

A meeting of the Jasper County Board of Zoning Appeals was held Monday, June 15, 2020 at 7:00pm. via Zoom with the following members online: Kent Korniak, Jim Martin, Scott Walstra, Lance Strange and Mark Jordan. Also present: William T. Sammons, Law Offices of William T. Sammons P.C., Mary Scheurich, Director and Kelli Standish, Secretary. Absent were: None.

Meeting was called to order by Chairman Scott Walstra. The first order of business was the call for approval of the February 2020 minutes.

Kent Korniak made the motion to approve the February 2020 minutes. Motion was seconded by Mark Jordan and carried unanimously.

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Special Exception

Cause#BZA-8-20

Applicant: The W-T Group, LLC (Carissa Wendt) & Compass Holding, LLC  
Location: Sec.18-31-7 –Keener Twp. – St.Rd. 10 & 1200W. SE corner  
Use: Travel Center (truck stop)

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Public hearing held pursuant to notice published June 3, 2020 in the Rensselaer Republican, a newspaper of general circulation printed and published in Jasper County, Indiana; also pursuant to notice to adjacent landowners. All as shown by the affidavit of Charlene Malinowski, Clerk of the Rensselaer Republican.

Carissa Wendt was present and representing the applicant stated that she works for Compass Holding LLC. They obtained approval back in May 23, 2016. Since they did not get the project started their approval expired. They are requesting Special Exception Approval and sign variances for a Truck Center/Truck Stop with the same plans as what was presented in 2016. There are currently 2 other truck stops located on the North and South side of St.Rd. 10 and East of I-65.

Scott Walstra stated that he does not have any information regarding a variance for the signs.

Mary Scheurich replied that the variances are included in the Special Exception application.

Carissa Wendt stated that the proposed building is approximately 20,000 square foot in size and will have 3 eateries. One of the restaurants will be a sit down, the other one will be a sandwich shop and the last one will be a Dunkin Donuts (this is the only contract they have signed so far). The rest of the facility will consist of a convenience store and a truck showroom. There will be shower rooms and a separate lounge area for the travelers. One thing that did change was they have a detention pond. They did obtain drainage board approval this Month. The detention pond will be located on the south parcel that they have purchased since 2016 which will be south of the proposed travel center. The Semi truck's will enter from the west side of the proposed facility and exit through the east side of the property and auto traffic will use the middle to get in/out. They exceed all the required set-backs and the property is zoned HC. They

went to the property and did a balloon test to see how high the sign would be. The code states they can only be 75ft high which they did the test and found the visibility of the sign wasn't high enough. You cannot see the sign until you get close to the ramp. They are proposing to move the sign further down the site so it's closer to I-65 and has better visibility heading from the south going north. They measured the height of the TA sign at 120ft. and Love's sign is at 115ft. and they are proposing to change theirs from the required 75ft. to 115ft. The total square footage for the TA sign is 650sq.ft. Love's Sign is 600sq.ft. and their sign is 602sq.ft. The Ordinance only allows four signs on the building but there is a total of 500 sq.ft. allowed so they are requesting to have 14 signs on the building but will be under the total square foot. They will have two canopies for the center. One will be for the trucks and the other one is for auto. One of the unique things about this Truck stop will be the Truck Showroom where there will be truck sales and some tractors (not trailers) on display. The ground sign meets the ordinance and is less square footage than what is required. They will have more building signs than what the code requires but they are not as big and under the square feet that is required. They feel it will be less of a safety issue if they move the sign higher than what the code requires. She stated that they did obtain drainage board approval. They have filed their application with the State but have not heard back from them at this point in time.

Mark Jordan stated that they received the findings of facts for the Special Exception part of the application but none for the Variances. Do they need to do findings of facts for the sign variances?

Mary Scheurich replied that the findings of facts are considered for both the Special Exception and the Variances, they fall under the same project.

Jim Martin asked if the applicant would have to come back before the board for the variance application since they do not have any paperwork on it?

Mary Scheurich replied in the negative. The Special Exception and the Variances are all covered under the same project.

