

**HENRY COUNTY PLANNING COMMISSION
1201 RACE STREET, SUITE 214
NEW CASTLE, INDIANA 47362**

*Darrin Jacobs
Zoning Administrator*

*Phone 765-529-7408
Fax 765-521-7072*

The Henry County Board of Zoning Appeals held a public hearing in the Old Circuit Courtroom of the Henry County Courthouse, 101 S. Main Street, New Castle, IN 47362 on Thursday, July 19, 2018 at 7:00 pm.

Board members present were: Larry Brayton, Carol Goodwin, Cathy Hamilton, and Dan Roach. Also present was Darrin Jacobs, Zoning Administrator. Board member Steve Hernly was absent.

Previous Minutes

The Board reviewed the minutes from the May 3, 2018 meeting. Larry Brayton moved to approve, Cathy Hamilton seconded, and the motion carried 4-0.

Case C: 2317

An appeal has been filed by James Thompson, 900 S Co Rd 250 E, New Castle, IN 47362 requesting a variance to allow for the creation of a dwelling parcel with less than 1.5 acres and less than 150 feet of road frontage. The property is owned by James Thompson, 900 S Co Rd 250 E, New Castle, IN 47362. The property parcel number is 007-84143-00 and is located in Henry Township.

Chair Carol Goodwin asked if the applicant was prepared to present their case. James and Rhonda Thompson stepped to the podium to present their case.

Mr. Thompson stated they wanted to split the property for tax purposes so that they could get a mortgage exemption on the property. Mr. Thompson stated they would be living on the property they are requesting be split, and that he has renters in the other dwellings on the current parcel.

Cathy Hamilton stated that there was no documentation of a proper septic installation from the Health Department, and asked if this house had its own properly installed septic system and if Mr. Thompson could provide documentation of the system.

Mr. Thompson stated he had documentation at home in relation to the installation and could provide that to the Board.

There was discussion among the Board for the need to verify the existence and condition of the septic system and for Mr. Thompson to provide documentation to both the Board and the Health Department before they could make a decision.

Dan Roach moved to table the request until the applicant was prepared to present the requested septic documentation. Larry Brayton seconded.

Motion to table passed 4-0

Case C: 2318

An appeal has been filed by Mark Clark, 4927 S Co Rd 250 E, New Castle, IN 47362 requesting an increase in vehicle storage limit on the property from the current limit of 15 vehicles to 25 vehicles, contingent on the owner installing a privacy fence around the storage lot to shield the vehicles from view. The property is owned by Mark Clark and the business is known as MC Auto Repair located at 3431 S St. Rd 103, New Castle, IN 47362. The property parcel number is 007-85315-00 and is located in Henry Township.

Chair Carol Goodwin asked if the applicant was prepared to present their case. Mark Clark stepped to the podium to present his case.

Mr. Clark stated his business has grown and needs additional allowable vehicle parking. Mr. Clark stated he wants to work with his neighbors and has begun the process of installing a fence.

Carol Goodwin addressed the fact that Mr. Clark had not respected the limits that were placed on him in the past by the BZA and had only requested additional increases to his vehicle limit once he had been cited. Mrs. Goodwin wanted to know why Mr. Clark had not stayed within his agreed upon limits.

Mr. Clark stated that he employed 4 people and can turn over 8 or more cars a day. In order to keep his business productive he needs to have around 25 cars on the lot. Mr Clark also stated that he thought the 15 car limit was in place because that is what the previous land owner wanted and did not believe that the number still applied once she sold the property to him. Mr. Clark also stated that part of the problem with the number of cars on the lot stems from individuals not being able to pay for and pick up cars once they have been fixed.

Cathy Hamilton stated that she had observed over 25 cars the day of the hearing and wasn't sure that Mr. Clark could stay in compliance even if he is granted the increase. Mrs. Hamilton stated that she had no doubt that Mr. Clark had a successful business and asked Mr. Clark why he had not moved to a larger property since it appears that he has outgrown this one.

Mr. Clark stated that he was only planning to work another 10-15 years and did not think he had the resources or energy to start over at a new location.

Carol Goodwin raised concerns about vehicles sitting on grass and gravel in a residential area and those vehicles possibly leaking and causing possible ground contamination.

Carol Goodwin asked for any Comments in Support, there were none.

Carol Goodwin asked for any Comments in Opposition.

Chris Layton lives in the second parcel to the north of Mr. Clark, approximately 200 feet from MC Auto. Mr. Layton stated that he can see most of Mr. Clark's cars from his back windows and back yard. Mr. Layton stated Mr. Clark is not a bad neighbor except for the aesthetics of all of the cars. Mr. Layton stated he had been taking pictures of Mr. Clark's property after closing every night and counts on average 20-24 cars. Mr. Layton asked the Board to require a fence to be constructed before he is granted the vehicle increase.

