

**MINUTES of the GRANT COUNTY
AREA BOARD OF ZONING APPEALS
May 2, 2016**

A PUBLIC HEARING OF THE GRANT COUNTY BOARD OF ZONING APPEALS was held on Monday, May 2, 2016 at 6:00 P.M. on the first floor of the Grant County Office Complex at 401 South Adams Street, Marion, Indiana.

The following members were present: Craig Freeman, Chip Long, Rex Maynard, Bob Monroe, and Vice-Chairman Lois Jones.

Absent were: Teresa Mendoza and Bill Johnson.

Staff present was Executive Director Steve Niblick and Recording Secretary Debbie Wallace.

Lois Jones brought the meeting to order with the Pledge of Allegiance and a moment of silence.

Rex Maynard moved Chip Long seconded that the minutes from April 4, 2016 be approved; all members present voted yes; vote was 5-0; motion carried.

Steve Niblick went over the rules and procedures.

Docket: 05BZAV-16 **Public Hearing**

Name: Roger Hart

Address: 3031 E 450 N, Marion

Zoning District: Residential Suburban (RS)

Legal Description: being 7.046 acres more or less, and located in the Northeast Quarter of Section 15, Pleasant Township, Grant County.

Request: To allow a free standing sign to be built with fifty (50) square feet in area; eight (8) in height, and be electronic

Steve Niblick went over the criteria; this is the first time this variance request has been in front of the board. This is a one development standard variance that has four (4) criteria that the board should look at.

- 1) will the variance be injurious to the public – no evidence of community injury
- 2) will the variance affect the use and value of the neighborhood – there are existing homes to the west of the property but no evidence provided that proves an adverse effect on neighboring properties
- 3) need for variance arise from some condition peculiar to property – property was granted a special exception to operate a ‘business-like’ entertainment/recreation center – to have an appropriate ‘business-like’ sign is peculiar to this property
- 4) the strict application of terms will constitute an unusual and unnecessary hardship – questionable – sign could meet standards of the zoning code and RS zoning and still identify center

Based on the provided information in the application, public input to date and the above criteria; staff recommends approval of the request as submitted. The Grant County Commissioners also gave a favorable recommendation to this petition.

Roger Hart was present, representing this petition. The sign was formerly owned by Morris Chapel Church and was given to Mr. Hart. The cement base and electric is already in place from the sign the former school had.

No objectors were in the audience or on file.

Motion: Chip Long moved Rex Maynard seconded to approve Docket #05BZAV-16 as presented. All members present voted yes. Vote 5-0; motion carried.

Docket: 08BZAV-16 **Public Hearing** **Name:** Lottie Miller

Address: 923 E Washington Street, Fairmount, Indiana

Zoning District: Residential-1 (R1)

Legal Description: being 0.25 acres more or less, and located in the Northeast Quarter of Section 29, Fairmount Township, Fairmount Corp, Grant County.

Request: To allow a room addition (lean-to) to be built two (2) feet from the east property line instead of the required eight (8) feet

Steve Niblick went over the criteria; this is the first time this variance request has been in front of the board. This is a one development standard variance that has four (4) criteria that the board should look at.

- 1) will the variance be injurious to the public – no anticipated evidence of community injury
- 2) will the variance affect the use and value of the neighborhood –questionable – variance will encroach into the required side yard that may affect storm drainage. However, there is a farm field immediately to the east and should not adversely affect use and value of the field.
- 3) need for variance arise from some condition peculiar to property – questionable – there is other available land on this parcel; however, this location is logical and efficient
- 4) the strict application of terms will constitute an unusual and unnecessary hardship – questionable – the property owner could have located the attached accessory building on another area of the parcel without need for a variance.

Based on the provided information in the application, public input to date and the above criteria; staff recommends approval of the request as submitted. The APC office received a letter from the Town of Fairmount giving the petition a favorable recommendation.

Ken Miller was present and representing the petition. The lean-to was built without a permit; he was unaware that a permit was required. It will not be enclosed and is two (2) feet from his property line.