Carrissa Wendt replied that they only did one submittal for both the Special Exception and Variances last time.

Scott Walstra asked if anyone present had any opposition to the application.

Mickey Read was present and stated that she is a County Commissioners from Newton County and wanted to know how large will the detention pond be and if all the water will be directed to it? Where will your main entrance be?

Carrissa Wendt replied that she does not have the drainage plan with her since that went before the Drainage Board. All of the drainage goes to the detention pond and per the county and the State it then goes into the I-65 drainage. The main entrance will be off of St.Rd. 10. There will be two for Semi's but one is for the entrance only and the other is for exit only. There is an existing decel lane that will have improvements done to it.

Matt Anderson was present and stated that he lives in Lake Village and was curious as to what restaurant's will be coming to the proposed location.

Carissa Wendt replied that they have a positive from Dunkin Donuts and they have not gotten contracts for the other two. One of them will be a fast food type restaurant and the other one will be a family sit down restaurant.

Kent Korniak made the motion to grant approval for the Special Exception and the Variances for the signs (in case we do find where the variance has an expiration on it like the Special Exception). Motion was seconded by Mark Jordan and carried unanimously.

Carissa Wendt read the finding of facts.

1. The proposed Special Exception is consistent with the purpose of the zoning district and the Jasper County Comprehensive Plan:

**Response: Gas stations and restaurants are permitted uses in the HC district. There are other travel centers located at this same intersection in Jasper County.**

2. The proposed Special Exception will not be injurious to the public health, safety, morals and general welfare of the community (consider whether the special exception will hurt or potentially cause harm to the county).

**Response: This use is consistent with the current uses in the area and will not cause harm to the adjacent community.**

3. The proposed Special Exception is in harmony with all adjacent land uses.

**Response: There are currently 2 other travel centers at this intersection (located on the other side of the interstate 65).**

4. The proposed Special Exception will not alter the character of the district.

**Response: This use is consistent with the current adjacent land uses.**

5. The proposed Special Exception will not substantially impact property value in an adverse manner (consider whether neighboring property will suffer any major negative impacts).

**Response: The proposed use will add amenities to the adjacent community and travelers on I-65.**

6. No appreciable environmental harm will result from the use allowed by the special exception or if such harms could result, such resulting harms are eliminated or reasonable mitigated by best practice measures taken by the applicant or others in relation to the use of the special exception.

**Response: All required environmental measures will be taken to protect the surrounding areas.**

Mary Scheurich stated that the variances were approved when they obtained the first approval in 2016 and we are not finding in the UDO where a development standard variance expires.

Attorney Sammons replied if that is the case then the board can just vote on the Special Exception

Scott Walstra stated that there is a motion to approve the application, and the board must consider the findings in Chapter 20.90.140, Special Exception (e)(7)(i) through (vi). Scott Walstra then read the Findings of Facts.

- i. The proposed special exception is consistent with the purpose of the zoning district and the Jasper County Comprehensive Plan;

The board unanimously voted that the applicant met the requirements of (i).

- ii. The proposed special exception will not be injurious to the public health, safety, morals and general welfare of the community;

The board unanimously voted that the applicant met the requirements of (ii).

- iii. The proposed special exception is in harmony with all adjacent land uses;

The board unanimously voted that the applicant met the requirements of (iii).

- iv. The proposed special exception will not alter the character of the district;

The board unanimously voted that the applicant met the requirements of (iv).

- v. The proposed special exception will not substantially impact property value in and adverse manner; and

The board unanimously voted that the applicant met the requirements of (v).

- vi. No appreciable environmental harm will result from the use allowed by the special exception, or, if such harms could result, such resulting harms are eliminated or reasonably mitigated by best practice measures taken by the applicant or others in relation to the use of the special exception.

The board unanimously voted that the applicant met the requirements of (vi).

Kent Korniak made the motion to adopt the proposed Findings of Facts as presented by

the Applicant. Motion was seconded by Lance Strange and carried unanimously.

