

Minutes
WARRICK COUNTY AREA BOARD OF ZONING APPEALS
Regular meeting to be held in the Commissioners Meeting Room,
Third Floor, Historic Courthouse,
Boonville, Indiana
October 23, 2023 at 6:00 P.M.

PLEDGE OF ALLEGIANCE:

MINUTES: Upon a motion made by Mike Moesner and seconded by Jeff Valiant the Minutes of the last regular meeting held September 25, 2023 were approved as circulated.

Chairman Dayvolt stated we have one case tonight, when you approach the podium if you would state your name and please sign in. He continued we will have a staff report and then you can add to it or detract from it whichever you want to do, there is 20 minutes for that and seeing there is nobody else here we would probably let you have somebody else's 20 minutes.

Jeff Valiant asked Chariman before we go on do you want to do roll call.

Chairman Dayvolt laughingly said no. He asked for a roll call.

MEMBERS PRESENT: Terry Dayvolt, Chairman, Paul Keller, Mike Moesner, Jeff Valiant, Jeff Willis.

Members absent Doris Horn, Mike Winge

Also present was Aaron Doll, Attorney, Molly Barnhill, Executive Director, Jen Hollander, staff.

VARIANCE:

BZA-V-23-26

APPLICANT: Evansville Outdoor Advertising by Ron Nelson, GM

OWNER: St. Mary's Building Corporation by Zach Zirkelbach, VP of Finance-South Region

PREMISIS AFFECTED: Property located on the north side of SR 66 approximately 1390' east of the intersection formed by SR 66 and Epworth Rd. Ohio TWP 20-6-9. 10222 SR 66

NATURE OF THE CASE: Applicant requests a Variance from the requirements as set forth in the Comprehensive Zoning Ordinance in effect for Warrick County, IN to allow an Improvement Location Permit to be issued for: an, SU-8, digital billboard exceeding the maximum size requirement of 500 square feet and also encroaching into the 75' setback from a controlled access right-of-way. All in a "C-4" General Commercial Zoning District. *Advertised in The Standard September 14, 2023.* Tabled from the September 25, 2023 meeting.

Chairman Dayvolt asked if the owners were there.

Scott Buedel with Cash Waggnier and Associates, Ron Nelson with Evansville Outdoor Advertising, and Lisa Raben with Ascension St. Mary's Building Corp. were present.

Chairman Dayvolt said would you please sign in. He asked is the pen not working.

Ron Nelson said which one...so far we are 0 for 3. (Laughing)

Mrs. Barnhill asked would you like the staff report while they do that.

Chairman Dayvolt said yes.

Mrs. Barnhill said the return receipts we have all the green cards except for two, however we do have the white pay receipts showing they were mailed correctly. She continued the existing land is vacant, it is a field right now. She said surrounding zoning and land use to the north, south and west are "C-4" General Commercial with single family dwellings or vacant property, east is "A" Agricultural and is vacant. She added a small portion in the northeast corner is in the AE floodplain, however a majority of the property is not in the floodplain and not anywhere near where the billboard will be, existing access off of SR 66. She said their applicant's statement says "The existing billboard located on the adjacent property owned by Ethan Mounts will be removed and the new digital billboard will be located approximately 95' to the southeast. Since a billboard has been located within 95' of the proposed location, for the last 18 years, the new billboard and removal of the existing billboard would not affect the use of the subject property or the adjoining properties". She said now when we advertised this the initial application was requesting for two variances technically one from the size requirement and one from the set back. She continued they have asked to reduce the size to a 12x40 being 480 feet which would be underneath the maximum size allowed, so we would only need the one variance for the SU digital billboard to only be 21 feet setback from that front property line which is the same setback as the previous application. She said the new site plan is in the back of your packets.

Chairman Dayvolt asked so it will not...it will be in the same place as it is now they are proposing.

Mrs. Barnhill said same place, yes, that front edge of the billboard did not move.

Chairman Dayvolt asked if there was anything to add to the staff report.

Scott Buedel said I think Molly kind of touched on it a little bit, but they had the opportunity, they had contacted St. Mary's and had the opportunity to put in a new billboard. He added they of course just like everyone else, would like to have a digital billboard in place of the static sign that is there now and then whenever St. Mary's was involved with it they wanted it at a particular location just for future development and so forth they wanted it tucked up a little closer to the highway right of way and not sitting back in the field. He said they wanted it as close as they could to get it to the highway, and also with that right of way that is out there now it is a very large right of way that comes up on the north side of the highway so it is still as significant distance off of the travel way that is out there. He added it is in a very similar location that it is today, it will just be hopefully a digital billboard instead of the static that is there now, and again the static would be removed once the digital construction starts.

Chairman Dayvolt asked is there another roadway there.

