

PLYMOUTH BOARD OF ZONING APPEALS

January 7, 2025

The Plymouth Board of Zoning Appeals met in regular session in the Council Chambers of the City Building, 124 North Michigan Street, Plymouth, Indiana, on January 7, 2025, at 7:39 p.m. Board Vice-President Mark Gidley called the meeting to order for Board members Jack Garner, Brandon Richie, Paul Wendel, and Alternate Linda Secor. Board President Art Jacobs was absent. Alternate Megan Rogers was present virtually but not needed. Others present were Building Commissioner Dennis Manuwal Jr., City Attorney Jeff Houin, Plan Director Ty Adley, and Mayor Robert Listenberger. The public was able to see and hear the meeting through Microsoft Teams.

Board members Richie and Secor moved and seconded to approve the minutes of the regular session of December 3, 2024, as presented. The motion carried.

Deputy Clerk-Treasurer Williams Administered an Oath of Office to Jack Garner, Paul Wendel, and Linda Secor.

Board members Gidley and Secor moved and seconded to retain Art Jacobs as President and to nominate Paul Wendel as Vice-President. The motion carried.

Board members Gidley and Garner moved and seconded to nominate Brandon Richie as Secretary. The motion carried.

Current Officers:

Art Jacobs, President

Paul Wendel, Vice President

Brandon Richie, Secretary

Plan Director Adley reviewed the dates and times for calendar year 2025. Board members Garner and Richie moved and seconded to retain the current schedule of the first Tuesday of each month at 7:30 p.m. or immediately following the Plymouth Plan Commission meeting. The motion carried.

The following legal notice was advertised in the Pilot News on December 20, 2024:

**NOTICE OF  
PUBLIC HEARING**

The Board of Zoning Appeals of the City of Plymouth, Indiana will hold a public hearing on January 7th, 2025 at 7:30 p.m. in the Council Chambers of the City Building, 124 N. Michigan St. (Garro St. entrance), Plymouth, Indiana on the following matters:

**BZA 2025-01:** City of Plymouth, 124 N Michigan Street, Plymouth, IN 46563: A Variance of Development Standards to reduce the front yard setback from 20' to 12' on 2 sides and to allow construction within Visual Setback on Corner Lots, on parcel 50-32-93-302-601.000-019, located at Dickson St., Plymouth, IN 46563, zoned R-3, Traditional Residential District. Information on these matters

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Legals

may be obtained at the office of the Clerk-Treasurer, 124 N. Michigan St., Plymouth, IN, and telephone #574-936-2124. Written objections to the proposal filed at the Clerk-Treasurer's office will be considered and oral comments will be heard. The hearing may be continued from time to time as may be found necessary.

If you are disabled and need special accommodations, please call the ADA Coordinator at 574-936-2948. Kyle Williams, Recording Secretary, Board of Zoning Appeals, December 20th, 2024.

December 20, 2024 PN361864 hspaulp

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**BZA 2025-01:** City of Plymouth, 124 N Michigan Street, Plymouth, IN 46563: A Variance of Development Standards to reduce the front yard setback from 20' to 12' on 2 sides and to allow construction within Visual Setback on Corner Lots, on parcel 50-32-93-302-601.000-019, located at Dickson St., Plymouth, IN 46563, zoned R-3, Traditional Residential District.

Plan Director Adley reviewed the findings of fact and the request from the applicant. He read the applicant's letter aloud (see attached letter below).



December 12, 2024

City of Plymouth  
Board of Zoning Appeals  
124 N Michigan Street  
Plymouth IN 46563

Re: Dickson Street – Variance of Development Standards

Dear Board Members,

The City of Plymouth is requesting a variance of development standards to reduce front yard setbacks and the Visual Setback on Corner Lots for the parcel located at the corner of Dickson and Gilmore Streets. This would allow for construction of a single-family house in an R-3 Traditional Residential Neighborhood on a parcel that has been vacant for many decades.

Recent housing studies completed by both United Way of Marshall County and MACOG have proven what most of us already know, the City of Plymouth has a shortage of quality housing available for current and future residents. There is no single solution to this problem, and the City is working on multiple projects to add housing options throughout the City. This particular lot at the corner of Dickson and Gilmore Streets has been owned by the City since 1979 and has been vacant for most, if not all of that time. Although it sits in a traditional residential neighborhood, the size of the parcel situated on a corner lot makes it impossible to construct a house that meets all of the zoning ordinance standards.

These requested variances would allow for construction of a new, single-family house in a traditional residential neighborhood on a parcel that has been vacant for decades. It would help with the City's plans to add more housing options, while returning the parcel to the property tax rolls. This is an opportunity to return this property to its best and highest use, while enhancing the neighborhood.

On behalf of the City of Plymouth, I ask that you grant the requested variances to allow for construction of a residential home on this parcel.

Sincerely,

Robert Listonberger  
Mayor



PROPOSED SITE PLAN  
SCALE: 1" = 30'-0"



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Gidley asked who the owner of this property was.

Adley replied by stating the property was currently owned by the City of Plymouth.

Gidley asked if the City of Plymouth was building a house.

