

Johnson County Board of Zoning Appeals
February 25, 2020 Meeting Minutes

The Johnson County Board of Zoning Appeals met on Tuesday, February 25, 2020 in the Johnson County Courthouse Annex Auditorium. The meeting was called to order at 7:00 PM by Chairman Chad Bowman.

I. ROLL CALL:

Present: Chad Bowman, Chris Campbell, Dan Cartwright, Paul Clodfelter, James Kaylor, (Alternate), Attorney Francis Mattingly (Legal Counsel - not voting), David Hittle (Director - not voting), Michele Hansard (Planner – not voting) and Angela Olson (Recording Secretary – not voting).

Absent: Stephen Powell

II. APPROVAL OF MEETING MINUTES:

Chair Chad Bowman called for a motion to approve the January 28, 2020 Board of Zoning Appeals meeting minutes.

Motion: Approval of January 28, 2020 Board of Zoning Appeals meeting minutes with the change of Motion voters to Campbell, Kaylor & Powell on page four (4). **Moved** by Dan Cartwright. **Seconded** by James Kaylor. **Yes:** Bowman, Campbell, Cartwright, Clodfelter and Kaylor. **No:** None. **Motion approved 5-0.**

III. PUBLIC HEARINGS:

V-4-20; Wes Thomas – Variance of Development Standards. 341 Green Hills Ct.

Staff presented findings and facts to the board and recommended denial.

Petitioners Wes and Lori Thomas (341 Green Hills Ct., Greenwood 46142) were present to speak and address concerns. **Exhibit** packet was provided to board members but was not provided to recorder to be recorded.

Board members asked questions and expressed concerns which were addressed by the Petitioner, Remonstrators and staff as follows:

- Q. Board member Chris Campbell inquired as to whether or not the neighboring buildings were permanent structures?

A. Yes.

- Q. Board member Chad Bowman asked staff how they heard about this matter?

A. Complaint.

- Q. Board member Chad Bowman asked staff if the complaint was due to noise or structure?

A. Both.

- Q. Board member Dan Cartwright referred to Petitioners comment that they had inherited the properties problems and inquired as to whether or not the Green Hills Hideaway was in existence when they purchased the residence?

A. No, Green Hills Hideaway was not inherited. Yes, the Petitioners created Green Hills Hideaway and have ceased the business since the violation notice was received.

- Q. Board member Dan Cartwright inquired as to where the attendees for their Green Hills Hideaway events had parked since there was to be no parking in the cul-de-sac?

A. The attendees had parked in the yard.

- Q. Board member Dan Cartwright asked the Petitioners what they would be using the deck for?

A. Family and Personal use.

- Q. Board member Dan Cartwright inquired as to whether or not this was the Petitioners primary residence?

A. Yes.

- Q. Board member Chad Bowman asked staff what the earliest record they have for this deck?

A. Photography goes back to 2006, it was present at that time. However, it was smaller in size but was still built all the way to side of the property line. Staff has no disbelief that it was there since 1995. Records do not indicate that a permit was ever issued.

- Board member Dan Cartwright pointed out that Paul Maurer's survey did not show an easement for the utilities on the site plan and more likely than not the deck structure is built over said easement.

- Q. Board member Dan Cartwright inquired as to whether or not the Remonstrator Dimiter Stefanov had assisted in building or wiring the deck?

A. No.

- Q. Board member Chad Bowman asked the Remonstrator Dimiter Stefanov if presently had a storage building structure on the property line?
A. Yes, he intends to move the structure to meet the setback requirement.
- Q. Board member Paul Clodfelter asked the Remonstrator Dimiter Stefanov how long had his storage building been there?
A. Three (3) years.
- Chris Campbell commented that he felt that this matter was not a disagreement between neighbors but rather a precedence to circumvent our ordinances. He believes that no matter how the board shall vote, harm will come to someone. He further pointed out that there was a bit of a red flag in the disclosure statement when the homeowners purchased the residence that there could be a potential problem.
- Q. Board member Dan Cartwright asked staff for clarification that the deck has been there for at least ten (10) years?
A. It appears from the aerial photos that the deck (at least a smaller portion of the deck) has existed for at least ten (10) years and possibly longer.
- Q. Board member Paul Clodfelter asked staff if it was possible for the deck to be approved while owned by the current owner but must be removed with new ownership?
A. Staff responded that condition could be imposed but felt that would not be a good idea, it would setup a tough situation for future buyer(s) and there are other statutory criteria that needs to be met.
- Q. Board member Chad Bowman inquired as to whether or not the Petitioners Findings of Fact were provided by them?
A. Yes.