Scott Buedel said there is a Frontage Road that comes off of Epworth that kind of wraps around the front of those two houses and dead ends right there on the southwest corner of the St. Mary's property. He continued there are two properties that are kind of out in the middle of nowhere on the north side of the highway there that Frontage Road accesses and the existing billboard actually sits in the southeast corner of one of those parcels. He said I think whenever you put that billboard up Evansville Outdoor or Mounts bought all of that property and then carved out that piece for the billboard and sold off those other two tracks, those are the only things that are out there other than St. Mary's that's further to the west, everything to the north, and everything to the east.

Chairman Dayvolt said down the hill in the field.

Scott Buedel said what was that, I'm sorry.

Chairman Dayvolt said down the hill in the field

Scott Buedel said yes, yes.

Chairman Dayvolt said okay, questions by the Board. He asked anything else to add Mr. Nelson.

Ron Nelson said I think for the future if St. Mary's... you know they didn't buy that property just to sit...they would probably have an interest in purchasing the two properties. He said we put the board up farther back it is going to be on the hill, they are probably going to take the hill out so we are just trying to get it out of the way so if we put a board up and all of the sudden they have plans we don't move it plus there is probably a 50-60 foot setback just of right of way alone plus the 20', and we are going from a 672 square foot board that is there now it's a back to back static to a 12x40 so that reduces it 200 square feet.

Mike Moesner said it is 50 feet in the air too.

Ron Nelson said yeah, it would be about 50 feet in the air. He added the current board is, I think, 50 feet in the air too.

Chairman Dayvolt asked what is the...Molly what is the...how close can these billboards be together.

Mrs. Barnhill asked together.

Chairman Dayvolt said yeah.

Mrs. Barnhill asked on the same side of the road.

Chairman Dayvolt said mhm.

Mrs. Barnhill said that is 1,000 feet.

Chairman Dayvolt said 1,000 feet.

Mrs. Barnhill said yes.

Chairman Dayvolt said okay.

Ron Nelson said we have got the INDOT which is the same 1,000 feet, the INDOT permit is just waiting for approval...it's approved I just have to remove the head of existing sign per Randy Carie who is the head of INDOT for Vincennes.

Mrs. Barnhill said Terry probably should make that a condition listed on their approval if we do that to make sure that the old one has been removed.

Chairman Dayvolt said yes.

Ron Nelson said so the way we usually do it, we will remove the head then we can't advertise and then once Mother Nature and everything allows, we get in take everything else out. He added so if it is pipe embedment it takes a little bit longer, but if it is...where we have a cage structure then we undo the bolts, so it doesn't take too long, it's just access. He said we can take the head off with just a crane, get that out of the way and haul that away.

Chairman Dayvolt asked does St. Mary's have anything to say.

Lisa Raben said no, we hope you approve his request.

Chairman Dayvolt said questions. He asked anybody here for or against this, seeing none any more questions by the Board. He said entertain a motion.

I, Jeff Valiant, make a motion to approve the Variance Application based upon and including the following findings of fact:

1. The grant of the Variance will not be injurious to the public health, safety, morals, and general welfare of the Community. As such, it is further found that the granting of the Variance shall not be materially detrimental to the public welfare.
2. The use or value of the area adjacent to the property included in the Variance will not be affected in a substantially adverse manner. As such, it is further found that the granting of the Variance shall not result in substantial detriment to adjacent property or the surrounding neighborhood.
3. The need for the Variance arises from some condition peculiar to the property involved. The peculiar condition constituting a hardship is unique to the property involved or so limited to such a small number of properties that it constitutes a marked exception to the property in the neighborhood. Such condition is...

Jeff Valiant asked Aaron, location of the current sign and kind of reusing that same area.

Attorney Doll said yes.

Jeff Valiant said if you will in relation to the other properties around there.

Attorney Doll said correct.

4. The strict application of the terms of the Warrick County Comprehensive Zoning Ordinance will constitute a practical difficulty, unusual and unnecessary hardship if applied to the property for which the Variance is sought.
5. The approval does not interfere substantially with the Warrick County Comprehensive Zoning Ordinance adopted pursuant to IC 36-7-4-500 et seq.
6. The granting of the Variance is necessary in order to preserve a substantial property right of the petitioner to use the property in a reasonable manner, and not merely to allow the petitioner some opportunity to use his property in a more profitable way or to sell it at a greater profit.
7. That the hardship to the applicant's use of the property was not self-created by any person having an interest in the property nor is the result of mere disregard for or ignorance of the provisions of the Warrick County Comprehensive Zoning Ordinance.
8. The approval of the requested Variance is the least modification of applicable regulations possible so that the substantial intent and purpose of those regulations contained in the Warrick County Comprehensive Zoning Ordinance shall be preserved.
9. This Variance shall expire six (6) months after this date, UNLESS a Permit based upon and incorporating this Variance is obtained within the aforesaid six (6) month period or unless the provision of the Variance are adhered to within the aforesaid six (6) month period. Upon advance written application for good cause, a renewal for an additional six (6) month period may be granted by the Secretary of the Area Plan Commission.
10. The Variance Application is subject to the terms contained therein and the plans on file subject to the following additional conditions:
 - a. Subject to an Improvement Location Permit being obtained.
 - b. Subject to a Building Permit being obtained.
 - c. Subject to the property being in compliance at all times with the applicable zoning ordinances of Warrick County.
 - d. Subject to all utility easement and facilities in place.
 - e. Subject to no flashing, moving or intermittent lights except white.

