



Meeting Minutes

Whitestown BZA

Date: March 2, 2023

Time: 6:30pm

Location: Whitestown Municipal Complex, 6210 Veterans Drive Whitestown, IN 46075, (317) 769-6557

Call to Order:

6:30pm

Pledge of Allegiance

Roll Call

- Mark Pascarella
- Phillip Snoeberger
- Ken Kingshill - **Absent**
- Coady Adams – via zoom
- Andrew McGee

- Staff:
 - o Jill Conniff and Desire Irakoze, Planning Staff
 - o Jonathan Hughes, WPC/WBZA Attorney

Todd Barker – Gave remarks on the BZA process.

Jon Hughes – Spoke also about how the BZA works, Indiana code and how the petitioner had communication with the Board prior to the hearing. Nothing came of that communication and we are good to move forward.

Approve Agenda

Motion to approve the agenda by Pascarella. Second by Snoeberger. Motion passes 4-0.

Motion to approve the 01/05/23 meeting minutes by Snoeberger. Second by Pascarella. Motion passes 4-0.

Public Comment for Items Not on the Agenda-**none**

Presentations- **none**

Unfinished Business

New Business – Public Hearing

a. **BZA23-001-UV 607 S Main Street**

- i. **Kirra Sutton** – 3401 Paisley Point – Has been a resident of Whitestown for 8 years and a business owner of a photography company for 10 years. Went over examples of other coffee

shops that do business out of houses, reasons why this would be a good location and criteria for variance.

- ii. **Jill Conniff** – Staff Report – Staff is providing an unfavorable recommendation for the Coffee Shop and Photography Studio Use Variance docket BZA23-001-UV to permit the uses in an R-3 Zoning District. Staff is not opposed to the uses in of themselves or conversion of homes to commercial uses, however, at this location the proposed uses are not appropriate given the conditions. Staff foresees a trend of conversions from single-family structures to small businesses in the Legacy Core, but at this time, this location is not adjacent to any other conversions. Staff’s recommendation to the Board of Zoning Appeals finds the Use Variance does not comply with the following requirements in UDO Section 11.15 F. 1. and denial be based upon: The approval of the use variance will be injurious to the public health, safety, morals, and general welfare of the community because: There is concern about the quantity of traffic that would accompany this type of use at this location. Entering in and out of the site for anything other than a residential use may be injurious to the public health, safety, morals, and general welfare of the community. The use and value of the area adjacent to the property included in the variance will be affected in a substantially adverse manner because: Placing a commercial use at this location would be out of character and adversely affect the use and value of the adjacent properties. The surrounding area is comprised of low and medium density single-family residential dwellings. There are no other commercial uses in the immediate vicinity, the is Moontown Brewery in the Legacy Core. The need for the variance does not arise from some condition peculiar to the property involved: The need for the variance arises from the applicant’s desire to modify the existing use. The site faces no physical or peculiar condition that would require the residence to be converted to a commercial use or would warrant a commercial use on site instead of a residential dwelling.

The strict application of the terms of the zoning ordinance will not result in unusual and unnecessary hardship as applied to the property for which the variances are sought because: The desire to convert the existing single-family structure to a commercial use is a result of the applicant’s actions, not the Unified Development Ordinance. Strict application of the Unified Development Ordinance does not place an unnecessary or unusual hardship on the applicant because the site is allowed to continue to be used as a single-family dwelling. The approval does not interfere substantially with the comprehensive plan: The site in question is located within the Mixed-Use Legacy Core Eastern Gateway Special Development Area. The Land Use Plan of the Comprehensive Plan recommends this area as Medium-density Residential. Other goals and objectives of the Comprehensive Plan include having a diversity of housing options and densities. Under the Land Use goals the proposed use variance does not mitigate conflicting land uses or manage transition between land uses. If the Board of Zoning Appeals approves the request to allow the Coffee Shop and Photography Studio uses on site, staff recommends adding the following conditions: The north access driveway will be the entrance and the southern access drive will be the exit and include appropriate signage. The flow of traffic will be one-way. Right-of-way in accordance with the Thoroughfare Plan will be dedicated to the Town along Main Street. Public Works Dept. has requested 10 foot path will be constructed by the applicant along Main Street. No plantings are permitted within easements or Right-of-way. The applicant should correspond with the Boone County Surveyors Office to ensure they are in compliance

with any necessary grading or drainage requirements. If approved, future signage will need to be reviewed and approved by the Building and Planning Department. The secondary curb cut will need to be reviewed and approved by the Public Works Department. Future building renovations will need to be reviewed and approved by the Building Department.

