

BOARD OF ZONING APPEALS
Wednesday, October 21, 2020
5:00 pm
Via Zoom
Variance Petition-Public Hearing
Special Use Exemption-Public Hearing

Members Present:

Cindy Spears
Jerry Hoffman
Tom Hurley
Tom Chiudioni
Mark Tinch

Members Absent:

Others Present:

Matt Ray
Erin Hurley
Pete Olson
Maura Hoff, Defur Voran
Wade Barnett, Petitioner
Mark Thurston, Petitioner

Matt Ray called the meeting to order at 5:00 pm. In compliance with Governor Holcomb's Executive Order #20-09 the Board of Zoning Appeals meeting and Public Hearings are being held via video/telephonic conference. The meeting will be recorded and preserved as part of the record of the meeting in addition to the minutes.

Members present were Cindy Spears, Tom Hurley, Jerry Hoffman, Tom Chiudioni, and Mark Tinch.

Tom Hurley moved to approve the minutes from the July 15, 2020 meeting. Second by Tom Chiudioni. All members voted Aye.

Matt Ray verified that all members of the Board received copies of letters sent to the Town in favor and opposition to the applications submitted.

Old Business

There was no old business.

New Business

Barnett Variance:

Matt Ray introduced a petition from Wade Barnett. He is asking for a variance to build a six-foot privacy fence on his property located at 9701 Oak Hammock Drive. Because this is a corner lot it is considered to have two front yards. All neighboring property owners were notified of this hearing.

There were no questions from the Board.

Public Comment:

Jeff Tingler, President of the Riley Run HOA, stated that the HOA has reviewed the request and is in support of the variance.

Tom Hurley made a motion to approve the variance allowing construction of a six-foot privacy fence as requested. Second by Tom Chiudioni. The vote was taken by roll call:

Jerry Hoffman	Aye
Tom Chiudioni	Aye

Tom Hurley	Aye
Cindy Spears	Aye
Mark Tinch	Aye

Variance approved.

TK Constructors Variance:

Petitioner Mark Thurston presented his request for a Special Exception Use variance to build a mini-warehouse storage facility on approximately 13 acres of land located just south of the Riley Run Subdivision. He explained that this area was initially zoned R3 and platted for 61 residential lots. About five or six years ago it was discovered that 2 ½ acres of the area was designated wetlands. TK Constructors have been in the process of developing Chase Trail at the same time as Riley Run. Chase Trail is having problems with the neighborhood restrictions and covenants with regard to parking boats and other vehicles and storage sheds. Mr. Thurston consulted with Matt Ray and Pete Olson about the issue and the Town Council voted to rezone the area as C-1 Commercial. A storage facility is an approved special exception use in C-1.

Mr. Thurston stated that he has been in discussions with the Homeowner's Association of Riley Run and has made some offers to them but has been unable to come to terms. He believes the HOA is concerned with additional traffic, but the storage facility would generate less traffic than 61 additional homes would generate. They are concerned with noise, but he feels that a storage facility would not generate as much noise as other permitted C-1 uses. A landscape plan is included and there is a strip of R-3 that would be retained to give access to the wetlands from CR 600W. He feels that storage areas are very common near or within neighborhoods in other cities and towns. Realtors that he has consulted have stated that this storage facility will not hurt land values and will reduce the number of storage sheds and vehicles stored in the neighborhoods. He believes this is the best use of the land.

Tom Hurley asked if Mr. Thurston understood that C-1 zoning would only allow two buildings with a maximum of 25,000 square feet. Matt Ray responded that they could use the standards for Limited Industrial zoning.

Tom Hurley stated that the criteria of considerations for the BZA requires more specificity than has been provided. He needs a lot more detail and does not want to vote on something very general when it impacts this many property owners. There are eleven criteria for consideration which are tied to the rules and many of these are missing. Mr. Thurston responded that in order to have more detailed plans he would have to make a 10% deposit on the project and does not want to invest that if the request is not going to be approved.

Cindy Spears commented that there are already six storage facilities in town and this request goes against the comprehensive plan. She is in favor of tabling the request until there is more information provided.

Jerry Hoffman stated that he has seen the renderings of the proposed facility and feels he has enough information. He thinks that some of the other facilities in town are full.

Mark Tinch asked if it was possible to build additional homes on part of the land in the front, just not back in the wetlands area. Mr. Thurston responded that it is possible but not economical because the sewers would need to be moved. He has already planned to add 16 more houses and connect the two existing dead-end streets to make a horseshoe.

Public Comment:

Nancy Perry, 8401 W. Redbud Lane: Jerry Hoffman's company drew up the plans which she feels is a violation of code and the rezoning shouldn't have passed the Planning Commission.

Todd Dehaven, 1701 N. CR 600 W: agrees there is insufficient information and the plans submitted are inadequate; the hours of operation will factor in on noise and light; feels like traffic will be a hazard and should be addressed; realtors who are in support may have a financial interest and property value impact should be independently assessed; all storage facilities in town are not full; the plans need more detail.

Karen Zabel, 2009 Windswept Court: agrees that there is not enough detail and questions the validity of the Planning Commission rezoning order; believes that in the finding of fact that granting the exception would subvert the zoning ordinance and would permanently injure other properties in the vicinity; that this development would negatively impact future property taxes; it does not comply with the intent of the Comprehensive Plan or the residential character of the surrounding area; and they have gathered over 300 signatures on a petition against the project.

Jeff Tingler, 1901 Lake Forest Drive: thanked the BZA members for their willingness to serve; the Yorktown Zoning Ordinance states the BZA should only allow a Special Exception Use when it is clearly a benefit to the surrounding area; there are eight other self-storage facilities within a 5-7 minute drive of this location; Stay-Lock Storage on Kilgore is not full and this would add more competition; the Comprehensive Plan does not allow this use and homeowners have to trust the Comprehensive Plan when purchasing their homes; there is no buffer from the residential area and no clear benefit.

Jeff Kettner, 1905 N. Lake Forest Drive: is concerned about traffic; has seen no evidence of trailers and RVs in Riley Run other than one small boat; has seen no residents in support of the application, only against it.

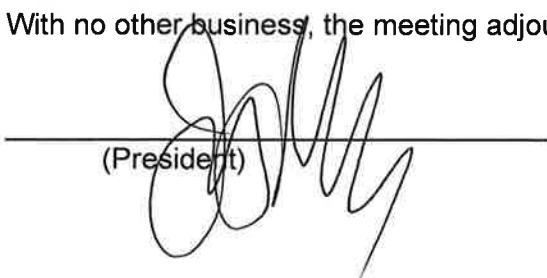
Andy Wallace, 2008 Windswept Court: would not want to live in a house with someone else's junk visible from the back yard; doesn't see storage units in the middle of other neighborhoods – some areas might be out of room but Yorktown is not; light pollution is a big issue, a 24 hour facility will affect the night sky; he thanked the BZA for their careful consideration.

Attorney Maura Hoff asked Mr. Thurston if he would like to respond.

Mark Thurston stated that he is trying to make Yorktown a better place, but hearing all the comments makes him pause. He believes this is the best use of the land and it won't negatively impact the homeowners, but he will find something else to do with the land. It is now zoned C-1 so he might sell it and let the new owners do something else with it.

Ms. Hoff asked Mr. Thurston if he was withdrawing his petition or was asking for a continuance. Mr. Thurston responded that he was withdrawing the petition.

With no other business, the meeting adjourned at 6:02 pm.


(President)