

MINUTES
BOARD OF ZONING APPEALS
August 28, 2017

The Warsaw Board of Zoning Appeals met for regular session on Monday, August 28, 2017 at 7:00 p.m. in the City Council Chambers, 102 S. Buffalo Street, Warsaw, Indiana. The following members were present or excused:

Present: Tom Allen, Tammy Dalton, Dan Smith, Justin Taylor (Assistant City Planner), Kim Arnold (Recording Secretary),

Absent: Rick Keeven, Jeff Johnson, Mike Valentine (City Attorney)

CALL TO ORDER

Allen called the meeting to order.

The June 26, 2017 meeting minutes were reviewed and presented for approval. Dalton made a motion to approve the June 26, 2017 meeting minutes as presented. Smith seconded the motion. The motion carried unanimously.

ORAL OR WRITTEN COMMENTS OR REPORTS

None

OLD BUSINESS

None

NEW BUSINESS

2017-08-04-Variance from Development Standards – Front and Rear Setbacks – parcel 004-075-062-Aaron Dellinger- Assistant Planner Taylor gave a brief explanation of the request. The petitioner is requesting a Variance from Development Standards to allow for a 20' front and rear yard setback instead of the existing 25' setbacks. The petitioner wishes to construct a residence, however, because of the relatively narrow depth of the lot it would be difficult to accommodate the desired structure.

Several adjacent homes do not conform to the 25' setback requirement so neighborhood uniformity will not be impacted negatively by this variation. In 1990 the neighboring property to the north was granted a Variance from Development Standards to permit a reduced front yard setback. So, there is a historical precedent in this subdivision for the Board of Works to allow variances of this type.

Based on the information provided, it is the opinion of the Planning Department that this case

could be viewed favorably, when measured by the criteria delineated within the Findings of Fact.

Allen opened the meeting to the public for any person wishing to speak in favor or against the request. Aaron Dellinger, the petitioner, was present to answer any questions and explain the request. No other person was present to speak for or against the petition. Allen closed the meeting to the public.

Discussion followed among Board members. Motion to approve 2017-08-04-Variance from development Standards – front and rear setbacks- Aaron Dellinger was made by Dalton. The motion was seconded by Smith. The motion carried unanimously.

2017-08-03-Use Variance- Home Occupation- 530 Crestlane Drive-Aaron & Terrill Hooks-

Assistant Planner Taylor gave a brief overview of the request. The petitioner has requested a Variance to permit a Home Occupation in an R-1 Zoning District. The petitioner's home occupation consists of using his garage to build furniture and selling it online. The home occupation primarily operates in the summer months and during normal business hours Monday – Saturday 8pm – 4pm. Items are shipped or delivered so there should not be additional traffic generated as a result of this occupation.

On May 5th 2017 there was a call-in complaint regarding the noise and sawdust generated at the petitioner's property. The Petitioner has stated that he has been constructing furniture in his garage over the past 9 years without issue and once he was made aware of the complaint he took steps to mitigate the concerns raised.

11.0. - Definitions.

Home occupation. An occupation, carried on by a member of the family residing on the premises, in conjunction with which no commodity is sold or stock in trade is kept on the premises; no person is employed other than a member of said family; and no sign, other than a nameplate, not exceeding one square foot in area, is displayed, and no change in the external appearance of the building shall be caused thereby, and that no accessory building shall be used for such home occupation.

Based on the information provided, it is the opinion of the Planning Department that this case could be viewed favorably, when measured by the criteria delineated within the Findings of Fact.

Allen opened the meeting to any person wishing to speak in favor of the petition. Aaron and Terrill Hooks, the petitioners, were present to explain the request and answer any questions. Aaron is working full time and wishes to work in the summer and weekends around his employment. He keeps the garage door down and will have no retail customers, no storage of stock or inventory on the property. It is basically a hobby with sales online, approximately consisting of two orders a month.

Dale Long, neighbor, is in favor of Aaron being able to continue his business. He stated Aaron and Terrill are good neighbors.

Tracy Koontz, neighbor on Deer Trail, jogs the neighborhood. She is thankful to have great

neighbors like the Hooks'. She wouldn't know they had a business and didn't for a long time until she was shown some of his work and actually purchased some items. She has never observed noise and the yard is well kept. She feels her stereo is louder than anything they are doing in the garage.

Andy Cochran, neighbor, states he never hears anything and feels the business is no different than selling supplements, or Avon. He feels he probably makes as much noise or more working on cars in his garage.

Cynthia Gerding- states she had no knowledge of noise and thinks it is wonderful he has this hobby.

Allen closed the meeting to any person wishing to speak in favor of the petition and opened it to any person wishing to speak against it.

James Jones, neighbor, wishes to live in an up-scale neighborhood. He does not want any business in the neighborhood and he feels the neighborhood is well established. He stated he can hear noise from the hooks'.

Greg Miller, neighbor, stated he has purchased items from Aaron Hooks but that the hobby has grown to a full business. He stated according to the attorney general, the business had an income of \$100,000. He is concerned about safety and fire hazards. He stated sawdust is combustible and could possibly spark, that the house had no firewalls from the living area. He stated there is no ventilation system in the garage either. He has concerns of the fire code, no sprinklers, etc. He also is concerned about the property value of his home being lowered due to a deteriorating neighborhood.

Jan Orban, neighbor, is concerned about her property value. She stated the issue of storing combustible materials is a concern. She would like the Hooks' to move the business. They have had 147 sales on Etsy (no time frame) and have not stopped selling on the site since the complaint was made to the City, as they still have a table for sale.

Rick Orban, neighbor, he states he has a video from in his garage of the noise coming from the Hooks' garage, which is next door. He states the noise is generated six days a week, and that sawdust has to be blown off the exterior of his house. He doesn't want his property value to be reduced. He stated the Hooks' garage door was open while he was working.

Bill Baldwin, neighbor, has lived in the neighborhood for forty three years and stated the Hooks' have been excellent neighbors but the property rights and neighborhood covenants forbid businesses in the neighborhood. He is concerned about his property value being decreased.

Karyl Smith, neighbor, stated she heard screeching noises last weekend. She has observed saw dust and the Hooks' property looking poorly and not cleaned up. She wants the neighborhood to be kept nice.

Elim Smith, neighbor, stated the noise level is too much.

Allen closed the meeting to the public as each person in the room had an opportunity to speak.

Discussion followed among BZA members. Smith stated concern of the neighborhood covenants. Allen explained the BZA has nothing to do with neighborhood covenants. After consideration of all the comments from the public and the fact that the zoning is an R-1, motion was made to deny 2017-08-03 by Smith. Dalton seconded the motion. The motion passed unanimously.

OTHER MATTERS THAT MAY COME BEFORE THE BOARD

- Next meeting will be Monday, September 25, 2017

Dalton made a motion to adjourn the meeting; Smith seconded the motion. The motion carried unanimously. The meeting was adjourned.

Tom Allen, President

Kim Arnold, Recording Secretary