

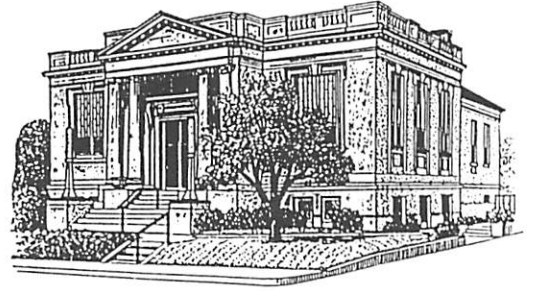
# WELLS COUNTY AREA PLAN COMMISSION

WELLS CARNEGIE GOVERNMENT ANNEX

223 W. Washington St.

Bluffton, Indiana 46714-1955

Room 211 PHONE - 824-6407



September 22, 2009

## WELLS COUNTY BOARD OF ZONING APPEALS MEETING

TUESDAY, SEPTEMBER 29, 2009, AT 7:00 P.M.

ROOM 214 (CONFERENCE ROOM) AREA PLAN OFFICE

GOVERNMENT ANNEX BUILDING 223 W. WASHINGTON ST., BLUFFTON, IN

### AGENDA

#### ROLL CALL

#### APPROVAL OF MINUTES

#### CONTINUED ITEMS:

B09-07-12 JEFFERSON TWP., NE/4 21-28N-12E Harry T. and Lois A. Gerber request Special Exception approval for a residence in a B-3 zone for a U-store facility manager. Property is located at 1725 Hillcrest Dr., Ossian.

B09-08-15 Amendment to the Rules of Procedure

#### NEW ITEMS:

B09-09-16 HARRISON TWP., SW/4 SECTION 4-26N-12E Bluffton First United Methodist requesting reduction of front yard setback for a sign. Property is zoned R-2 and located at 325 W. Washington St., Bluffton.

B09-09-17 HARRISON TWP., SE/4 8-26N-13E Edward D. Yoder requesting reduction of rear yard setback for an accessory structure to be located at 1818 S 800 East, Bluffton in an A-1 zone.

#### ADVISORY:

#### DIRECTOR COMMENTS:

## ROLL CALL

Rose Ann Barrick  
Jerome Markley  
Mark Shaffer

Michael Lautzenheiser, Jr., Secretary

The Board of Zoning Appeals meeting, September 29, 2009, was called to order by vice-president, Mark Shaffer at 7:00 p.m. Three members answered roll call, Jerry Petzel and Jim Schwarzkopf were absent.

Rose Ann Barrick made a motion to approve the August meeting minutes. Jerome Markley seconded the motion, the motion carried 3-0.

**CONTINUED ITEM:**

**B09-07-12 JEFFERSON TWP., NE/4 21-28N-12E Harry T. and Lois A. Gerber request Special Exception approval for a residence in a B-3 zone for a U-store facility manager. Property is located at 1725 Hillcrest Dr., Ossian.**

Mick Cupp represented the special exception petition requesting a model home that is no longer being used for that purpose to become a residence for a U-store facility manager in a B-3 zone. Mick said at the previous meeting it had been brought to our attention that there were covenants that prohibited a residence in the Hillcrest Development but since that meeting he has found that the covenants expired August 2005. A search in the miscellaneous records did not find any other document was recorded to replace the one that expired.

Mick said from notes he took at the last meeting some of things that were mentioned were parking and he has taken some measurements and there would be room for approximately 6 to 8 vehicles. In regard to the industrial park people being opposed to it he said he talked to two of the principles of Hillcrest Development and that came about because they were concerned about a residence being there because of the possibility there could be noise or industrial pollution. Adding if that were a concern he has measured to the nearest home that was allowed in Sandalwood Addition, which is only about 100 yards away from the industrial development

Mick related that the last time it was mentioned that if it were a residence one of the objections were that there could be children and play sets etc. The B-3 zoning the property now would allow a motel, hotel, and this building would not work for that purpose, but a hotel or motel would be allowed in this zoning district. Also nursery schools, parks, playgrounds, public and parochial schools are permitted uses. Mick also said that a major or minor subdivision would be allowed, but was corrected by Michael that the use would still need to be something permitted in a B-3. The words minor or major subdivision is just the terminology to divide the parcels not necessarily meaning residential.

