



BOARD OF ZONING APPEALS

Minutes

**Brownsburg Town Hall
61 North Green Street
Brownsburg, Indiana 46112**

Monday, March 9, 2020

The Brownsburg Board of Zoning Appeals convened at 7:00 PM with a moment of silence and the Pledge of Allegiance. Michael Neal opened the meeting, and a roll call was taken.

Members Present: Maria Andrews, David Emery, Ben Lacey, Mike Neal, and Chris Worley

Members Absent: None

Also Present: Todd Barker, AICP - Director of Development Services, David Wilson, AICP- Senior Planner, Lauren Gillingham- Planner I, Scott Krapf- Legal Counsel and Heather Wetzell- Administrative Assistant

A. CALL TO ORDER AND DETERMINATION OF QUORUM

B. MOMENT OF SILENCE & PLEDGE OF ALLEGIANCE

C. CONSIDERATION OF PREVIOUS MEETING(S) MINUTES

1. February 10, 2020- Regular Meeting

Motion: Ben Lacey made a motion to **APPROVE** the February 10, 2020 regular meeting minutes as amended to correct a typographical error, seconded by David Emery, motion carried 5 In Favor/0 Opposed/0 Abstained.

D. APPROVAL OF FINDINGS OF FACT

1. BZDV-01-20-1804 Greystone Lots 94, 95 & 120 Garage Arch. Standards

Motion: David Emery made a motion to **APPROVE** the Findings of Fact for BZDV-01-20-1804 seconded by Chris Worley, motion carried 5 In Favor/0 Opposed/0 Abstained.

F. HEARING OF REQUESTS FOR CONTINUANCES

1. None

H. CONTINUED PUBLIC HEARINGS

1. BZDV-10-19-1778 Redwood At Brownsburg Architectural Standards

A request for a Development Standards Variance from Art. 5, Sec. 5.17(A) "Architectural Standards," to reduce the minimum percentage of brick, stone or other decorative masonry required within the Medium Density Multiple-family Residential (M2) District.

Parcel No(s): 32-08-06-300-003.000-015

Represented by: Russel Brown, Clark Quinn Moses Scott & Grahn LLP

ADVERTISED PUBLIC HEARING

Todd Barker informed the Board that Staff had received a formal request from the attorneys for Redwood to withdraw the case from the Board's agenda. There being no questions, the Board gave their consent.

ADVERTISED PUBLIC HEARING CLOSED

I. OLD BUSINESS

1. None

J. NEW BUSINESS

1. BZUV-02-20-1810 1630 S. Green Street "Retail, Type 1"

A request for a Use Variance from Art. 2 Sec. 2.37 to permit "Retail, Type 1" uses within the Low Intensity Industrial (I1) District.

Parcel No(s): 32-07-22-230-001.000-016

Represented by: Jerrod Cox

ADVERTISED PUBLIC HEARING

Jerrod Cox, PopAKernel, came before the Board and said he was looking to open up a gourmet popcorn store at that location. He said he had been doing popcorn for 20 years. They picked that location because they thought it would be a nice store away from all the main businesses. Mr. Cox thought it would fit well since there were no popcorn stores within Brownsburg, Avon or the Plainfield area that he was aware of. He said he had delicious popcorn and this was a great location for it.

David Wilson reviewed the case and said the business was located at 1630 S. Green Street, Suite J. The existing site was currently zoned Low Intensity Industrial. The existing uses on site were of a more industrial nature. The surrounding areas included residential to the north and west and a self-storage warehouse to the south. The northeast corner was a convenience store/gas station which was directly adjacent to a place of worship. Mr. Wilson said the area had seen quite a bit of recent retail-type uses enter into not only that building but the building to the south and Brownsburg Storage Court. About a year ago there was an auto dealer that went in there as well. Originally the area was deemed more of an industrial type area but has seen Motor Sports properties and an uptick of retail in those smaller units. The size of this unit that Mr. Cox was leasing was 450 sq. ft. As stated in the Applicant's Detailed Statement of Reasons, that size would not be conducive to an industrial user of the permitted uses in the I1 district, which lent itself to the peculiarity of the site. Staff felt they would not be injurious to the public in any way and the use and value of the surrounding area would not be impacted by the footprint of Mr. Cox's popcorn store. With that, Staff felt that their detailed statement of reasons have justified the criteria for approval.

Staff found the Applicant had satisfied the requirements for approval and had the following recommendations:

- (1) That the Use Variance is for Mr. Jerrod A. Cox or PopAKernel only; any future user must first seek approval from the Board prior to utilizing the subject property for Retail (Type 1) Very Low Intensity.
- (2) No outdoor storage or display of merchandise shall be allowed.
- (3) The Applicant must seek approval to operate by both the Hendricks County Health Department as well as the Brownsburg Fire Territory prior to commencement of the Retail (Type 1) Very Low Intensity use.

- (4) The TECH Review Minutes dated 02/13/2020 and the Applicant's Detailed Statement of Reasons dated 02/20/2020.
- (5) The variance approval shall expire on March 9, 2022, two years from the date of approval if the use has not commenced or has been discontinued.
- (6) The approval of the Findings of Fact and Conclusions of Law.