Adley replied that the City of Plymouth would be coordinating with a development group to build a house.

Wendel asked if the sidewalks on Gilmore Street would remain the same or if they could make it more appealing compared to Dickson Street.

Adley replied that he was not aware of the sidewalk improvements for this project.

Gidley asked if this property had any off street parking.

Adley replied that the builder proposed two off street parking spaces on the north side. He stated it would be a gravel pad in the corner along Gilmore Street.

Gidley asked if the pine trees were on this lot or the northern lot.

Adley replied that he did not know that answer and believed they would be pretty approximate.

Garner stated when he went to the lot that there were two chairs sitting on the lot and if those were there to symbolize 12 feet.

Adley asked if the chairs were greenish in color. Garner agreed. Adley replied that in his presentation it looked as if those were the neighbor's chairs. He stated that he did not believe the city set up shop to sit there.

Wendel asked if there had been anything built on this lot since the Supermarket from the 70's.

Mayor Listenberger stated it used to be South Side Grocery.

Adley replied that it was before his time.

Wendel asked for the sidewalks on Gilmore Street if there was any way to make them look pretty.

Houin replied that there was always a way but it would be dependent upon how it fit into the sidewalk budget.

Gidley asked if they would be asking the developer to replace the sidewalk.

Houin replied that the sidewalk was in the right-of-way and because there was already a sidewalk there that there would not be a requirement to install one.

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Gidley asked if the sidewalk were to be damaged during construction.

Houin replied if the sidewalk was damaged by the construction, then we could repair it. He explained that either way the city owns the property so we are responsible. He stated that the city had owned the property since 1979 and he had just turned one year old when the city bought the property so he does not remember South Side Grocery Store but nothing had been done with the property since then. He stated this plan comes out of the housing studies that the city had participated in over the last year, both through United Way and the MACOG Housing Study. He stated those identified what most of them already knew which was that there was not enough available housing within the city. He stated they had undertaken multiple efforts to increase housing and referenced the hole in the ground across the street. He stated they are beginning construction on the Water Street Townhomes and the city had submitted a READI grant application for a housing project that the city was unfortunately not awarded. He stated they were still looking at options for moving that project forward and in the course of that, the developer they had been working with on that project, River Valley Construction Group, had indicated that they were interested in infill construction throughout the city at the same time. He stated they also had a group of volunteers who started working on potential locations for infill development, such as vacant lots or houses that should be either rehabilitated or demolished. He stated in the course of that they were able to identify one parcel that the city already owned and this was it. He stated what they would like to do was to make this property the first in that effort. He explained that River Valley Construction would like to build a house and use it as a showcase house, while they are building and hopefully presaling the other houses that they are planning to build. He stated that hopefully this would be ultimately be sold to an owner.

Wendel asked if it would be sold by the city or the developer.

Houin replied that they would be working with partners and the city was not planning to receive payment for it. He stated we would be working with a non-profit entity to take ownership over the lot after the house was built and then it would be sold at a discounted price, without the cost of the real estate. He explained that was part of the plan with the READI application because by contributing the land to the project, then that would reduce the cost of the house to make it more affordable. He explained that the cost of construction had really become astronomical for a modest size home that fits into a traditional neighborhood like that. He stated that it would be more cost-prohibitive to just build and sell the house. He stated if they look at these traditional neighborhoods, the setback requirements on their current ordinance make it impossible to build houses the way they were built all across the city. He explained they would want something to fit the character of the neighborhood that looks like it belongs and the only way to accomplish that would be by getting a variance from these setbacks.

Garner asked if there was any wiggle room on either side going deeper into the property.

Houin replied that the biggest problem was the trees. He stated they could shift the home to the back corner of the lot but it would create a weird layout with a lot of front yard and no backyard but that would require removal of the trees. He believed to fit with the character of the neighborhood that it would make more sense to put it into the center of the lot to make it look like it fits there.

Richie asked how long he said the city had owned the lot.

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Houin replied that the lot had been owned by the city since March of 1979. He stated he had no idea what the circumstances were or why and how it became city property, aside from what was on the deed.

Richie asked what had occurred on this property the whole time.

Mayor Listenberger replied that the city had just been mowing it.

Board members Richie and Secor moved and seconded to open the public hearing. The motion carried.

**Elizabeth Garza (127 Dickson Street, Plymouth, IN 46563)**

Garza stated she lived across from the proposed property and she was against this. She stated her first issue was with the letter that was sent out. She explained that she received the letter on December 23, 2024, and she called the number on the letter for more information and spoke to the City Attorney. She stated at that point she made him aware that her neighbors were primarily hispanic and Spanish speaking so she recommended to him that they send out a second letter in Spanish because that would be the only way to properly inform all the neighbors of this proposed project. She stated that she went and spoke to her neighbors over the weekend and none of them had received a letter. She stated she brought her mother who spoke Spanish and she was able to speak to one of the three neighbors. She stated her concern was that not everybody in the neighborhood was aware of what was proposed.

Wendel asked if the concern was that they did not receive any letters or one that was in Spanish.

