

ROME CITY BOARD OF ZONING APPEALS

Regular Meeting

October 17, 2019

The Rome City Board of Zoning Appeals held their regular meeting on Thursday, September 19, 2019 at 7:02 p.m. in the Rome City Town Hall. The meeting was called to order by Chair Judy Fox.

Members Present:

Leigh A. Pranger-Secretary

Barb Tatman

Mike Friskney

Kelly Morris

Judy Fox

Members Absent:

Christine Coe

Rollcall determined a quorum was present.

Interested Parties in attendance: Town Attorney Dustin Glick, Dwight and Paula Taylor, Jerry Nodine, Kenneth and Sarah McJunkin, Paul Leathers, Richard Kaler, Don Richards, Angela and William Schmitt, Connie Garton, Linda Donley, Mike and Donna Franks, David and Kendall Billows.

Member Tatman made a motion to waive the reading of the minutes and approve them as presented. Second by Member Morris. All in favor-aye. Motion Carried. The minutes were posted on the bulletin board for everyone to read.

OLD BUSINESS

Nothing for the agenda.

NEW BUSINESS

Variance #2019-14

Richard D and Paula D Kaler, 430 Front Street, Rome City, IN 46784 are requesting a variance for relief from the Rome City Unified Development Code, Article 5.03 Agricultural AS-01 Accessory Structure Standards Section E. Utilities stating storage based accessory structures shall not have sewer service provided into an accessory structure, the variance is to allow sewer service in the accessory structure.

Variance #2019-15

Donald and Alice Richards, 430 Front Street, Rome City, IN 46784 are requesting a variance for relief from the Rome City Unified Development Code, Article 5.03 Agricultural AS-01 Accessory Structure Standards Section E. Utilities stating storage based accessory structures shall not have sewer service provided into an accessory structure, the variance is to allow sewer service in the accessory structure.

Chair Fox asked Mr. Kaler and Mr. Richards if they would present their petitions together as they are on the same property and they are requesting the same variances. They agreed. Mr.

Richards stated they both need extra storage space, so they decided to purchase a lot together and each build a building for storage of boats and to have a small workshop to work on their hobbies. Since the buildings are not located near their homes, they are requesting a variance to add water and connect to the sewer system. Mr. Kaler stated, they are getting older and using the restroom more and more and he would like for his wife to visit him while his is working on his hobbies without the restroom she will not do so. Mr. Richards stated they are each asking for only a utility sink and a stool. He added the buildings are 38'x48' with 12' open ceilings the restrooms will only be a 4'x 6' room. Chair Fox called for any interested parties on behalf of variance #2019-14 and #2019-15. No one was present. Secretary Pranger informed the board all adjoining owners were notified and three of the six returned with no comments. There being no further discussion Chair Fox called for a motion. Member Tatman made a motion to approve a sewer tap for Variance #2019-14 and #2019-15 both owners to pay the \$945 tap fee and a monthly sewer bill along with the restrictions of no living quarters, business or rental in the buildings. Second by Member Friskney. All in favor-aye. Motion Carried.

Variance #2019-17

Dwight and Paula Taylor, 1050 Eastgate Drive, Kendallville, IN 46755 are requesting variances for relief from the Rome City Unified Development Code, Article 2.12 Lake Residential District Development Standards (LRDDS); Minimum Local Street yard setback of 25' down to 10' on the east side of Lot 50 in the unrecorded plat of Eastgate Addition to Sylvan Lake, Article 2.12 LRDDS Maximum Accessory Structure Height of 16' up to 25', Article 5.07 AS-05 Lake Residential Accessory Structure Standards; Section C. Quantity and Size, Subsection 2. Maximum Accessory Size of 1200 sq. ft. up to 1200 sq. ft. for building and 300 sq. ft. for covered porch, Total Square footage of 1500 sq. ft.; Section D. Exterior materials to match the Primary Structure to allow metal roof and siding. This will allow for the construction of a 30'x40' pole building with a 10'x 30' covered porch.

