



BOARD OF ZONING APPEALS FINDINGS OF FACT

APPLICATION(S): BZNA 0076-2020

PROPERTY ADDRESS: 1407 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 Darren Peterson and Jennifer Roberts requested that approval be granted to a Variance of Development Standards application pursuant to Unified Development Ordinance §9.B.4.E.3 to permit increase in the fence height in the front yard (maximum 4 feet permitted, 6 feet requested). The Noblesville Board of Zoning Appeals conducted a hearing regarding this application on July 6, 2020. After testimony was given and evidence was presented to the Board, a motion to APPROVE was made, and the motion carried 5-0.

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 this variance will NOT be injurious to the public health, safety, morals, and general welfare of the community. The currently existing 6-ft-tall fence that would be replaced with the fence of the same height is not known to have caused any safety issues. The city engineer approved the fence to be located in the VCC area because in practice, it is not obstructing drivers' view.

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.

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 result in practical difficulties in the use of the property. In order to build a tall privacy fence legally without a variance, the property owner could install it starting about 14.5 feet from the western property line. This fence placement would leave 1/5 of the width of the yard unscreened and it would not line up with a house in a logically expected and aesthetically pleasing way. The front yard determination regulation in the downtown area is meant more so for the permanent buildings and does not account for the typical expectation of a fence to enclose the yard and be built up to the property lines.

The findings of fact contained herein are adopted by the Noblesville Board of Zoning Appeals on August 3, 2020.

Mike Field, Chairman

Caleb Gutshall, Secretary



BOARD OF ZONING APPEALS FINDINGS OF FACT

APPLICATION(S): BZNA 0077-2020, BZNA 0078-2020,
BZNA 0079-2020

PROPERTY ADDRESS: 239 S 8th Street, Noblesville, Indiana

A Variance of Use and two Variance of Development Standards applications were submitted to the Noblesville Planning Department for the above referenced location. The applications submitted by Robert Walls and Zachary Downs requested that approval be granted to a) a Variance of Use application pursuant to Unified Development Ordinance §8.B.6.B and Appendix C to permit office use in R5 zoning district; b) a Variance of Development Standards application pursuant to Unified Development Ordinance §Table 10.0.3.B to permit a reduction of the required parking spaces (minimum 6 spaces required, 2 provided); and c) a Variance of Development Standards application pursuant to Unified Development Ordinance §Table 12.0.7.E. to permit a reduction of the required minimum landscape buffer adjacent to a residential use/zone (a minimum 15-ft-wide buffer required, 0 feet requested).

The Noblesville Board of Zoning Appeals conducted a hearing regarding these applications on July 6, 2020. After testimony was given and evidence was presented to the Board, a motion to DENY was made, and the motion carried 4-0-1.

VARIANCE OF USE 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 Use. Indiana Code §36-7-4-918.4 states that a Variance of Use 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 this variance WILL be injurious to the public health, safety, morals, and general welfare of the community. An inability to provide minimum required off-street parking for the proposed use might decrease the general welfare of the community.

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.

3. The need for the variance arises from some condition peculiar to the property involved:
The need for the variance does NOT arise from a condition peculiar to the property involved. The property can still be used as a single-family house, which is what it has been up until now.
4. 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 NOT result in practical difficulties in the use of the property. The property can still be used as a single-family house, which is what it has been up until now.
5. The approval does not interfere substantially with the comprehensive plan adopted by the Noblesville Plan Commission and Council:
The approval does not interfere substantially with the comprehensive plan. The comprehensive plan acknowledges that the Noblesville downtown area includes a mixture of residential, commercial, entertainment and institutional uses, and such pattern is fine as long as the existing residential neighborhoods are protected from the incompatible commercial uses. An office use is a compatible use to be located between the residential and other commercial uses according to the Comprehensive Plan.

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 this variance will NOT be injurious to the public health, safety, morals, and general welfare of the community. To protect drivers' safety, it is best to avoid extending landscaping along the western property line on the subject site. Existing fence already functions as screening between the residential and proposed use. Addition of more parking spaces to the subject site cannot be done in a way that would meet the parking design requirements, and thus, cannot be done in a safe way.

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.

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 NOT result in practical difficulties in the use of the property. Due to the variance of use application being denied, the variances of development standards for parking spaces and landscape buffer reduction are not applicable.

The findings of fact contained herein are adopted by the Noblesville Board of Zoning Appeals on August 3, 2020.

Mike Field, Chairman

Caleb Gutshall, Secretary