Garza replied they had said they did not receive any letter. She stated from her point of view, if she received a letter similar to what she received and English was not her first language, then she would not understand it. She explained that was why she had to call the number listed below.

Gidley stated there was a gentleman in the hallway who left and he wondered if he was for this meeting. He asked if that was one of her neighbors.

Garza replied that she did not know what they all looked like as she had not introduced herself to everyone but she suspected that he was. She stated she was aware of at least three families with two being in one and another across the street. She stated she was not sure if they had ownership over the properties or if they owned the properties.

Gidley stated that the letters went to owners.

Houin agreed and stated that the application includes the list of all the recipients of who received a letter.

Wendel read off Gilmore, Dickson, and Thayer Streets so it would all be in that area.

Gidley asked if she was only objecting to the request due to the way the notification was sent out.

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Garza replied that she was not as that was only one of many concerns. She stated that some of her questions were answered as she was wondering how the city came to own the property and why nobody purchased it or built upon it. She stated that she was assuming that it was because of the zoning setback regulations. She stated that she was wondering what the average size of the lot of homes in that area and how that usable volume compare to the lot that they want to build on because she lives in this area and it was a small lot. She stated the house proposed in the picture looks like her house and her house was on a much larger lot than that. She stated she does not see how it was possible. She stated she was wondering what the intended square footage of the house was because even with the setbacks, there would not be much room left. She stated if the purpose was to build homes for families, then how could a family grow in this smaller home they would build as there would be no recreation area or yard essentially. She stated it barely fits a house, let alone a driveway. She stated that part of the reason she does not want an additional house was because the streets were congested enough so she would assume there would be more parking on the street. She stated another concern would be that this variance would upend some of the other standards that would allow builders to take advantage of this variance in other areas of the city as well.

Wendel asked how it would affect other variances across the city.

Garza replied that she was wondering if this would be the only area they would do this to.

Gidley stated when the case was read, it was explained that there had been an attempt to address some of the building standards but those had not been proposed to the Plan Commission or the City Council yet, but there was a movement afoot to change these standards so this may not require a variance in the future. He stated that every case stands alone, and what they do here in this specific case does not obligate them to grant the same variance elsewhere as it was currently written.

Garza stated that her concern would be that this would lead to a precedent.

Gidley stated there was no precedent in setting a variance as they do not set precedents. He stated that someone could not come here and say next month that they gave Dickson Street a variance so they would be obligated to get one as well.

Garza stated that this case may look different as they have a larger setback here compared to some of the other houses in that area.

Wendel asked if they could park on both sides of the street on Dickson Street. Garza agreed. Wendel stated where he lived, they cannot park on both sides of the street so his street was even more narrow than that so there was a plus to what he has. He believed that the city was just trying to make an attempt to use some of these lots that were sitting empty for housing as the bottom line was that they need housing.

Richie asked why it was a concern that this would be a precedent from her end.

Garza replied that her concern was their rights as owners in the neighborhood and how it would affect her taxes. She stated if this was allowed, she would be concerned with overcrowding as there was a huge congestion of cars already. She stated it would decrease privacy, create potential safety

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hazards like access for emergency vehicles as it would affect maneuverability where cars turn, and a negative impact on the aesthetics and character of the neighborhood. She stated that she does not see the house as being similar to the proposed picture based upon the square footage that could be built on that area. She stated she would also be concerned about hindering proper access to underground utilities, such as sewer lines, cables, gas, electric, and if it were to be hindered, that it would make it more difficult to maintain in the future. She stated she was concerned on how it would affect the value of her property and the neighborhood as well. She stated she was concerned about this incentivizing developers to build more densely on smaller plots of land, which would impact the overquality of life for everyone in that neighborhood.

Wendel asked how many bedrooms this house would be.

Houin replied that he did not remember if this was a two bedroom or three bedroom design.

Wendel stated that building on this lot would not affect public utilities.

**Randy Longanecker (880 Baker Street, Plymouth, IN 46563)**

Longanecker stated as a contractor and city council member, they are all aware there was a housing shortage in Plymouth. He stated if anyone sees an empty property or something near them that they are fooling themselves if they believe there would be no possible development in the future. He stated there are plenty of properties where people are against things but if you do not own the property, that you do not have a lot to say about it in a way. He stated this property and the size of home that would go on it would be a great starter home or retirement home for someone looking for a house in the city.

Gidley asked what the square footage of the house would be.

Mayor Listenberger replied that it would be within 1,200 to 1,400 square feet.

Gidley stated that 700 square feet would be the first floor on a two story house.

Longanecker stated his first home was a 900 square foot house. He stated the drawing looks like it was depicted a little off to him but it was hard to say as it was a rendering.

Wendel stated that the homes in his neighborhood, that you could almost touch the home on each side if he extends his arms out.

Gidley stated that the midwestern three quarter, half acre lot was a dinosaur and it certainly was the case inside the city limits of any community in Northern Indiana as most of the lots are much smaller than half an acre.

Manuwal stated as far as the lot size, the three lots to the west of this property are all 53 feet wide so they are all the same size. He stated the only difference was that they all go back to the alley that was back there. He stated the width was the same as the next three and the lot that sits on the other corner was only 38 feet wide.