Attorney Ellen Fredbeck-Ramirez (9 E. Court St., Franklin 46131) spoke on behalf of the Remonstrators Dimiter and Margarita Stefanov (336 Green Hills Ct., Greenwood 46142) and addressed their opposed views and concerns regarding encroachment, safety, property values and trespassing. **Exhibit** packet including the Remonstrators own Findings of Fact and letter from a real estate professional concerning the impact of the deck on the neighboring property values was provided to board members.

Remonstrator Dennis Wright (343 Green Hills Ct., Greenwood 46142) spoke and addressed his opposed views and concerns regarding parking issues and criminal activity.

Motion: To deny V-4-20 to legally establish a covered deck with a one (1) foot side setback, open deck with a three (3) foot side setback and Staff's Findings of Fact. **Moved** by Chad Bowman. **Seconded** by Dan Cartwright. **Yes:** Bowman, Campbell, Cartwright and Kaylor. **No:** Clodfelter. **Motion approved 4-1.**

Motion: To allow V-4-20 six (6) months from the date of this meeting to remove the deck. **Moved** by Dan Cartwright. **Seconded** by Paul Clodfelter. **Yes:** Bowman, Campbell, Cartwright, Clodfelter and Kaylor. **No:** None. **Motion approved 5-0.**

V-5-20; Jason Staab – Variance of Development Standards. 2074 Linda Ln.

Staff presented findings and facts to the board and recommended approval this request.

Petitioner Jason Staab (2074 Linda Ln., Greenwood 46143) was present to speak and address concerns.

Board members asked questions and expressed concerns which were addressed by the Petitioner and staff as follows:

- Q. Board member Paul Clodfelter inquired as to whether or not the Homeowners Association (HOA) approved?
A. There is no HOA.
- Q. Board member Chad Bowman asked for clarification on how far out the homeowner would like to extend the porch?
A. Seventy-five inches (75”) from the front of the existing porch on the residence.

Motion: To approve V-5-20 to provide for a porch addition with a twenty-seven foot (27’) front setback from Linda Lane and Petitioner’s Findings of Facts. **Moved** by Dan Cartwright. **Seconded** by Chris Campbell. **Yes:** Bowman, Campbell, Cartwright, Clodfelter and Kaylor. **No:** None. **Motion approved 5-0.**

V-6-20; Jennifer McGregor and Jose Crone-Arias – Variance of Use and Development Standards. 5421 W. Smith Valley Rd.

Staff presented findings and facts to the board and recommended approval subject to substantial compliance with the submitted Plan of Operation and site plan, and the following conditions:

1. There shall be no outdoor storage of equipment or materials associated with the business.
2. One non-illuminated wall sign, not to exceed thirty-two (32) square feet in area, shall be permitted.

Staff presented an **Exhibit** letter from Forrest Herron advising that he had no objection to this request and a letter from the Johnson County Highway Department allowing the widening of the existing driveway.

Petitioners Jennifer McGregor and Jose Crone-Arias (5421 W. Smith Valley Rd., Greenwood 46142) were present to speak and address concerns.

Board members asked questions and expressed concerns which were addressed by the Petitioner, Remonstrators and staff as follows:

- Q. Board member James Kaylor inquired as to whether or not the driveway leading from the front to the back of the property along the side meets the setback requirements?
A. There are no setback requirements for a driveway but the driveway is on the residence property.
- Q. Board member Dan Cartwright inquired as to whether or not staff had an opinion on the percentage of pavement in the front yard?
A. A homeowner cannot pave no more than fifty percent (50%) of the front yard.
- Q. Board member Dan Cartwright asked if there was or would be a showroom in the now in the converted garage into office space?
A. No.
- Q. Board member Dan Cartwright inquired as to whether or not it was necessary for the large paved area in the front of the residence?
A. No, the homeowners were wanting to provide a means of a being able to turn around or back out of area for their customer(s) safety onto Smith Valley Road but the customer instead can turn around at the back of their property.
- Q. Board member Paul Clodfelter inquired as to how many people and/or cars do they expect to showup at one time?
A. One (1) person or family and/or one (1) vehicle.
- Q. Board member Paul Clodfelter asked where the equipment and/or supplies had been stored before?
A. Either on the job site or in the back yard.
- Q. Board member Chad Bowman inquired as to whether or not the homeowner was set on the 3,000 square foot proposed building structure size?
A. No.
- Q. Board member Chad Bowman inquired as to whether or not the homeowner were agreeable to the staff's conditions?
A. Yes.

Remonstrator Ben Fisher (5427 Gainesway Dr., Greenwood 46142) spoke and addressed his opposed views and concerns regarding property values, nature of the area and future commercial/ industrial.

Remonstrator Dee Dee Shonkwiler (599 N. Meridian St., Greenwood 46143) spoke and addressed her opposed views and concerns regarding a drainage ditch and easement.

Remonstrator Larry Garnett (7718 McArthur Dr., Malcolm, Alabama 36556) spoke and addressed his opposed views and concerns regarding a drainage ditch and easement.