Chair Fox called for the Taylors to present their petition to the board. Mr. Dwight Taylor started by passing out copies of his findings of fact. He informed the board the building will be used for storage. They need the second story to be high enough for upright walking as they plan to store items upstairs. They chose to add the lake side porch with cement floor to have it blend in better with the residential area. He noted the home is currently cedar siding and the colors on the building will match the house, the roof and siding will be metal for maintenance purposes. The reason for the requested variance for setbacks is due to a substantial grade drop off on the west side of the property and several mature trees. If the building is located within the setback requirements the trees will have to be removed and a large amount of fill will need to be placed. By placing the building closer to the road, it eliminates the need for the fill and the removal of the trees. Mr. Taylor informed the board there are at least three structures on Eastgate Drive within the same setback they are asking for and taller than the allowed 16' height restriction. He also noted that the current cul-de-sac is not conducive to allow the Fire Department to use it as a turnaround and the location of his building closer to the road should have no effect on the usage of the turnaround. Member Fox asked he if had a sample of the color/what color is the building? Mr. Taylor stated it will be a brown taupe. Member Morris asked what is the reason the building can not be built on the north side of the lot? Mr. Taylor stated there is a slope on that side as well and there is not enough room for the building. Member Morris stated it would be better if

the building wasn't visible from the lake. Adding the board has only allowed these types of buildings on the backside of the road, not on the lakeside. Mrs. Taylor stated the building only needs the variance on the roadside the other sides meet the code. She added this is their retirement home and the building and the landscaping will be attractive to the area as they will be living there. Member Friskney recused himself from the vote as he is an adjoining owner on the east side, he stated he is against the building due to the size and the fact that it looks like an agricultural building in a residential zone. Chair Fox called for interested parties on Variance #2019-17. Secretary Pranger informed the board all adjoining owners were notified and all three returned and one with comments. Mr. Haworth adjoining owner on the south side sent a letter with two concerns. He asked the board if they plan on setting a precedent for all the owners on Eastgate to build 25' high buildings and will the board approve other subsequent requests on Eastgate Drive. He added that any setback variance should also be extended to all the other owners as well. Lastly, he stated concern for the fire trucks, ambulances and service vehicles to be able to make the turnaround should the building be granted the setback variance and be built closer to the road. Mr. Friskney adjoining owner on the east side, stated his concern for the height of the building and the construction of the steel building on Eastgate. He noted that there are no other steel buildings within the Lake Residential zoning. Chair Fox called for Mr. Taylor's rebuttal. Mr. Taylor stated the building will be attractive and added he is not sure the company he is working with offered any other kind of siding besides the steel. Member Tatman stated she has a problem with height of the building. Mr. Taylor asked what height will the board allow- the 16' height? Member Morris stated the real issue is the board does not allow the size and exterior of the building requested on the same lot as the primary structure. The board has allowed this type of building request on the back side of the road-off the lake. Member Fox stated when the building is located on the lakeside the board really looks at the size, height and exteriors. Mr. Taylor requested to table his petition so he could take some time to revise his request. Member Tatman made a motion to table Variance #2019-17 until the next meeting (November 21, 2019). Second by Member Morris. All in favor-aye. Motion Carried. (Member Friskney did not vote)

Variance #2019-18

David Billows and Kendall Dudley, 436 Kerr Island North, Rome City, IN 46784 are requesting a variance for relief from the Rome City Unified Development Code, Article 2.12 Lake Residential District Development Standards; Minimum Local Street yard setback of 25' down to 11', side yard setback for primary structure requiring 10' down to 1.85' on the southwest side of Lot 33 in Block 2 Kerr Island. Chair Fox called for Mr. Billows to present his petition to the board. Mr. Billows introduced his wife Kendall Billows and Mark from American Elegance to the board. Mr. Billows stated American Elegance will be doing the construction on the house. He added the house was built in 1915 and needs to have a master bathroom and closets. Mrs. Billows stated they are essentially popping off the roof and adding a the 6'x22' to the back half of the upper story. Mr. Billows stated the construction will be contained within the existing footprint of the house. The problem being the angle of the platted lots and how the house was constructed on the lot. Member Friskney asked about a maintenance easement similar to the easement we required for Mr. Raber's Grocery. Mr. Billows noted there is a three-foot sidewalk with a prescriptive easement which they use to access the south side of their house. Chair Fox

