

A G E N D A
RUSH COUNTY BOARD OF ZONING APPEALS
Thursday, December 12, 2013
6:30PM

ROLL CALL:

MINUTES: November 7, 2013

SPECIAL EXCEPTIONS:

1. Lauren Perin, 1116 W. Hollywood Drive, Rushville, is requesting a special exception for a licensed day care, zoned R-1; Single Family Residential.

VARIANCES:

1. Jack & Deborah Hartzler, 296 W. Lawton Circle, Rushville, are requesting a variance to reduce the required ten (10) foot side yard setback to two (2) feet for an accessory structure, Rushville city, zoned R-1; Single Family Residential.

APPEALS: None

REVIEWS: None

OLD BUSINESS: None

NEW BUSINESS: Motor Freight Transportation/Land Use Definitions - Discussion

AUDIENCE PARTICIPATION:

REPORTS:

Attorney

Plan Consultant

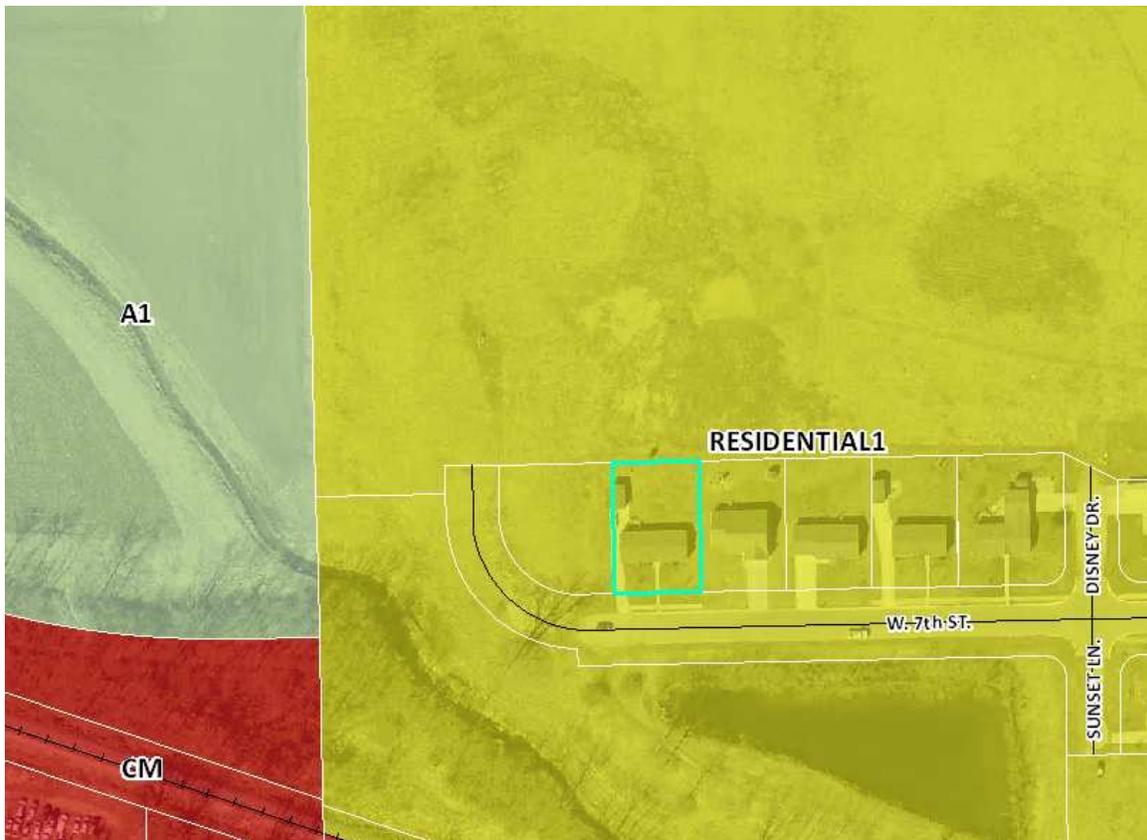
Director

ADJOURN:

RUSH COUNTY BOARD OF ZONING APPEALS
Thursday, December 12, 2013

STAFF REPORT – 1116 W. Hollywood Drive, Rushville

1. Lauren Perin, 1116 W. Hollywood Drive, Rushville, is requesting a special exception for a licensed day care, zoned R-1; Single Family Residential.