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Wendel stated that the drawing does make it appear bigger than what it would actually look like so it made it difficult to picture it in mind.

Garner stated that he does sympathise with the concern about the parking because for north-southbound traffic trying to weave that corner, if they do have many cars parked out to that curve, that it would make it hard for emergency vehicles and school buses. He stated he remembered his school bus route passed through there as it was a sharp turn. He asked if the city would consider striping that curve there to ensure that parking would not get too close to the curb.

Houin replied that the city could look at that but it would be more of a question for the Board of Public Works and Safety to address if there was an issue with parking or access there.

Wendel asked if there was parking allowed on Gilmore Street as it looked like they all had their own parking.

Houin replied that Gilmore was narrow but he was not aware of what the parking restrictions were. He stated he agreed with Garza on how with the demographic makeup that they needed to find ways to communicate in Spanish, as well as English, but at that time the city does not have the personnel to translate and do that. He stated they were looking into that with one of the subcommittees of the Comprehensive Plan, the Empowerment Committee, who are working on ways to integrate people more into the city and that was certainly something they could take on. He stated they have a couple city employees who could translate but not anyone who could translate the documents at this time. He stated it was something they could hope to do in the future. He stated all the utilities are in the right-of-way and not across the individual parcels so it would not affect access to utilities. He stated one of the reasons they want to do more infill development was because it helped keep the cost down for the city because utilities already exist. He explained there was already a street there with water and sewer so the city would not have to invest in additional infrastructure to build on these infill lots, which would eliminate additional maintenance costs as they are already there. He stated as far as property taxes were concerned, this property had not been assessed property taxes since 1979 since it has been owned by the city. He explained that by putting this property back into private ownership, it would go back on the tax rolls which helps spread the burden so they could bring down everyone else's property taxes to meet the needs. He stated he agreed those were legitimate questions and he was hoping that we can address those and answer them. He believed this style house fits the character of this traditional neighborhood and it was a smaller footprint that was specifically chosen. He explained there were several housing designs developed for the READI 2.0 application and this one was chosen because it was a two-story house so the property could fit 1,200-1,400 square feet on one of these smaller lots. He explained the rendering was an artistic rendering but the plan was a fully developed architectural plan for the house. He stated that the footprint shown was an accurate depiction of what the footprint would be.

Williams asked what the footprint was of the grocery store that was on the property.

Wendel replied that it was longer but he was not sure if it was wider. He believed it was the same sidewalk that was there in 1979 too.

Board members Wendel and Secor moved and seconded to close the public hearing. The motion carried.



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Wendel stated that he appreciated the Garza’s comments and believed that the city could do a better job of translating for the Spanish population. He stated that his insurance company sends letters every other week and on the back side, there was a Spanish translation so it could be done. He hoped that in the future it could be done. He stated his feeling was that this project would be good for the city, community, and for their neighbors. He believed it would help their property values go up.

Richie believed out of all the plans to build livable and affordable housing in Plymouth that this was one of the wisest plans to grab lots to build on them as opposed to looking at facilities and larger multi-family units. He explained that a lot of issues can arise in those multi-family units. He believed the concerns were legitimate, but this would be an improvement to the neighborhood and an improvement to our community. He stated this was a good step in the right direction to finding affordable housing in Plymouth.

Board members Wendel and Richie moved and seconded to approve BZA 2025-01 as presented. The motion passed by roll call vote.

Yes: Garner, Gidley, Richie, Wendel, Secor  
No: None  
Absent: Jacobs

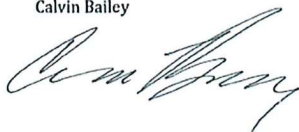
**BZA 2025-02:** Baileys Home Furnishings Inc, 921 W Jefferson Street, Plymouth, IN 46563: An Appeal of semi trailers in rear vehicle repossession chain-link fence lot and associated fines on parcel 50-32-05-201-006.000-019, located at 500 W Jefferson Street, Plymouth, IN 46563 zoned C-1 General Commercial District.

Plan Director Adley reviewed the findings of fact and the request from the applicant. He read the applicant’s letter aloud (see attached letter below). Code Reference: (6.010.A)

**Appeal**

I would like to formally appeal semi trailers at 500 West Jefferson St rear vehicle repossession chain-link fence lot. this area zoned C-1 one has been used for this purpose for many years  
This semi trailers in question have been in enclosed lot for approximately two years moved from Carl Stockburger lot at 2525 western St. zoned. C-3  
There are at least two trailer trailers still located there in picture. I am aware of trailers also being stored from time to time in the JANA LLC chain-link fence lots directly behind and on west side of property.  
Although after February I no longer need these particular trailers. These or any future vehicle stored should not be a violation to the city zoning ordinance. This would also include the 40 yard Republic waste semi trailer used for proper furniture disposal.  
I would also like the \$200 find removed. This registered letter indicating a \$200 fine is the first written correspondence I am aware of.

