



## **BOARD OF ZONING APPEALS FINDINGS OF FACT**

**APPLICATION(S):** BZNA 000079-2019

**PROPERTY ADDRESS:** 175 West Logan Street, Noblesville, Indiana

A Variance of Development Standards application was submitted to the Noblesville Planning Department for the above referenced location. The application submitted by the City of Noblesville requested that approval be granted to a Conditional Use application pursuant to Unified Development Ordinance §8.G.11.N.1, §8.G.11.N.4 – Variance of Development Standards application to permit the use of wet floodproofing for an accessory structure that exceeds 400 square feet. The Noblesville Board of Zoning Appeals conducted a hearing regarding this application on July 1, 2019. After testimony was given and evidence was presented to the Board, a motion to APPROVE was made, and the motion carried 4-0.

### **VARIANCE OF DEVELOPMENT STANDARDS FINDINGS**

In its deliberations, the Noblesville Board of Zoning Appeals weighed the evidence associated with the following criteria and made the following findings in granting the request for a Variance of Development Standards. Indiana Code §36-7-4-918.5 states that a Variance of Development Standards may be approved only upon a determination in writing that the following are true:

1. The approval will not be injurious to the public health, safety, morals, and general welfare of the community:

**It is likely that the proposed variance will not be injurious to public health, safety, and general welfare of the community. The structure is part of a local park system that is operated by the municipality. Its primary function is that of an accessory structure though it exceeds the 400 square foot size included in the accessory structure definition for the floodplain. The structure was designed with the intent to minimize as much as possible the damage that would be sustained if it flooded, and is constructed of materials that allow for relatively easy cleanup following an event. The City owns the facility and the entire facility would be subject to closure at the point that we know that flood waters are beginning to encroach. There is a major state road that runs along the south side of the property that will provide sufficient access to the property.**

2. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner:

It is likely that the use and value of real estate adjacent to the subject site will NOT be affected in a substantially adverse manner by allowing the requested variance. Nearby property owners may remonstrate against this petition if they believe this request will have significant adverse effects on adjacent properties. Should nothing contrary be brought to light by adjacent owners at the public hearing, it is presumed that the approval of this variance request will not have a substantially adverse effect on the use and value of adjacent properties. An analysis was completed with the construction of the park that showed that the changes on the property did not have a net effect on the flood levels.

3. The strict application of the terms of the zoning ordinance will constitute an unnecessary hardship if applied to the property for which the variance is sought:

The strict application of the terms of the zoning ordinance will constitute an unnecessary hardship if applied to the property for which the variance is sought. The provision of public restrooms is necessary in a public park setting such as this, and the entirety of the original park boundary is located within the SFHA. The structure is located on the western side of the lot away from the flooding source on the eastern side of State Road 19, and there would be ample notice that a closure of the site needed to occur. The use of the structure is not intended as a habitable structure and serves a solely accessory role to the primary use as a park. The City has full control over the closure of the entire facility and it would not result in the undue harm to any residents of the community. Its construction out of flood resistant materials and with elevated utilities will minimize the possible damage that could be caused by flooding, and is easily cleaned after any events.

#### ADDITIONAL FINDINGS FOR FLOOD HAZARD VARIANCE

In its deliberations, the Noblesville Board of Zoning Appeals weighed the evidence associated with the following criteria and made the following findings in granting the request for a Variance of Development Standards from the Flood Hazard standards. Variances shall only be issued for properties located within the Flood Hazard zoning district when there is:

- a. A showing of good and sufficient cause.

The provision of public restrooms is necessary in a public park setting such as this, and the entirety of the original park boundary is located within the SFHA. The structure is located on the western side of the lot away from the flooding source on the eastern side of State Road 19, and there would be ample notice in the event that a closure of the site needed to occur. The structure is not a habitable structure and serves a solely accessory role to the primary use as a park. The City has full control over the closure of the entire facility and it would not result in the undue harm to any residents of the community. Its construction out of flood resistant materials and with elevated utilities will minimize the possible damage that could be caused by flooding, and is easily cleaned after any events.

- b. A determination of failure to grant the variance would result in exceptional hardship.

The ability to have public restrooms available at this facility was a community based need, and the entirety of the original park boundary is located within the SFHA. The ordinances in place require that all dry floodproofing measures function without any human interaction. There was concern on the part of the City that there could be an instance where the flood gates could deploy while there were people in the restroom facilities.

- c. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud or victimization of the public, or conflict with existing laws or ordinances.

The structure was designed with the intent to minimize as much as possible the damage that would be sustained if it flooded, and is constructed of materials that allow for relatively easy cleanup following an event. The structure has flood vents that allow water to enter the facility and move between the different portions of the building. The City owns the facility and the entire facility would be subject to closure at the point that flood waters are beginning to encroach. There is a major state road that runs along the south side of the property that will provide sufficient access to the property. There is no evidence that it would create extraordinary public expense, be a nuisance, cause fraud or victimization, or conflict with laws or ordinance. The variance requested is also the minimum necessary to afford relief, particularly in light of the conditions placed on the variance grant, including that the structure remain accessory/appurtenant, and that the structure is wet floodproofed.

The findings of fact contained herein are adopted by the Noblesville Board of Zoning Appeals on August 5, 2019.

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Mike Field, Chairman

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Sarah Reed, Secretary