Ben Lacey asked the Applicant if his business was a franchise, if they were starting up from scratch or if it was a family owned business. Mr. Cox said it was a family business and they had done retail in the past.

Mr. Lacey asked how many customers they were anticipating during the day and what the working hours were. Mr. Cox said the working hours had not been set yet but they were not planning on being open when it was dark. He thought perhaps 12-7 or 8 PM.

David Emery asked Staff about the reasoning behind not allowing outdoor storage or display of merchandise. He did not understand why small government felt the need to put those types of restrictions on people. He said the aerial image showed there was not very much area for outdoor display. Mr. Wilson said that with the site circulation, in order to have enough parking and drive aisles around the building, it was not conducive to outdoor display that you typically saw at a retail establishment right outside the door or along the frontage. Mr. Emery said he felt they were limiting an individual's ability to put a small display rack out during normal operating hours the way it was worded. Mr. Barker said the Board of Zoning Appeals could feel free to amend the recommendations as they saw fit. He added that small signage on the sidewalk out in front of the building would be different than a display of merchandise.

Mr. Wilson informed the Board that the ordinance limited outdoor displays in most of the retail districts based on the size and type of retail so it was not a unique restriction. Mr. Emery said his opinion still stood.

Mike Neal said since there was an ordinance that already limited this, the recommendation would add an additional limitation and currently without the stipulation the Applicant would just simply fall under the auspices of the ordinance that was already in place. Mr. Barker said most of the retail districts had a percentage of outdoor display based on the type. Mr. Wilson looked up the information and type 1 was limited to 2% or 50 sq. ft., whichever was more restrictive. Mr. Neal said provided that recommendation was not placed by the Board, the Applicant would fall under that.

Mr. Wilson said the outdoor storage standards of the zoning district only allowed for industrial outdoor storage of vehicles, equipment and products and it had to be set back 40 feet from any residential use. With this site having residential being directly adjacent Staff would have to do calculations on that. There were other allowances for a landscape business. He said the outdoor storage standards for the low intensity industrial were really set for industrial uses so anything other than an industrial use would be outside of those regulations and not permitted.

Mr. Neal asked the Applicant if he had a delivery vehicle or vehicle that was going to have a logo or if vehicle would be stored there. Mr. Cox said that he might have one vehicle.

Mr. Neal asked Mr. Cox if he had any reason to store anything outside of his property. Mr. Cox said no and the only the only thing he would like was signage so when people come in they knew where to go. Mr. Wilson said that all signage would be a separate permit. Typically the Applicant would bring in some paperwork and show Staff what they wanted to do.

Chris Worley confirmed with Staff that they still had not received any written comments or statements of opposition as there were many businesses in that industrial park.

Maria Andrews asked if marketing feathers were considered signage or something they would have to get a permit for. Mr. Wilson said feather banners were prohibited by the ordinance.

Ms. Andrews asked if the Applicant had other popcorn stores in the past. Mr. Cox said he had one on Michigan Road back in 2007.

Ms. Andrews asked if it was going to be a retail store where customers went to him or would it be a manufacturing location and the popcorn taken to events or other locations. Mr. Cox said all of the popcorn was made at that location. His request was for a store he could sell out of, maybe make deliveries within a 5-10 mile radius, and then they did fundraisers at different events. As a family business they did not want to limit themselves. They could do baby showers, birthday parties, or other event s. Mr. Wilson said from a use perspective, that would be an ancillary use to the retail type one.

Mr. Emery recapped and said that he felt recommendation #2 was overly burdensome and overly restrictive when the ordinance itself already covered that and he was opposed to that.

ADVERTISED PUBLIC HEARING OPENED

Mr. Emery confirmed with the Applicant that he was in agreement and understood the recommendations of Staff.

Motion: David Emery made a motion to **APPROVE** BZUV-02-20-1810 subject to and conditioned upon Staff recommendations striking recommendation #2, seconded by Ben Lacey, motion carried 5 In Favor/0 Opposed/0 Abstained.

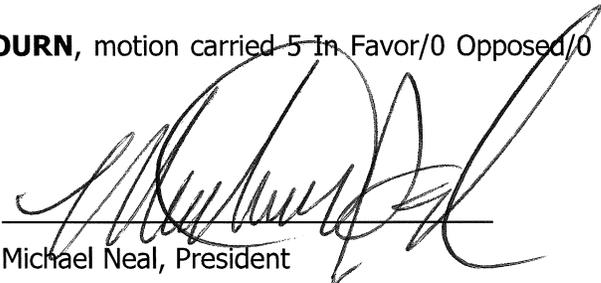
ADVERTISED PUBLIC HEARING CLOSED

K. COMMUNICATIONS & REPORTS

- 1. None

L. ADJOURNMENT

Motion: Chris Worley made a motion to **ADJOURN**, motion carried 5 In Favor/0 Opposed/0 Abstained. 7:20 P.M.



Michael Neal, President

ATTEST: 
Heather Wetzel, Administrative Assistant