Michael circulated the email that was sent to the office from Gene Donaghy stating his objection to the change.

Rose Ann Barrick added he is one of the developers and also on the Ossian Development Corp. Board.

Mick stated he spoke with Gene and Terry Donaghy and that Terry said he had no problem with the situation and that what they had always talked about in their Hillcrest group, and he isn't sure who is left in that group from the original people, but that they had always agreed that they would have to be unanimously satisfied with a project, this was particularly in the industrial park portion, because of the noise and pollution. Gene told him he would be talking to Terry and get back with him. As of the time of the meeting, Mick stated Gene had not contacted him.

Rose Ann Barrick stated even though the restrictive covenants have run out she said she was on the 20-year plan committee about 25 years ago and felt that it should be a business zone and said she has talked to the town council which is represented tonight. Ossian Town Council is very much against this they do not want to see a residence go into a business zone. This was designated as a business zone and what it was supposed to be for at least the last 25 or 30 years, and now you want to put a residence in the middle of a business zone. Adding that she is not in favor of it and the Ossian Town Council is not in favor of it and she said she is their representation on the BZA.

LuAnn Martin, Ossian Town Manager believes the reason to have a manager live in the home for security reasons is not valid as she spoke with the Ossian Police Chief after the last meeting and he said that there has only been one call to the police for the U-store property, if they are having security issues they are not contacting the police.

LuAnn said there was an agreement with the Ossian Town Council when the model home was allowed to go up that it would never become a residence.

Rose Ann Barrick, stated number one I'm not going to go against the Ossian Town Council, Ossian Development Corporation and members of the industrial park that we have heard from. At the last meeting I believe there was a letter from them, in my mind it is a moot point, because I'm certainly not going to go against all of those entities opinions. And I am sorry that the Gerber's' bought this without looking into the special exception or being allowed to have a residence to start with before they purchased the property, they should have known what they were getting into and checked into what is allowed before making the purchase.

Rose Ann Barrick said she would make a motion that we deny the request based on specifically granting this special exception does not preserve the spirit and purpose of the Zoning Ordinance. I do know that the industrial people back there have a real problem with a residential use in the B-3. A few years ago when developers talked about having a R-2 in part of that area, they had a real problem with that back then. So that's my motion based on how it is spelled out in the zoning ordinance, I would make the motion to deny it.

Mick Cupp asked to have time to poll other individuals.

Rose Ann Barrick: Who do you want to hear from, we have the president of the Town Council, and the town manager here, we have a letter from one of the original developers of Hillcrest and he is also a member of the Ossian Development Corporation, so what more input are you looking for to make you feel comfortable.

Dick Witte Ossian Town Council President said they have some concerns, the location of it in reference to security it is 350 or 400 feet apart from any location, it's not like it is centrally located or someone has to pass by the residence to get into the U-store facility. Dick said they do welcome an office to be there and are happy to see it was purchased, once we open that door and allow a residence that allows a residence to any other shop owner within the industrial park. It virtually gives anyone else the excuse to say they are concerned about security in their building and they want to put in an apartment or residence. With a residence there you loose control of what happens, it has no indoor parking, there is no garage, that resident is going to have personal property there is no place to put that, it's on the corner of a very busy intersection and it becomes a reflection on the industrial park, if the residence was located within the buildings like the one south of Bluffton that is a different situation.

Mick argues that if there is an around clock manager there, then there would be a vehicle parked there.

Dick replied yes, but as a residence there is the chance there can be two, three maybe four vehicles a family may own and maybe a snowmobile and trailer etc.