Sincerely,  
Calvin Bailey



**010** *Accessory Structures and Use Standards*

**A. Definition**  
A use, building, or structure, the permanent or temporary use of which is customarily incidental and subordinate to the use of the primary building or primary use of the land on which the accessory use, building, or structure is located. By way of example only, some typical accessory uses, buildings, and structures include: garages, carports, porches, decks, awnings, canopies, mini-barns, storage sheds, outdoor fireplaces, outdoor furnaces, children’s playhouses, swings, game courts, swimming pools, hot tubs, grain bins, grain dryers, solar systems, and storage buildings. Some uses that shall not be considered accessory uses, buildings, or structures and therefore are not permitted include mobile homes, manufactured homes, construction trailers, recreational vehicles, box trucks, semi-trailers, and any other structure or equipment used for a use in which it was not designed.

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Wendel asked for clarification that they have nothing to do with the fine but instead that matter was up to the city council.

Houin replied that procedurally because this matter was a rule in the zoning ordinance, the Building Commissioner has the authority to enforce the ordinance and issue fines based on violations. He stated that any appeal of a determination of the Building Commissioner was to be heard by the Board of Zoning Appeals. He stated the decision that night would be based upon whether or not the Building Commissioner interpretation of the Zoning Ordinance was correct and whether or not to impose the fine that he determined to be appropriate.

**Calvin Bailey (921 W. Jefferson Street, Plymouth, IN 46563)**

Bailey stated he was here for the interpretation of the zoning law. He stated that location had been used in the past as a repossession lot and he had rented the lot to Reliable Towing for at least 10 years. He stated that both that lot and the chain link fence behind 1101 W. Jefferson Street were used for that purpose. He stated those particular trailers used for the transition, and as he mentioned in his letter that he would not need them after February 1, that it had changed. He explained he had a retirement sale going on for the next three months but more importantly, those lots had been used for that purpose for a very long time. He stated it may not have been this one in particular but the other ones he had, in which he had three, have been used for this purpose so he wanted to be sure on the interpretation of this on whether it was legal or not. He stated they were all zoned C-1 and he looked directly behind this area to the west of the Skating Palace and that property was zoned Residential and they store a lot of trailers in that chain link fence as well.

Wendel asked where that property was.

Bailey replied that behind Handy Spot Liquor on W. Madison Street, it comes up as being owned by JANA LLC. He explained there was also another big lot there used for storing everything and interpretation was what he was there tonight for.

Richie asked what he was using the trailers for.

Bailey replied that at that time, there were five trailers there and they moved a couple of them but it was used for overflow for the furniture store. He stated there was also a 40 yard dumpster there because of the need for Bailey's Home Furnishings to get rid of unwanted furniture. He believed they went through a lot to not have to send it to the landfill. He stated some of the mattresses go to Chicago to a repurpose company and they try to donate but some have to be disposed of. He stated that area had always been the best place to do it.

Richie asked if he owned the dumpster.

Bailey replied that it was rented. He stated a part of him looking at the whole picture was that if they took the semi-trailers away, that they would be left with just a dumpster sitting there. He asked if that would be in violation as it was all in that repossession lot.

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Richie asked if the trailers were just used to store overflow.

Bailey replied that he mentioned some of the mattresses that go to Chicago, as they have to be stored until they leave. He stated there was also a company he worked with that would leave a trailer there and for cost reasons, they stopped doing it. He stated if he cannot use the property as it had been used for years, then where would the dumpster sit. He stated he owned several properties and he believed it would look better in a chain link fence that it was hidden in.

Gidley asked Manuwal what prompted this.

Manuwal replied that Doug Feece brought this up at a prior Plan Commission meeting.

Gidley stated he remembered Feece bringing this up. He stated he remembered when they were granting variances for the Handy Spot Liquor, that those trailers were going to be gone as Bailey was looking for more warehouse space. He asked if he was still looking for warehouse space.

Bailey replied that he was not looking for space. He stated he was asking for interpretation as he would like to use that lot for this purpose. He explained it was a good rental situation with Reliable Towing and at the time it was not rented, but he would not like to lose the option for something that was lucrative.

Manuwal stated when Feece brought this up, he knew that Bailey had brought those in when Handy Spot Liquor was going in so that he could empty out the Warehouse to get them in there. He stated he thought they were plated but when he drove past after Feece mentioned it, he did not see plates and the gates are almost always open.

Wendel stated that this starts a big conversation within the city as something needs to be done.

Bailey asked if it was the aesthetics or the color not matching the building.

Wendel replied that he believed that was part of it but if they are on property within the city that they need to be plated to his knowledge. He stated that they needed to be updated with current plates.

Bailey asked if that was the case in a repossession lot.

Gidley replied that it was not being used as a repossession lot.

Bailey stated he was not using it as one at the present but it had been for years. He stated that a lot of those vehicles were towed there because they don't have plates.

Richie asked who was towing them there.

Bailey replied that was before with Reliable Towing when they rented the property for 10 years.

Richie asked why moving those would effect the lucrative nature of this.

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Bailey replied that by using the lot, it provides use to him. He asked if the 40 yard dumpster without a plate within violation as well.

Manuwal replied that if there was a dumpster then it had to be blocked from street view. He stated he could have the chain link fence with some slatting in there to block it from street view to make it not be in violation.