The APC office received a letter from Jerry Johnson, 922 E. Washington Street, Fairmount, stating he had no objections to the variance. Also received a telephone call from Steve Deal, Fairmount Utilities, stating he sees no problem with the request.

Objectors:

Ron Russell, 9355 S 188 E, (owner of property to the east) voiced his objections to the variance. Mr. Russell stated that when the Miller's get out of their vehicle they are on his property, the only way the pick-up truck fits in the lean-to is to back it in. Mr. Russell feels that if the structure is supposed to be eight (8) feet, it should be eight feet and utilize the Miller's property not his. Mr. Russell stated that they have tolerated the Miller's placing their burn barrel, trash etc. on their property. Nothing got moved from their property to the Miller's property until after the variance was filed. Mr. Russell submitted seven (7) pictures for the board to review.

Dixie Russell, 9355 S 188 E, also voiced objections to the variance. She does not feel that the variance will affect Mr. Johnson because he lives across the street.

Steve Niblick – for a clarification for the board and also the audience all adjacent property owners are notified of the variance request.

Dixie Russell - There is an existing garage that is built on the property line that is falling down that should be demolished.

Niblick – garage has been there for many years and was not considered in the variance request.

Ken Miller – said he has two feet to his property line and is not walking on the neighbor's property.

Motion: Bob Monroe moved Lois Jones seconded to deny Docket #08BZAV-16. All members present voted yes; except Craig Freeman who voted no. Vote 4-1; motion carried.

Docket: 10BZAV-16 **Public Hearing**

Name: Vernon & Veda Smithley

Address: 1126 N Elm, Fairmount

Zoning District: Residential-3 (R3)

Legal Description: being lots 34 & 35 in Allen Dillons 1st Addition, and located in the Southwest Quarter of Section 20, Fairmount Township, Fairmount Corp, Grant County.

Request: To allow a third accessory building to be built prior to a principle building; and to be fourteen hundred and forty (1440) square feet in area instead of the maximum square footage allowed of nine hundred sixty (960) in area.

Steve Niblick went over the criteria; this is the second time this variance request has been in front of the board. In 2012 Mr. Smithley requested a variance to place three (3) accessory buildings on the two (2) lots. The Board of Zoning Appeals granted a variance to place two (2) buildings on the west lot (#34), the request to place the third (3rd) building was denied. This is a two (2) development standard variance (1) to place a third (3rd) accessory building without a principle building and (2) to allow a building fourteen hundred forty (1440) square feet instead of the maximum allowed of nine hundred sixty (960) square feet; this request has four (4) criteria that the board should look at.

- 1) will the variance be injurious to the public – no anticipated evidence of community injury
- 2) will the variance affect the use and value of the neighborhood – no evidence produced indicating proposed variance would adversely affect area uses and property values
- 3) need for variance arise from some condition peculiar to property – no, petitioner owns other property in Fairmount and the need for an accessory building prior to a principle building has not been proven
- 4) the strict application of terms will constitute an unusual and unnecessary hardship – questionable, petitioner could use parcel for intended use as a home; petitioner will need to provide evidence the denial will be a hardship (financial inability is generally not considered a hardship)

Based upon provided information, public input to date and above criteria; staff recommends denial of the request as submitted. Town of Fairmount gave a favorable recommendation.

Vernon Smithley was present representing the petition. He is requesting to build a thirty (30) by forty (40) pole building. (In the variance request Mr. Smithley indicated he wanted to build a forty-eight (48) by thirty (30) feet building). He has a boat; old car and other equipment and wants to store those in the building instead of in the yard. He is planning to run sewer and water to the building, he has talked to Fairmount Utilities and they have no problem. There will be no living area in it.

Lois Jones questioned if he could build a smaller building.

Smithley – a thirty (30) by forty (40) would be the smallest he would go.

No objectors were in the audience or on file.

Motion: Chip Long moved Bob Monroe seconded to approve Docket #10BZAV-16 with the stipulation that the building be no larger than a thirty (30) by forty (40). All members present voted yes. Vote 5-0; motion carried.

There being no other business meeting adjourned at 6:50PM.

Lois Jones, Vice-Chairman