

The Pendleton Board of Zoning Appeals met on August 20, 2019 at 7:00pm at the Pendleton Town Hall, 100 W State Street, Pendleton, Indiana. The meeting was called to order at 7pm. Board Members present were Tammy Bowman, Jerry Kelly, Mike Romack, Kirby McCrocklin and Tim Pritchard. A quorum was established with five of five members present. Representing the Town were Planning and Zoning Administrator Kayla Hassett, Town Attorney Alex Intermill and Planning Clerk Kate Edwards.

Others in attendance included Chris Brownell of 312 Franklin St Pendleton, Justin Farrell of 223 Pearl Street Pendleton and Richard Weddle of 323 Taylor Street Pendleton.

MINUTES

MIKE ROMACK MOTIONED, SECONDED BY TIM PRITCHARD, TO APPROVE THE MINUTES OF THE JUNE 18 2019 MINUTES. MOTION CARRIED.

OLD BUSINESS - none

NEW BUSINESS

V08202019-01 – Variance from Development Standards allowing garage closer to property line than allowed by Code – 312 Franklin St (Brownell)

Hassett presented on Google Drive. The presentation included the Application for Variance from Development Standards, Retracement Survey, Aerial Zoning Map of Property, Aerial Photo of Property, Site Plan, Proposed Garage, Photos, Staff Findings and Recommendations.

Hassett reported that the Brownell garage was damaged in the Memorial Day tornado and needs to be replaced. Our Town Ordinance indicates that non-conforming structures, this one being too close to the property line, if damaged more than fifty percent, need to meet code when reconstructed, meeting our setback requirements, size and height requirements, etcetera.

Petitioner requesting a front setback of 45.6'. 58.6' is required by Code.

Petitioner requesting a side setback of 1.5'. 6' is required by Code. Other provisions allow as close as 3' to match existing setback of house.

Petitioner requesting a rear setback of 31.9'. Code minimum is 6'.

Hassett also provided Building Code Requirements for:

- 1.5' Setback (or less than 2')
 - North wall must have one-hour fire-resistive rating on both sides
 - Roof eave projection no more than 4" (current design has 1' overhand).
- 3' Setback
 - North wall must have one-hour fire-resistive rating on both sides
 - Roof eave projection no more than 1'.

Staff Recommendation

Approve with Modifications:

- Approve front setback variance of 45.6' (13' less than required), present garage setback, as neighboring lot to north could build a garage as close as 9' to east property line.
- Approve side setback of 3' to accommodate 1' overhang.

Kelly asked if there is a structure next door that could be at risk if a fire. Hassett advised there was not.

Romack asked if the proposed garage is the same size as current garage. Petitioner advised his desire was to add 2' to the back so his truck would fit. Width would be the same as before.

Petitioner reported the foundation is broken from the storm damage and will be replaced.

Pritchard asked for clarification on 1.5' set back and a 12" overhang. Hassett advised that is not allowed, going on to state that if the BZA approved a 1.5' setback, the petitioner would have to adjust his building plans to only have a 4" overhang. Petitioner shared that he would prefer to build it in its current position because of the way the lot is laid out and have a 4" overhang.

Hassett stated that the Staff Recommendation is to meet in the middle between current 1.5' setback and the code required 6' setback. A 3' would meet in the middle. Petitioner added he would have to reroute the driveway and it would affect existing stairs and two sidewalks which would not be covered by insurance.

Petitioner shared that he would rather change the size of the overhang than the location that he is requesting. This led to additional discussion about the 4" overhang option. Hassett requested that, if the board decides to approve the 1.5' setback, they make it subject to any building code requirements.

Richard Weddle stated he wanted to come to the meeting to share that he had no objection to the petitioner's request. Staff shared that they had not received any objections on this petition.

TIM PRITCHARD MOTIONED, SECONDED BY KIRBY MCCROCKLIN, TO APPROVE V08202019-01 WITH THE 1.5' SETBACK AND 4" OVERHANG AND SUBJECT TO INDIANA BUILDING CODE. MOTION CARRIED.

FINDING OF FACT FOR V08202019-01 SIGNED BY ALL MEMBERS AND ATTESTED BY KATE EDWARDS.

**CU08202019-01 – Conditional Use for two-family residence in Historic Residential zoning district – 178 Fall Creek Pkwy (Butler).
TABLE UNTIL SEPTEMBER MEETING**

JERRY KELLY MOTIONED, SECONDED BY KIRBY MCCROCKLIN, TO TABLE CU08202019-01 UNTIL SEPTEMBER BZA MEETING.