Surrounding Zoning Districts & Uses

Zoning District	Property Use
North: R-1; Single Family Residential	Undeveloped
South: R-1; Single Family Residential	Undeveloped/Retention Pond
East: R-1; Single Family Residential	Residential
West: R-1; Single Family Residential	Undeveloped

Petition Facts

1. The applicant is applying for a special exception to open a licensed day care facility in a residential zone.
2. Licensed day care facilities are permitted only with a special exception in residential and commercial zoning districts, and not permitted by right in any zoning district.
3. The applicant is proposing two (2) freestanding signs. The signs are sixteen (16) square feet and eight (8) square feet (pictures attached).
4. The City of Rushville Zoning Ordinance does not specifically state the amount of signage a licensed day care would be permitted.
5. Schools, churches, municipal buildings and other public buildings in residential zones are permitted one (1) freestanding sign up to thirty-two (32) square feet and one (1) additional wall sign based on the linear frontage of the building.
6. Total signage shall not be more than fifty (50) feet including both the freestanding and wall sign.

CRITERIA FOR DECISIONS – SPECIAL EXCEPTION:

In taking action on all special exception requests, the Board of Zoning Appeals shall use the following decision criteria, consistent with the requirements outlined in Section 10.2 of the Rush County Zoning Ordinance. The Board may grant a special exception of this Ordinance if, after a public hearing, it makes findings of facts in writing (consistent with IC 36-7-4-918.2) that:

DECISION CRITERIA

1. General Welfare: The approval (will or will not) be injurious to the public health, safety, morals, and general welfare of the community.

Staff Finding:

Staff has no reason to believe that the use of this property as a child care center will be injurious to the general welfare of the community. The property sits at the end of a dead end street with vacant land to the north, west and south.

2. Development Standards: The requirements and development standards for the requested use as prescribed by the Zoning Ordinance (will or will not) be met.

- a. Restrictions of the zoning district have been followed.
(Yes / No / Not Applicable)
- b. Ingress and Egress to property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe.
(Yes / No / Not Applicable)
- c. Off-street parking and loading areas where required, with particular attention to the items in (b) above and the economic, noise, glare, or odor effects of the special exception on adjoining properties generally in the district.
(Yes / No / Not Applicable)
- d. Refuse and service areas, with particular reference to the items in (1) and (2).
(Yes / No / Not Applicable)

- e. Utilities, with reference to locations, availability and compatibility are available.
(**Yes** / No / Not Applicable)
- f. Screening and buffering of objectionable or unsafe views, odors, noises, or vibrations, with reference to type, dimensions, and character.
(Yes / No / **Not Applicable**)
- g. Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect, and compatibility and harmony with properties in the district.
(Yes / No / Not Applicable) *see staff finding
- h. Required yards and other open space will be provided.
(**Yes** / No / Not Applicable)

Staff Finding:

A review of the development standards related qualifications of the special exception show that all should be met or are not applicable. Traffic should be of little concern at the present time as the house sits at the end of a dead end street (although future residential development may occur). The only issue to be decided is the amount, if any, of signage that will be permitted. The applicant is currently proposing two (2) small freestanding signs of sixteen (16) and eight (8) square feet.

3. Ordinance Intent: Granting the special exception (will or **will not**) be contrary to the general purposes served by the Zoning Ordinance, and (will or **will not**) permanently injure other property or uses in the same zoning district and vicinity.

Staff Finding:

The use of the property for a day care facility should not be detrimental to neighboring properties, most of which is undeveloped land.

Staff Recommendation

The special exception request meets all of the required qualifications, and the only issue to be resolved is the amount of signage permitted. The Board shall specify the number, size and types of signs (if any) to be allowed since it is not otherwise addressed in the Zoning Ordinance. Staff opinion is that the day care facility fits in line with the Zoning Ordinance and recommends **approval** of the special exception.