Leisa King, Vice President – Trust Officer with Citizens State Bank appeared before the Board on behalf of Linda Sowers Nalley Trust. Mrs. King stated that her client is opposed to an increase in the number of allowable vehicles on Mr. Clark's property.

The Board also noted that they did receive a letter in opposition from the Nona Edwards family.

Carol Goodwin asked for any Comments from Government entities, there were none.

Mr. Clark was asked to return to the podium. Carol Goodwin asked Mr. Clark if he would be willing to move all of the car parking to the rear of the building and pave a lot for the cars to sit on. Mr. Clark stated he would but couldn't pave it all at once because of the cost. Mrs. Goodwin ask several times if Mr. Clark would be willing to pave a lot for parking in the rear and Mr. Clark stated he would multiple times.

The Board reviewed Mr. Layton's pictures.

Larry Brayton raised concerns about barrels that appear to be used for storage of oil and other possible hazardous materials and that there didn't appear to be any type of approved ground protection in the event that those barrels leak.

Board member discussion:

Dan Roach stated that it is probably an inappropriate place for an auto repair shop, but it was approved and it is there now. The question they need to decide is whether to allow an increase in the number of allowable cars, and he leans towards increasing if the cars are hidden from view, but a pavement requirement in his mind would not be a factor in how he votes.

Larry Brayton stated that he has concerns that cars are not leaving the property in a timely manner and that a good number of the 25 cars are not waiting to be worked on, but waiting to be paid for.

Cathy Hamilton does not think they should vote on the increase at this time. Mrs. Hamilton stated the business appears to be growing and he is already over 25 cars. She thinks he needs to reassess his business plan and address how to handle cars that are not being paid for. Mrs. Hamilton stated that she could understand why the neighbors were getting nervous as they saw more and more cars appear beyond what was allowed on the lot, and some of the cars never leaving.

Carol Goodwin addressed the fact that Mr. Clark has not showed respect for the previous Board Members or his neighbors by ignoring the conditions that were agreed to and set in the past. Mrs. Goodwin stated that the cycle of violation then variance increase needs to stop somewhere. Mrs. Goodwin also express concern for the potential of this property devolving into a junkyard and of possible ground contamination. Mrs. Goodwin expressed that she would like the number of cars to remain at 15, but would be more willing to entertain an increase once a fence is constructed and determine if a fence will alleviate the neighbors concerns.

Carol Goodwin moved that the request be tabled and that in order for the Board to make a reasonable decision the following items need to be addressed prior to the next Board of Zoning Appeals meeting:

1. The number of cars parked on the property is to be brought down to the current allowable limit of 15 within 30 days of July 19th.
2. The septic system and associated finger system are to be verified, located, and documented and said system is to be verified to be in compliance with the Henry County Health Department.
3. The location of the well is to be located and documented.
4. No vehicles are to be parked on or near the located septic system and well.
5. Currently stored hazardous chemicals are to be brought into compliance with State requirements for storage and State documentation of compliance be obtained.
6. Fence construction should be completed.
7. A parking plan is to be drawn up indicating where the cars are proposed to be parked.
8. An agreement prepared by Mr. Clark's attorney agreeing that if at any time in the future he is found in violation of the vehicle limit he understands that the original variance allowing the operation of an auto repair shop will be revoked and he will cease operation of his business at this location.

Dan Roach seconded the motion

Motion to table passed 4-0

Old Business

Steve Hernly has been unable to attend the last four (4) Board of Zoning Appeals meetings due to health issues. State law 36-7-4-907(b) states that: "A member of the board of zoning appeals who misses three (3) consecutive regular meetings of the board

may be treated as if the member had resigned, at the discretion of the appointing authority.”

The Zoning Administrator Darrin Jacobs stated that he had reached out to Mr. Hernly to determine if he will be able to continue as a Member of the Board. Mr. Hernly informed the Zoning Administrator that his health will not allow him to continue on the Board and wished to resign his position as of July 19th, 2018.

The Board asked the Zoning Administrator to inform the Henry County Board of Commissioners and ask that they accept Steve Hernly’s resignation and replace him as soon as possible. The Board of Zoning Appeals, as body, has no official recommendation for his replacement and defer to the County Commissioners to determine who is best to serve on our Board.

Larry Brayton moved to adjourn, Cathy Hamilton seconded, and the motion passed 4-0.

Chair

Secretary