- iii. **Andrew McGee** – Spoke about emails of support and signatures provided by petitioner, approx. 90 emails, very positive all in support.
- iv. **Dan Patterson** – 6112 Pebblebrook - Stated that traffic in this area would not be a problem, spoke of other businesses that operate out of houses and gave support for the project.
- v. **Curtis Shields** – 209 Hardesty Street – Spoke to Board about what zoning is about and asked that variances are closely monitored. Supports this project as long as zoning is met.
- vi. **Cheryl Hancock** – 5400 E 300 S – In support of the coffee shop. Noted that the Bridle Oaks and Goode property projects did not have traffic concerns. Spoke about special development area three and how this business fits into that area.
- vii. **Julie Ponticello 604 S Main St and Lauren Metallic 603 S main St** – Directly affected by project, they live across the street and next door. Believes this would be better located closer to the other businesses in the legacy core. They are concerned with the traffic this will bring and believe that most people will drive to this location instead of walking.
- viii. **Erin Marlow** - 3831 White Cliff Way – In support of the project and appreciates that the petitioner is trying to accommodate the concerns of the residents around her.
- ix. **Mario Claretto** – Is the owner of 607 S Main St. Proud of the house and the renovation. Knows that new development is coming and supports Kirra and what she is trying to do for the community.
- x. **Seth Alt**– 8916 Whitestown Road – Spoke about other development in the area and how have a small impact with no drive thru.
- xi. **Pat Metallic - 10763 Eagle Drive** – How would everyone feel if this was right next door to them?
- xii. **Kirra Sutton** – Stated how this location and the neighbors live on a main throughfare. Will not put surrounding residents at risk and want to involve them in the process.
- xiii. **Jon Hughes** – Spoke about precedent and how the Board reviews each docket on a case-by-case basis. Asked if she would like new criteria that was submitted to be used.
- xiv. **Kirra Sutton** – Yes.
- xv. **Andrew McGee** – Has a hard time understanding the unfavorable recommendation. Asked if it is approved would they accept all of the conditions?
- xvi. **Kirra Sutton** – Yes for conditions. The North drive will be the entrance and the South will be the exit.
- xvii. **Phillip Snoeberger** – Are 16 parking stalls for both businesses?
- xviii. **Kirra Sutton** – Yes, per the UDO that is what we were told for the square footage.
- xix. **Phillip Snoeberger** – There will not be a drive thru?
- xx. **Kirra Sutton** – Correct.
- xxi. **Phillip Snoeberger** – How will you handle the excess of cars?
- xxii. **Kirra Sutton** – Do not think it will be a problem and will accommodate other parking options on the property.
- xxiii. **Phillip Snoeberger** – Agrees there should not be a drive thru.
- xxiv. **Kirra Sutton** – Do not want a drive thru.

- xxv. **Phillip Snoeberger** – Question for staff about fire department concerns.
- xxvi. **Jill Conniff** – It has fire access as the existing building.
- xxvii. **Mark Pascarella** – Do we want to add no drive thru to conditions? Make a plan for mobile orders. What are the hours?
- xxviii. **Kirra Sutton** – 7am – 3pm. Would not like photography studio to have restricted hours.
- xxix. **Mark Pascarella** – Would you be open to a cap on hours.
- xxx. **Kira Sutton** – If the business grows I would like to have the option to adjust hours.
- xxxi. **Mark Pascarella** – Sensitive to evening hours being more busy with pedestrians. Asked about split zoning.
- xxxii. **Jill Conniff** – Couldn't find in records.
- xxxiii. **Jon Hughes** – Asking if they should rezone property to all R-3 through plan commission. Would petitioner have objections to a rezone?
- xxxiv. **Todd Barker** – Looking at map, Bridle Oaks was also I-1 and believes that when the map was drawn it was included in that piece when it should not have been.
- xxxv. **Jon Hughes** – Does Mario have any problems with the conditions?
- xxxvi. **Mario Claretto** – I paid more because it was partially I-1. We can talk through it.
- xxxvii. **Jon Hughes** – There is a condition that will stay locally owned as well, not a chain.
- xxxviii. **Phillip Snoeberger** – Does the UV stay with this business or the use of the business?
- xxxix. **Jon Hughes** – Without a condition it stays with the property.
 - xl. **Mark Pascarella** – No drive thru, would we want a Starbucks? Will you rent?
 - xli. **Kirra Sutton** – Yes, renting.
 - xlii. **Phillip Snoeberger** – Would anyone live there?
 - xliii. **Kirra Sutton** – No, we are okay with that condition.
 - xliv. **Coady Adams** – Condition if hands change? What does that look like?
 - xlv. **Jon Hughes** – Place any reasonable conditions on a use variance. Give planning staff power to approve if there is a change of hands is a recommendation.
 - xlvi. **Kirra Sutton** – We thought it would stay with the house.
 - xlvii. **Jon Hughes** – Yes, but they might put a condition to stay that planning staff could review the next business.
 - xlviii. **Coady Adams** – Northside trees will stay as a barrier to the North?
 - xlix. **Kirra Sutton** – Yes.
 - I. **Mark Pascarella** – Maximum occupancy?
 - ii. **Kirra Sutton** – I do not know yet, building inspector will determine.
 - lii. **Todd Barker** – As it converts to a business it will go through the state for inspection for a change of use. Part of that will determine occupancy rating.
 - liii. **Mark Pascarella** – What if occupancy exceeds parking?
 - liv. **Jill Conniff** – It meets minimum regulation for parking.
 - lv. **Mark Pascarella** – What tis the square footage?
 - lvi. **Kirra Sutton** – 2600 square feet.
 - lvii. **Mario Claretto** – It would be a significant loss to me if she fails to convert back to a residence if we lose the variance.
 - lviii. **Andrew McGee** – Clarification on discussion. The variance would stay but staff would have to approve.

- lix. **Jon Hughes** – You can craft reasonable conditions. I suggest you allow staff to review if there is a change in ownership.
- lx. **Mark Pascarella** – If Kirra leaves and another coffee shop comes in it would be reviewed by staff. If everything stays the same it should not be a problem.
- lxi. **Jon Hughes** – Residential would still be permitted as another coffee shop and photography studio, it would just have to be approved by staff.
- lxii. **Andrew McGee**- We are not setting a precedence.

Motion to approve with the facts of finding presented by petitioner tonight and the five conditions set forth by staff and adding more conditions. 6. No drive thru, 7. Have a plan in place for parking by McGee. Second by Pascarella. Motion passes 4-0.

Announcements

Adjournment

7:55 pm

Unanimous vote to adjourn.

Andrew McGee, President

Jill Conniff, Planning Staff