Richie stated that it sounded like the semi-trailers are blocking it from the street view.

Bailey agreed and stated that Young's Appliance for years had appliances they had to get rid of in the west corner of the lot. He stated there was a corner where they had the striping and the big rolloffs from Republic Services cannot go in at an angle so it has to sit east to west. He stated it was impossible for it to be completely in that corner.

Richie asked if the trailers ever leave or if they are picked up.

Bailey replied that it was not a lot but they occasionally do. He stated they have not in some time.

Richie asked how long some time was.

Bailey replied that it had been about two years so ever since Handy Spot Liquor went in.

Wendel stated he remembered when they approved the variance for Handy Spot Liquor that they were informed the trailers would be moved as they were temporary. He asked if he still owned the building.

Bailey replied that he was going to sell it to Handy Spot Liquor but he needed it for his other operation in the rear so here they are.

Richie asked what changed that required him to keep the trailers there until after February.

Bailey replied that with the three month sale coming in part from him retiring from Bailey's Home Furnishing. He added that Bailey's Home Furnishing would still go on. He stated he needs clarity to know if he can continue to put trailers in there to move forward with his operations. He asked if it was those trailers that were unsightly and asked if they needed painting.

Wendel referenced what he said earlier about this being a citywide problem as there were a lot of trailers sitting around that ought to not be sitting around. He stated they needed to be out of sight or out of mind unless they are in an industrial park.

Bailey mentioned that in the last meeting Feece brought up that some trailers were sitting out in roads and not in a chain link fence that was closed in.

Wendel stated he was aware that the County went and dealt with this. He asked if the city needed to start doing that or work on an ordinance. He asked if there was any such ordinance that addressed this.

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Manuwal replied that the zoning ordinance was what brought this up tonight which stated that semi-trailers are not to be used as accessory structures.

Bailey stated that it also mentioned box trucks that they also use in the furniture operation.

Manuwal replied that those are driven down the road and they do not sit.

Richie asked for clarification that the concern comes down to them sitting for long periods of time. He asked how often those had to be rotated out and moved for them to be able to be parked there.

Manuwal replied that they would have to be plated. He stated they would have to have current plates on them.

Richie asked if they were plated if they could remain there.

Manuwal replied that he would not see why they couldn't if they were plated but they would be an illegally plated vehicle at that point.

Houin agreed with Manuwal's interpretation that if it was a currently registered vehicle, then there would be no restriction on parking it on private property over an extended period of time.

Wendel asked if it mattered if that vehicle was able to move or not.

Houin replied that there would be no way of us knowing that information if it was a currently registered vehicle.

Manuwal stated that if it had current plates and tires aired up that anybody could pull in there and pull it away at any time.

Houin stated that the issue came down to them not being registered that the assumption was they are being used as a storage facility rather than a trailer. He stated by the language in the statute that it was not the designed use of the semi-trailer.

Manuwal stated that it was reflected in the minutes when Feece brought it up that they were plated because at the time he thought they were.

Bailey stated that the last part of his appeal would be the \$200 fine and from what he told Manuwal that the first he saw of this was the registered letter.

Manuwal replied that he had no control over the mail.

Wendel asked for clarification that Manuwal does not send the first letter registered.

Manuwal replied that the first letter was not required to be registered but once the fine was issued that it was required to be registered. He stated if they wanted to start sending everything as a registered letter, then they would have increase his budget.

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Adley stated that for the Board of Zoning Appeals (BZA), that he would like to make a point of clarification for them in relationship to when they are looking at these different uses. He stated there was a use table within Article 3 at the very end and what they are trying to identify was the subject use and where the ancillary use was associated with that project. He stated in relationship to "Transportation, Communications, Utilites," located on page 49, that General Freight Trucking was a special use within the C-3 district or a permissible use within the I, Industrial district. He stated it changes when they are in association with an adjoining use, so if Bailey's Home Furnishing was located within this property. He stated there would be a direct correlation within a singular use of property so the interpretation aspect reduces as there would be a direct business association with it. He stated that now when it was spread over multiple parcels, are they looking at one use or are they looking at multiple kinds of uses to accomplish a singular business.

Gidley asked if it was fair to interpret that Bailey's Home Furnishing was down the street, that this would be within close proximity.

Adley replied that was where it comes down to their decision as they are trying to establish whether this was acceptable within this district. He stated similar to a variance, this appeal was coming to them as the Building Commissioner made a determination that they did not belong there and the applicant believes they have the ability to keep them there. He stated similar to a variance, it was only looking at this specific use, but what the applicant was looking for was if this were to be permitted, what would the terms be to keep it here so he could apply it to other locations if he needed to make adjustments.

Richie asked Bailey if there was a reason they were not plated.

Bailey replied that they do not move much but it did not mean they could not be.

Manuwal stated Bailey had also informed him he could plate them. He stated he had already issued the fine so he could not take the fine off.

Bailey stated the real reason why he was here was for the interpretation.

Gidley stated that his personal opinion was that they were not attractive and aesthetically an issue. He stated the dumpster ought to be enclosed, similar to every restaurant. He stated it may be in a fence, but everywhere else it was in an enclosure that cannot be seen from the outside.