called for interested parties on behalf of Variance #2019-18. Secretary Pranger informed the board she sent out notice to all adjoining owners and only one of the two returned. Thomas Chronister stated his support for the project. There were no interested parties in attendance. There being no further discussion Chair Fox called for the Findings of Fact. Attorney Glick stated a yes vote is a vote in favor of the variance and a no vote is against the variance.

1. The Board finds, the proposed variance will not be injurious to the public health, safety, morals and general welfare of the community because the proposal poses no risk to the public and brings no potential injury to surrounding area. Rollcall for vote: Barb Tatman-yes, Kelly Morris-yes, Judy Fox-yes, Mike Friskney-yes.

2. The Board finds, the use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner because petitioners do not plan to enlarge the existing footprint rather, they plan to add a second story to existing home. New construction could improve neighboring property values. Rollcall for vote: Kelly Morris-yes, Judy Fox-yes, Mike Friskney-yes, Barb Tatman-yes.

3. The board finds, the strict application of the terms of the Zoning Ordinance will constitute an unusual and unnecessary hardship if applied to the property for which the Variance is sought, because petitioners would be unable to make full use of their property as it currently exists. Unable to make any additions to home as proposed. Rollcall for vote: Judy Fox-yes, Mike Friskney-yes, Barb Tatman-yes, Kelly Morris-yes.

4. The Board finds, the variance granted does not correct a hardship caused by an owner, previous or present, of the property, because, the proposal seeks to make better use of the existing lot and the structure in existence. The home has been in existence for many years without issue. Rollcall for vote: Mike Friskney-yes, Barb Tatman-yes, Kelly Morris-yes, Judy Fox-yes.

5. The Board finds the variance is the minimum necessary for the project because the proposal seeks to best utilize the existing footprint of home without expanding or creating further encroachment than what exists. Rollcall for vote: Barb Tatman-yes, Mike Friskney-yes, Judy Fox-yes, Kelly Morris-yes.

Variance #2019-18 passes on all five findings of fact.

Member Morris made a motion to approve Variance #2019-18 per the findings of fact. Second by Member Tatman. All in favor-aye. Motion Carried.

Use Variance #2019-19

Bobby W. Miller, 3535 E 1050 N, Rome City, IN 46784 is requesting a use variance from the Rome City Unified Development Ordinance, Section 2.05; Agricultural District; permitted use to allow an Automobile Detailing Business under the Type 1-Automobile Oriented Business (Low Intensity Use) Restricted to passenger vehicles and light duty trucks, outdoor storage or queuing of vehicle to be serviced (4), outdoor storage of serviced vehicles (4), No outdoor storage of parts, equipment or waste, no service hours to be outdoors, hours of operation to be between 7 am and 9 pm. This will allow for an interior auto detailing shop, by appointment only, no outdoor storage and one 2'x 2' commercial sign.

Chair Fox called for Mr. Miller to present his case to board. Mr. Miller informed the board he thought the business was legit. When he bought the property, he was told by the realtor the building had been used for a business and he could use it for a business. Mr. Miller stated, when

he looked at the property the building was set up for a business, it has the customer entrance and the interior of the building has a paint booth. Mr. Miller stated his business is detailing the inside and outside of cars and passenger trucks. Member Fox asked if all the work was done inside the building. Mr. Miller stated he does all the work inside the building and all customer vehicles are stored inside the building for liability purposes. Member Fox asked how many vehicles he does per day. Mr. Miller stated he does two per day. Member Fox asked if he stored anything outside the building relating to the business. Mr. Miller stated, no. Member Morris asked how many employees work in the business. Mr. Miller stated two full time employee and one part time. He added he has an LLC and follows all the labor laws. Member Fox asked about the hours of operation? Mr. Miller stated the Monday-Friday hours are 12 p.m.- 8 p.m., Saturday 8 a.m. to 8 p.m.

