence, new sidewalks and designated parking
 - Limit to one (1) accessory dwelling unit and maintain footprint of existing accessory structure

- Provide lawfully-built dwelling unit that meets building code requirements with open kitchen/living space, bedroom with closet, fully enclosed bathroom and framed utility closet
- Limit to long-term rental for 1-2 tenants; 1-year lease
- McKee presented a resident letter of concern from Monte and Joyce Ulm at 233 N Pendleton Ave; their concern is with the number of ADU's and that it would remain at only one for privacy, upkeep and noise level concerns

Questions/Discussion regarding petitioner requests:

- Have current tenants been made aware/consulted, asked by James King; McKee confirmed they are fully aware and have been provided proper notice
- What was the reason of the original ruling for owner-occupied only, asked by James King; Jenny Sisson asked for clarification on the property north at the end of Hollowell; Hannahrose Urbanski replied that the ADU UDO was created as a base framework, and if it is determined that non-owner-occupied ADU's are working successfully, then the UDO can be updated accordingly; initially it was written so that the Town could proceed with caution until determined otherwise
- Questions/clarification raised by Jenny Sisson about the wording related to using the alley vs driveway; to identify this as pre-existing to eliminate extra road cuts and future confusion
- Questions/clarification on definition of high-end renters was asked by Jamila Zafar; petitioner explained that there would be background checks and the potential renters would be properly vetted, with a minimum 12-month lease

Staff Analysis:

- ADU will not pose a threat to public health, safety, morals and/or general welfare
- The variance requested is the minimum necessary as will meet all structural and architectural standards while retaining existing footprint
- Will be a long-term rental unit, short-term rental units, such as Airbnb, would require a Conditional Use approval
- Separate "unit" number shall be obtained in accordance with the rules of the local Post Master
- Appropriate water/electric/sewer connections will be made as necessary to meet residential building code

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 additional Board discussion. There was none.

Kyle Eichhorn requested a motion to approve as V06202023-01 with three variances requested and five petitioner commitments: Motion was made by Jenny Sisson; seconded by Jamila Zafar. Roll call vote was taken and motion approved by all. Motion carried.

VII. ADJOURNMENT

Meeting was adjourned by Kyle Eichhorn at 7:28 p.m.

Next meeting July 18, 2023 at 7:00 pm.