CU08202019-02: Conditional Use for contractor business in Planned Business zoning district – 6962 S SR 67 (Farrell – Nailed It Remodeling)

Hassett reported this is a petition to have a contracting business on a property zoned planned business. Contracting is a Conditional Use on our Use Matrix. This is to guard the general welfare of the community.

Hassett's Google Presentation included the Application for a Conditional Use, Zoning Map of the property, aerial photo of the subject property, Site Plan, and current photos of the buildings and property.

Hassett advised the property Site Development Plan Review, as petitioned by The Real Estate Pros under PC08142019-02, was approved by Plan Commission on August 14th 2019 with the following conditions:

1. Parking lot shall be striped to show at least 20 parking spaces (1 accessible at each building)
2. Light fixtures on building shall be removed or replaced with lighting that complies with PB Design Guidelines.
3. Any garbage dumpsters on site shall be screened and located according to PB Design Guidelines.
4. Weeds shall be controlled across site and around buildings.
5. Gravel shall be replaced by landscaping or lawn in the red hatched area shown Google Drive Presentation along Water Street.

All conditions to be completed within 18 months.

Farrell questioned why his dumpster needed screened when others in town are not. Hassett advised all of the new ones do and those that do not are existing and grandfathered.

STAFF FINDINGS

Planned Business Design Guidelines

G4.B.1. Screening of Outdoor Storage

Enclosure: Outdoor storage of finished products and materials for sale (Staff interpretation is this applies to all storage including parts and trailers) should be enclosed on a minimum of 3 sides, screening such products from view from public streets and adjacent residential areas.

1. The enclosure shall be of permanent construction, should be 100% opaque, and should be constructed of materials consistent with those used for the facades of the primary structures on the property.
2. Materials which are located within the enclosure and are intended to be screened from view should not exceed the height of the enclosure.

STAFF RECOMMENDATION

Approve with the following conditions:

1. Siding, soffit, and garage door lintels, along with any other exterior building damage, on main building and shed, must be repaired by the time signs are installed. Noting that signs require sign permits prior to installation.
2. Any outdoor storage (including trailers) must be screened according to Planned Business Design Guidelines.
3. No semi-trailers shall be parked on site except for deliveries.

Pritchard asked about the two sheds. Farrell indicated the shed closer to the real estate office is going away. The other shed the owners wanted to keep to store their real estate signs. Pritchard noted that the BZA made Fesler Auto remove their shed. Hassett advised that Fesler's shed was encroaching on the setbacks.

Romack asked Hassett about what qualified as screening. Hassett advised the Planned Business Design Guidelines state enclosure needs to be a permanent construction, 100% opaque and constructed of materials consistent with those used for the façade. Given that it is currently vinyl, but will be fiber cement board and stone on the north building, she is suggesting a wood privacy fence, which is something commonly used for dumpster enclosures.

Hassett advised the BZA she would leave the parking of the trailers up to them. Pritchard shared that since they are going to redo the south side with landscaping or lawn, parking on that side would be up next to the building and parallel. Hassett is asking for that to be screened since that is a very visible site.

Hassett added that she is approaching this as a worst case scenario situation, because another contractor could come in and if they fit the Nailed It conditions we pass tonight, they could locate in this building and do the same thing. Adding, if the BZA wants to modify what she is recommending, or totally disregard it, that is their choice. Her main concern is the main intersection of Water and 67, you could potentially see big ugly trailers with a bunch of wood, lumber and who knows what on it.

Pritchard asked where the dumpster would be placed if the trailer screening is going along Water Street side of the building. Farrell thought maybe rotate it towards 300. Hassett advised there are no requirements as far as setbacks for dumpsters and it usually turns out to be what is most convenient for the trash service.

MIKE ROMACK MOTIONED, SECONDED BY TIM PRITCHARD, TO APPROVE CU08202019-02 WITH STAFF RECOMMENDATIONS AND THE UNDERSTANDING THAT SOME FORM OF THREE SIDED 6 FOOT SCREEN BE BUILT TO ENCLOSE TRAILERS ON THE SOUTH END OF BUILDING WITHIN 18 MONTHS. MOTION PASSED.

FINDING OF FACT FOR CU08202019-02 SIGNED BY ALL MEMBERS AND ATTESTED BY KATE EDWARDS.

Next meeting is scheduled for September 17, 2019 at 7:00pm.

Meeting adjourned at 7:51pm.

Kate Edwards
Planning Clerk
Town of Pendleton