Town manager, Lu Ann Martin stated Rose Ann and Dick have made good points and it was talked about the Ossian Town Council meeting last night and this is a free standing building that was built for a model home and office and that was all it was to be used for. Even though the restrictive covenants have run out it still applies that the zoning is B-3 doesn't allow a residence. There are a lot of empty lots in Hillcrest Development what if someone else put in a business and wants to add an apartment. We would be setting a precedent to allow this and she is not prepared to do that. That is one of the reasons we have zoning. Adding if it is allowed then it would be easier the next time and each time it gets easier, it just eases you into what you didn't intend.

Dick said if it hadn't been an important issue they certainly wouldn't have put it in the by-laws or restrictions originally, obviously it has lapsed only because someone failed to re-new it. My feeling is that if it was important enough to do it one time obviously someone has overlooked this and allowed it to lapse and shouldn't have.

Mark Shaffer offered a second to the motion made earlier by Rose Ann Barrick based on Ossian Council; industrial park property owners and business owners all object to a residence in a B-3 zone.

Vote: denied 3-0

**NEW ITEMS:**

**B09-09-16 HARRISON TWP., SW/4 SECTION 4-26N-12E Bluffton First United Methodist requesting reduction of front yard setback for a sign. Property is zoned R-2 and located at 325 W. Washington St., Bluffton.**

Cindy Osgood represented the petition requesting reduction of setback for the installation of a new monument sign for the church. The sign they presently have does not have good visibility and they wish to have a more prominent sign. The sign will be a lighted cabinet type and measure 4'11" high by 8' in width.

The proposed sign is much like the signage at the funeral home and others in neighborhood and will be appropriate for the property.

Michael and the board members explained the city must give their approval as well due to the sign projecting into their right-of-way. The city has the right to displace the sign at the property owners expense should it become necessary for any utility work that the sign may interfere with.

Condition: City of Bluffton will need to sign off allowing the sign to be in their right-of-way.

Motion to Approve: Rose Ann Barrick

Second: Mark Shaffer

Vote: 3-0

**B09-09-17 HARRISON TWP., SE/4 8-26N-13E Edward D. Yoder requesting reduction of rear yard setback for an accessory structure to be located at 1818 S 800 East, Bluffton in an A-1 zone.**

Ed Yoder appeared for his petition requesting to place a 24' X 41' shelter for equipment closer than 20' ft. to the property line. The proposed structure would be 10' ft. from the rear property line but he owns the abutting property.

Mr. Yoder stated he did not realize what the required setback was and had already prepared the building pad or base when he came to get a permit and learned that the he needed to be 20' ft from the property line for his zoning class.

Conditions: None

Motion to Approve: Rose Ann Barrick

Second: Jerome Markley

Vote: 3-0

**B09-08-15 Amendment to the Rules of Procedure:**

Legal advertising for BZA petitions by a sign posted on the properties that are on the agenda for public hearing. This is to give broader notification other than the required legal notice that must be published in the local newspapers.

The fee for a sign that will be leased by Baller Signs vs. the disposable type sign was discussed. The leased type sign would be similar to the signs used by the APC for their petitions. The disposable sign would be like the signs posted for sell-offs approved by the plat committee.

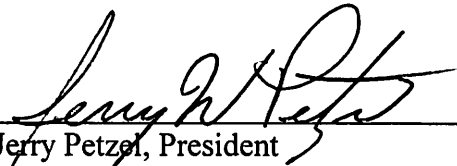
Michael said that in some communities the fee to file a variance is low because they want to encourage the property owner to request them, and perhaps our fee schedule should be amended to lower the fee to compensate for the sign cost.

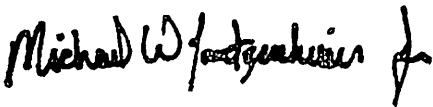
**DIRECTOR COMMENTS:**

**ADVISORY:**

**ADJOURN:**

Rose Ann Barrick made a motion to adjourn the meeting. Jerome Markley seconded the motion the September 29, 2009, meeting of the Board of Zoning Appeals adjourned at 8:20 p.m.

  
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Jerry Petzel, President

ATTEST:   
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Michael Lautzenheiser, Jr., Secretary