Submitted by Kevin Tolloty, AICP
Executive Director, Rush County APC
December 4, 2013



Proposed Location



Proposed 4'x 2' (8 sq. ft.) sign



Proposed 4'x 4' (16 sq. ft.) sign

RUSH COUNTY BOARD OF ZONING APPEALS
Thursday, December 12, 2013

STAFF REPORT – 296 W. Lawton Circle

1. Jack & Deborah Hartzler, 296 W. Lawton Circle, Rushville, are requesting a variance to reduce the required ten (10) foot side yard setback to two (2) feet for an accessory structure, Rushville city, zoned R-1; Single Family Residential.



Surrounding Zoning Districts & Uses

Zoning District	Property Use
North: R-1; Single Family Residential	Residential
South: R-1; Single Family Residential	Residential
East: R-1; Single Family Residential	Residential
West: R-1; Single Family Residential	Residential

Petition Facts

1. The applicant is requesting a variance to locate a detached garage in a required side yard.
2. The applicant is proposing a three stall garage, measuring thirty-three (33) feet by thirty (30) feet, approximately 990 square feet.
3. The existing attached garage is proposed to be converted into living space.
4. The home currently sits approximately forty-three (43) feet from the side property line.
5. The proposed layout of the garage, which would angle away from the house, would place the corner of the garage two (2) feet from the side property line.
6. The required side yard for R-1 zoned property is ten (10) feet.
7. The variance was also initially advertised to include a front yard variance, but further review has indicated a front yard variance would not be necessary.

CRITERIA FOR DECISIONS – VARIANCE:

In taking action on all variance requests, the Board of Zoning Appeals shall use the following decision criteria, consistent with the requirements of the Indiana Code and outlined in Section 10.3 of the Rush County Zoning Ordinance. The Board may grant a variance from development standards and limitations of this Ordinance if, after a public hearing, it makes findings of facts in writing (consistent with IC 36-7-4-918.5) that:

DECISION CRITERIA – VARIANCE

1. General Welfare: The approval (will or **will not**) be injurious to the public health, safety, morals, and general welfare of the community.

Staff Finding:

The approval of the variance to allow the side yard to be reduced to two (2) feet should not be injurious to the general welfare as a whole. The concern would be the effect on neighboring properties, which is described under criteria #2.

2. Adjacent Property: The use or value of the area adjacent to the property included in the variance (**will** or **will not**) be affected in a substantially adverse manner.

Staff Finding:

Allowing the side yard on the north side of the property to be reduced to two (2) feet may negatively affect the property value of the neighbor on that side.

3. Unique Conditions: The need for the variance (does or **does not**) arise from some condition peculiar to the property involved and does not exist in similar property in the same zone.

Staff Finding:

The property is approximately 0.85 acres in size and has ample area for construction, with the main limitations coming from existing additions and/or accessory structures that have been installed by the property owner.

4. Unnecessary Hardship: The strict application of the terms of the ordinance (will or **will not**) constitute an unusual and unnecessary hardship as applied to the property for which a variance is sought.

Staff Finding:

The strict application of this ordinance would not prohibit the building of a two or three car garage if the garage would be built attached to the house. The current garage is an attached and staff sees no reason prohibiting any addition from being directly attached to the house.

5. Minimum Variance: The variance (is or **is not**) the minimum variance that will make possible the reasonable use of the land, building, or structure.

Staff Finding:

The minimum variance standard is not particularly applicable in this case because it is of staff opinion that the proposed garage could be completed on the property while still meeting the required zoning setback requirements.

Please Note: The Rush County Board of Zoning Appeals may impose reasonable conditions as part of its approval.

Staff Recommendation - Variance

In reviewing the proposed three stall garage for this property, it seems apparent that the garage could be built as an attached garage and meet required setbacks. Other options would be to build a smaller, two stall garage if a detached garage is preferred. It is important when looking at a case such as this to remember that the purpose of a variance is to provide relief in a situation when there are extenuating circumstances such as small or irregular lot sizes, natural obstacles such as septic or well fields or other situations in which it is impractical to require the property owner to adhere to zoning regulations. In this particular case, there does not appear to be any of those extenuating circumstances which would provide the basis for a variance. Therefore, staff recommends **denial** of the variance.

Submitted by Kevin Tolloty, AICP
Executive Director, Rush County APC
December 4, 2013



41 ft.

Furnace ?

Door

Current Garage

Garage ?

Hartzler

FRONT

10 ft