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Variance

Cause#BZA-9-20

Applicant: Don and Ashleigh Witt

Location: Sec.1-32-6 – Wheatfield Twp. – 100W. S. of 1700N. E-side

Use: Lot Width Requirement variance

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Public hearing held pursuant to notice published June 6, 2020 in the Rensselaer Republican, a newspaper of general circulation printed and published in Jasper County, Indiana; also pursuant to notice to adjacent landowners. All as shown by the affidavit of Charlene Malinowski, Clerk of the Rensselaer Republican.

Ashleigh Witt was present and stated that they just purchased 10 acres and they plan to construct their home. Since they did not purchase enough property with road frontage they are requesting a 70ft. variance. The county requirement is 400ft. but they only own 330ft.

Kent Korniak asked if the proper notices have been done.

Mary Scheurich replied that the letters did go out on time. There was an issue with the notice in the newspaper. The applicants got the notice to them in time but there was an error on the newspaper end so the notice was in the June 6<sup>th</sup> newspaper which is only 9 days before the meeting date.

Attorney Sammons replied that our code states that the notices need to be published 10 days before the meeting date, there has been some confusion as to if the meeting date can count as the 10<sup>th</sup> day or if the 10<sup>th</sup> has to be prior to the meeting date. He reached out to the Public Access Department and asked for some clarification on this and they had no clarification for him and said they don't normally cover this. He feels since it is not the applicant's fault that the notice did not get it in the newspaper when they said it was going to be in that the applicant could be heard. If someone did challenge this then the court could void the decision.

Kent Korniak stated that he appreciates Attorney Sammons explanation and feels the applicant shouldn't be penalized for something that was not their fault. They have done everything they were supposed to.

Lance Strange asked if the only variance they are requesting is the lot width.

Ashleigh Witt replied affirmatively. They made sure they meet the other requirements.

Scott Walstra asked if anyone present had any opposition to the application. There was none.

Mark Jordan made the motion to approve the lot width variance from the required 400ft. to 330ft. Motion was seconded by Kent Korniak and carried unanimously.

Scott Walstra read the proposed Findings of Facts which were submitted with the application.

- i. The approval of the variance will not be injurious to the public health, safety, morals and general welfare of the community.

**Response: There would be no effect on the health, safety, moral or general welfare of the community in any way. The variance is for a single family home to be built. As citizens and tax payers (payers) of the community of Jasper County, we will represent a positive benefit to the community, or neighbors, and the land will be maintained.**

- ii. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner.

**Response: The variance would not negatively affect any adjacent properties in anyway. If anything it would be positive affect leaving more land for farming purposes.**

- iii. The strict application of the terms of the ordinance will result in practical difficulties in the use of the property.

**Response: With the 400' A1 building line minimum width, we will be unable to obtain a building permit for new construction. The parcel width is 330' and is zoned for A1, we would like to develop on the land and without the variance we will not be able to obtain a building permit.**

Scott Walstra stated that there is a motion to approve the application, and the board must consider the findings in Article 9, Variance 20.90.190 (7)(a)(i) through (iii). He then read the Findings of Facts.

- i. The approval of the variance will not be injurious to the public health, safety, morals and general welfare of the community.

The board unanimously voted that the applicant met the requirements of (i).

- ii. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner.

The board unanimously voted that the applicant met the requirements of (ii).

- iii. The strict application of the terms of the ordinance will result in practical difficulties in the use of the property.

The board unanimously voted that the applicant met the requirements of (iii).

Jim Martin made the motion to adopt the proposed Findings of Facts as presented by the

Applicant. Motion was seconded by Mark Jordan and carried unanimously.

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Kent Korniak asked what we need to do about clearing up the Public Notice language so it is clear.

Attorney Sammons replied that the process to do that is to Amend the Ordinance. He feels that it should be the same as the State Statute.

Kent Korniak asked if we can have this on the agenda for next month.

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Upon motion duly made and seconded, meeting was adjourned.

A TRUE RECORD;

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Scott Walstra, Chairman