- f. Subject to the plot plan on file and not to be altered or expanded.
- g. Subject to no use of the words, “stop”, “danger”, “look”, or any other words which would confuse traffic.
- h. Subject to no rotating or revolving beams of light.
- i. Subject to any required permits from INDOT.

Jeff Valiant asked Molly does that last one cover you're...the INDOT having the old one removed.

Mrs. Barnhill said well, INDOT requiring the head.

Ron Nelson said the head be removed.

Jeff Valiant said the head be removed so that...

Mrs. Barnhill asked do we want the whole entire structure to be removed as well.

Jeff Valiant said if the Board so moves I will make that part of my motion, yes.

Chairman Dayvolt said I would say so.

Mike Moesner said I will second.

Jeff Willis asked is that removed before they build the new sign or removed after they build the new sign and how long would they have to remove the base if it is after.

Mrs. Barnhill said once they get a permit they have six months to start and two years to finish the project.

Jeff Willis said right.

Mrs. Barnhill said we could give it...

Jeff Valiant said falls within those guide lines.

Mrs. Barnhill asked do you want to give it the two year after the date of issuance.

Jeff Valiant asked how long do you need.

Ron Nelson said it is probably take me... once I order it, it is probably going to take 10-12 weeks, I can probably have the head down in a matter of...you know...that is not going to be a problem the access and tearing everything up to get there...the pole. He continued once I take the head and remove it the whole thing is coming down, it is just that time of year where Mother

Nature dictates...well, I shouldn't say that now because it is dry as can be out there, so it is just trying to get Custom Signs up there to get it down, but I'm confident that I can get the head down with in like...before Thanksgiving. He said and then we can get in there and the pole down, if its...I can't remember off hand...if it is bolt and cage I can get that all down in the same day, but if it is not a bolt and cage then they will go in there and dig it out.

Jeff Valiant said okay, so what do you want to say.

Mrs. Barnhill said six months, one year.

Ron Nelson asked to do what.

Mrs. Barnhill said to get the...

Ron Nelson said I can get it done...we will probably get the structure complete by...

Jeff Valiant said I don't want to cut you too short.

Mrs. Barnhill said yeah.

Scott Buedel said yeah.

Ron Nelson said February or March.

Jeff Valiant asked so, six months a year.

Ron Nelson said six months is fine.

Jeff Valiant said six months.

Chairman Dayvolt said six months.

Mrs. Barnhill said okay.

Chairman Dayvolt asked any other questions by the Board. He said I have one on E, subject to no flashing, moving or intermittent lights except white.

Mrs. Barnhill said it comes from the Ordinance.

Chairman Dayvolt said okay, because you can take a white letter and flash it against a darker background.

Mrs. Barnhill said mhm.

Ron Nelson said the boards won't flash they will change every eight seconds, so that is per INDOT too.

Chairman Dayvolt said okay. He continued I have a motion by Mr. Valiant, second by Mr. Moesner, any more questions.

The motion was carried unanimously.

Ron Nelson said thank you.

Jeff Valiant said thank you guys.

ATTORNEY BUSINESS:

Chairman Dayvolt asked did Dad leave you with any attorney business.

Attorney Doll said he did not, he will back on Wednesday so feel free to start bugging him then.

Mrs. Barnhill said oh good.

EXECUTIVE DIRECTOR BUSINESS:

Mrs. Barnhill said the office is in a temporary location, where the old Buy Low building was, 930 West Main.

Chairman Dayvolt said you are at the School Corporation.

Mrs. Barnhill said the School Corporation, if you guys need anything that is where we are, we make daily trips back up here.

Chairman Dayvolt asked is the phone number still the same.

Mrs. Barnhill said my phone number is, we couldn't get the...I have my own...

Chairman Dayvolt said the office number.

Mrs. Barnhill said we couldn't get that to transfer so we do have another number for the office.

Chairman Dayvolt said okay.

Mrs. Barnhill said we left a voice mail on there to call this number if you need anything.

Chairman Dayvolt said okay.

Mrs. Barnhill said you all have my cell phone too, if you need anything.

Chairman Dayvolt said okay, any more business.

Mike Moesner asked when do we adjourn.

Chairman Dayvolt said a motion by Mike Moesner and a second by Paul Keller. The motion carried unanimously. The meeting adjourned at 6:19 p.m.

Terry Dayvolt, Chairman

ATTEST:

The undersigned Secretary of the Warrick County Board of Zoning Appeals does hereby certify the above and foregoing is a full and complete record of the Minutes of the said Board at their monthly meeting held October 23, 2023.

Molly Barnhill, Executive Director