Remonstrator Jeff Lowe (5402 Old Smith Valley Rd., Greenwood 46143) spoke and addressed his opposed views and concerns regarding a drainage ditch and easement.

Motion: To approve V-6-20 to allow for no more than fifty percent (50%) of the front yard to be paved, no exterior sign along Smith Valley Road, a pole barn structure to be built with a maximum size of 2,500 square feet and twelve foot (12') eave height, driveway from the front of the house to the road must be paved, there shall be no outdoor storage of equipment or materials associated with the business and Petitioner's Findings of Facts. **Moved** by Dan Cartwright. **Seconded** by Paul Clodfelter. **Yes:** Bowman, Campbell, Cartwright, Clodfelter and Kaylor. **No:** None. **Motion approved 5-0.**

IV. NEW BUSINESS:

Adoption of Findings of Fact for V-1-20

Motion: To adopt Findings of Fact for V-1-20. **Moved** by Dan Cartwright. **Seconded** by Chris Campbell. **Yes:** Bowman, Campbell, Cartwright, Clodfelter and Kaylor. **No:** None. **Motion approved 5-0**

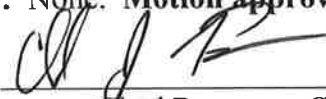
V. ADJOURNMENT:

Chair Chad Bowman called for a motion to adjourn the meeting at 9:12 PM

Motion: Adjourn the meeting. **Moved** by Dan Cartwright. **Seconded** by James Kaylor. **Yes:** Bowman, Campbell, Cartwright, Clodfelter and Kaylor. **No:** None. **Motion approved 5-0.**

Approved on: May 19, 2020

By:


Chad Bowman, Chairman

Attested By: 
Stephen Powell, Secretary

FINDINGS OF FACT, DEVELOPMENT STANDARDS VARIANCE

JOHNSON COUNTY BOARD OF ZONING APPEALS

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

the structures were built without going through the proper permitting and inspection processes, which means that the structures may not meet safety standards and could cause harm to those using them or to persons or property nearby.

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 because:

placing a wall of a covered deck along or on the property line is unsightly and unnecessary given the large lot size. Further, it does not provide the owner any space to repair or maintain the structure when needed.

The owner cannot repair the structure without trespassing onto the neighboring property. Future prospective buyers of the neighboring property may be deterred by this structure and the problems it presents.

3. The strict application of the terms of the Zoning Ordinance ~~will~~ ^{will not} result in practical difficulties in the use of the property because:

decks and covered decks are not essential features of a residence. Even if they were, the large lot allows for the same type of structures to be built on a different side of the home, such as the backyard. Petitioners already have both open deck space and a covered gazebo on the rear side of the home.

This deck could be reconfigured to contain the same features without violating the Zoning Ordinance.





M & E Realty Group

February 21, 2020

M & E Realty Group
704 S St Rd 135, Suite D-112
Greenwood, IN 46143

To Whom It May Concern:

I was working on completing a market analysis for 336 Green Hills Ct, Greenwood, IN 46142.

I have noticed that the east side neighbor's permanent covered deck is very close or right on the property line. As a real estate professional, I believe this is going to affect the property value.

Sincerely,

Dimitar Boykov

Broker Owner

317-332-7456

A handwritten signature in blue ink, appearing to read 'Dimitar Boykov', is written over the typed name and title.

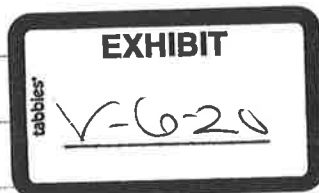
To Michele Hansard:

The following is concerning Zoning Appeals V-6-20 requested by Jennifer McGregor and Jose Crone-Arias. Neither I nor my wife have any objections to their request for a variance. With the interstate coming thru in the next months or so, we are sure there will be more such requests in the coming months

Sincerely

Forest M Herron
777 S. Paddock Rd
Greenwood In 46143
317-887-9499

Feb 5th 2020



Johnson County Highway Department

1051 Hospital Road | Franklin, Indiana 46131 | Phone: (317) 346-4630 | Fax: (317) 738-5378

Lucas M. Mastin
Director

Neil B. VanTrees, P.E.
Highway Engineer

Elizabeth M. Thomas, P.E.
Bridge Engineer

Date: February 25, 2020
To: File
From: Neil B. VanTrees, P.E. *NV*
Nathanial J. Annis, Engineer Technician *NJA*
cc: Michele Hansard, AICP Johnson County Planning & Zoning

MEMO:

Subject: Variance for Jennifer McGregor & Jose Crone (Crone Customs)
Location: 5421 W Smith Valley Road

The Johnson County Highway Department will allow the widening of the existing drive to no more than 24' wide. Once they are out of the right-of-way then any widening or parking area will be up to the discretion of the Johnson County Department of Planning & Zoning.