Chair Fox called for interested parties on behalf of Use Variance #2019-19. Secretary Pranger informed the board she notified everyone living on 1050 N up to the first curve and his adjoining owners. She noted 10 out of the 15 notified returned with no comments. Chair Fox recognized Mr. Jerry Nodine, owner on the south side of 1050 N. Mr. Nodine stated the business will depreciate the value of their homes, they have had an increase in traffic and the speed of the traffic (cars are racing down the road) since the business started. He noted semi-tractor trailers have been coming down the road and they have not had that type of traffic until the business moved in. Mr. Nodine added ignorance of the law is not an excuse. Mr. Nodine noted this area on 1050 N has always been a tranquil residential neighborhood and they would like it to returned to that. Mr. Nodine noted the business has been open all summer with cars going up and down the road. Mrs. Connie Garton, adjoining owner on the east side, stated she has been bothered by the traffic and the noise from the business, she added if she wanted to live by a business she would have stayed in town. Mrs. Angela Schmitt on the south side of the road, stated the traffic goes too fast in the residential area. Mrs. Sarah McJunkin, on the south side of the road, asked the board if it was permissible to have a sign for a business in a residential district? She further stated to Mr. Miller that she feels bad for him as he obviously was misled on his purchase with the realtor telling him it could be used for a business. Mr. Michael Franks, adjoining owner on the west side, stated the detail business does not bother him except for the customers who turn into his drive instead of Mr. Miller's drive. He added if the board, allows the business he would like the board to approve a bigger, lighted sign, so his customers can find the business. Mr. Franks did add if the business is approved, he would like it to be limited to this owner and it not be transferrable to subsequent owners. Mr. Franks added, that he is not as affected by the business as Mrs. Garton. Mr. Paul Leathers, owner at the corner of 375 E and 1050 N stated 25 years ago when he moved to the area he ran a carpet cleaning business and the area was zoned Agricultural, he was informed he could not have a business on his property or a building for a business since he was in an AG zone. Mr. Connie Garton stated noise is noise. She noted why are they revving their motors if it is just a cleaning business. The revving of cars and motorcycles leads her to believe they are working on motors. Mr. Bob Miller stated, he does work on his own vehicles occasionally. Mr. Miller noted to the board they do not sell retail products at their location for pick up. He noted there was an issue with the website which he has since fixed. The website was supposed to be direct sale and shipped to the buyers home instead it had them picking products up at the shop. It is fixed now. Mr. Nodine stated the sales doesn't matter the business itself is causing their property values to decrease. Mr. Miller stated, he

doesn't plan on staying in this building long term. He plans to move the business once it starts to do well.


The board stated we have received a lot of information tonight and they need time to review it all. They asked Mr. Miller whether he needed time for his rebuttal. Mr. Miller stated, yes and requested the Use Variance be tabled for one month. Member Morris made a motion to table Use Variance #2019-19 until the November meeting. Second by Member Tatman. Rollcall- Kelly Morris-yes, Barb Taman-yes, Judy Fox-yes, Mike Friskney-no. Majority vote to table.

MISCELLANEOUS BUSINESS

Member Friskney asked Secretary Pranger to look into Frank's Body Shop to see if he is reopening the business for his son, Freddie to run work.

Next Meeting: November 21, 2019 at 7:00 p.m.

There being no further business Member Tatman made a motion to adjourn the meeting at 8:21 p.m. Second by Member Morris. All in favor-aye. Motion Carried.



Judy Fox, Chair BZA

Attest: 

Leigh A. Pranger, Secretary