Bailey stated that it would not be a big cost to hide them.

Richie stated that it seemed like Bailey utilized the trailers for a part of his business and it was not like they were sitting there for no reason. He stated if they were plated then they could remain there.

Gidley stated what he was going to say was not directed at Bailey. He stated for 16 years they had poor Code Enforcement and now they have someone who was trying to do this the way it ought to be done and that they need to support their Building Commissioner. He stated for too long they went unaddressed and people knew about them but nothing happened. He stated now the Building Commissioner was doing what their job description says and that was to enforce code in the city limits. He stated he understood where Bailey was coming from and if he would compromise by

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cleaning up those trailers, fence the dumpster, plate the trailers, that he would be willing to waive the fine. He believed there had to be some give and take and that Bailey should be able to tell what he would be willing to give them in order to waive the fine.

Bailey replied that he would be willing to paint the trailers that would be there often to match the building. He stated he would be willing to strip the lot so it was not visible even though he believed the trailers hid the dumpster more than any of the strips ever could.

Wendel believed the part Bailey was not hearing was that the dumpster needed to be within an container so they cannot see it. He stated it was a big dumpster and believed he should slot the whole fence as it would also cover the bottom half of the trailers from sight.

Gidley asked if he could paint the trailers and slot the entire fence the whole way around. Bailey agreed.

Richie asked if they still had to be plated. The board replied in agreement.

Gidley asked if Bailey if he was fine with these recommendations so far.

Bailey replied that he agreed with the trailers that would be remaining there as a couple would be moved away. He stated he would ask for some time to comply.

Richie asked if three months sounded responsible. Bailey agreed.

Wendel added that this would also relieve him of the fine.

Gidley explained to Bailey that if he becomes aware that he cannot get this done before April, then to communicate with Manuwal. Bailey agreed.

Wendel stated that he believed it would be best to back the Building Commissioner as he believed this was the right path to cleaning up parts of the city. He stated he wanted to let people know that they would be willing to work with them to avoid fines as for this situation it was probably going to cost more than the fine to get this done. He believed it would help people find the initiative to get their property cleaned up as he did not believe the idea was to fine everybody.

Garner stated the fine was issued properly according to the definition but it was good that this could be worked out.

Board members Richie and Secor moved and seconded to approve BZA 2025-02 with the stipulations that the fencing be covered, that the trailers be painted, and that the trailers be plated within a three-month time ending on April 7, 2025. It was found with those stipulations that this would be acceptable under the ordinance, and that the fine of \$200 would not be imposed. The motion passed by roll call vote.

Yes: Garner, Gidley, Richie, Wendel, Secor

No: None

Absent: Jacobs

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**BZA 2025-03:** Collin Daley, 102 N Rebecca Street, Claypool, IN 46510: An Appeal of fencing standards owned by Wilcox Arthur E & Linda K, on parcel 50-32-04-204-095.000-019, located at 1126 Warana Drive, Plymouth, IN 46563, zoned R-3, Traditional Residential District.

Plan Director Adley reviewed the findings of fact and the request from the applicant. He read the applicant's letter aloud (see attached letter below). The applicant attended virtually.

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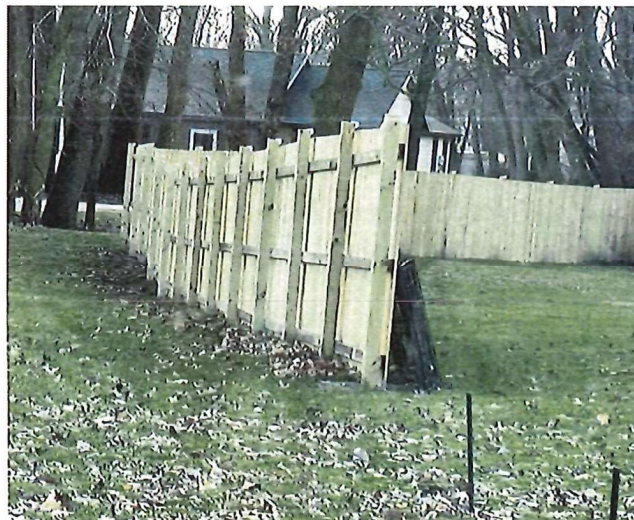
Appellant (Please Print) Address  
Collin Daley 102 N Rebecca ST. Claypool Indiana  
Phone Number 574-780-9282

TO BOARD OF ZONING APPEALS, FOR THE CITY OF PLYMOUTH, INDIANA

I hereby appeal from the decision of the Building Commissioner and/or Zoning Board of Appeals for the reasons stated below and attach hereto drawings showing location, etc:

I am appealing this decision for multiple reasons. The fence is at the address 1126 Warana Drive Plymouth, Indiana. The code states the nonstructural face must be presented outward. The nonstructural face of this fence is presented outward. The 2x4 runners and the pickets provide the structure of the fence. Without these two important materials the fence would not exist it would simply be 4x4 posts in the ground. The pickets, much like sheathing on a house, provide structural integrity. The 2x4 runners also provide structural integrity by tying each post together at the top, middle, and bottom. They are installed on the side of the post toward my grandmother's property. All of the structural materials are installed inward, therefore the nonstructural face must be outward. The complaint in this case has been strung out and manipulated by politics. On October 24<sup>th</sup>, 2024, I was at the commissioner's office. Unfortunately, he was not there. I spoke to his assistant and another male and explained the situation. They told me the fence will be fine and openly admitted multiple fences within city limits are installed this way. I left my name and my phone number for the commissioner. I did not hear anything for over a month. Therefore, I logically concluded that the issue was over with. Recently the commissioner issued a violation. I called him to ask what was going on. He stated the only reason he is bringing it back up and issuing a violation is because a member of the council keeps complaining about the fence. That is blatantly political manipulation. The commissioner himself also admitted that multiple fences in city limits are installed the same way as mine. I followed the fence code, and this is blatant discrimination, or selective enforcement if you prefer to call it that instead.

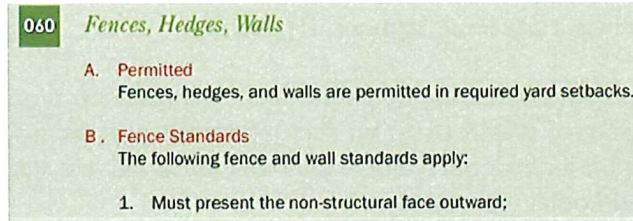
Collin Daley  
Appellant





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Gidley asked Manuwal if he wished to retell his history of his contact with the applicant.

Manuwal replied that Mr. Daley's grandmother came in and got a fence permit and she said that her grandson would be putting the fence up. He stated the fence is a permit for zoning purposes and it would be up to the property or fence installer to verify property lines to put up the fence. He stated the rest of the regulations are in the zoning ordinance and 99% of the time, he would not receive a call that a fence was finished and he had more important things on his plate instead of driving around looking for finished fences throughout the city. He stated that fence got finished and he was notified that the fence was installed improperly. He stated at that time he stopped and spoke with his grandmother and she informed him that her grandson installed the fence and he travelled quite a bit so it would be hard for him to come back and fix the fence. He stated at that time he asked her to stay in contact with him and as long as he saw progress that he would give him time. He stated while giving him time, it had slipped his mind and he was notified that it had not been done. He stated he tried calling again and with Daley's work schedule that he made contact with him on the second call. He stated they discussed it and apparently he had stopped by his office and spoke with his secretary and someone else there and plead his case to them and they said it made sense but it was not their ruling. He stated at that point a note was placed on his desk to contact him and that was where he called him.

Gidley asked when the permit was acquired.

Manuwal replied by stating it was around early Summer.

Gidley asked when a permit was issued for a fence, if the rules for which way a fence was supposed to face in that permit.

Manuwal replied that they are not within the permit but they are in the zoning ordinance.

Gidley asked if they receive a copy of the zoning ordinance.

Manuwal replied that the zoning ordinance was online.

Wendel asked if the inside of that fence where it faces inward and provides the nice side of the fence, if that was facing towards his grandmother's house. Daley agreed. Wendel asked if she looked out and saw that nice face of the fence. Daley agreed. Wendel stated that would not be how he would build a fence in his neighborhood.

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**Collin Daley (102 N. Rebecca Street, Claypool, IN 46510)**

Daley replied that for several months the neighbor had a wired fence shown at the bottom of the picture provided. He explained it was two-four feet tall and it was there for months and nobody complained about that and it looked much worse than this fence did. He stated the wired fence was also installed on his grandmother's property.

Wendel stated that was a different subject matter that needed to be taken up with the neighbor and not this board. He stated the discussion tonight was about the wooden fence.

Daley stated the road ran east to west so it did not matter which way it faced as it didn't affect anyone. He explained that the neighbor came over and helped install the fence so he would not know why they would call about it.

Manuwal stated he did not believe it was that neighbor that called to complain.

Daley stated it was a council member and that was the only reason this was being brought up that night.

Wendel stated he did not believe that was relevant at this point as it had been brought to this board's attention and they are charged to make a determination on the zoning ordinance.

Daley stated if they were to drive down the road on either side that you would see both sides of the fence anyway.

Garner stated that it was not enclosed so you could see both sides of the fence.

Daley stated that it goes down one side and down the back of the property.

Garner added that it did not connect back to the house.

Daley stated that the Building Commissioner stated that it could only travel to the front of her garage.

Gidley agreed as the fence could not go into the front yard setback.

Daley agreed and stated that  $\frac{3}{4}$  of the neighborhood would be looking at the nice side of the fence.

Wendel asked Daley if there were other pictures of around that house.

Manuwal replied that the picture provided was the one he took.

Garner stated he drove past this and it was what he said. He stated it faced in toward the neighborhood if you are traveling east on Warana Drive but if you travel South, then you see the outside ugly side of that fence.

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Houin stated similar to the last case, this was not a variance request, but rather an appeal of the determination by the Building Commissioner. He stated this was not an advertised public hearing like a normal variance request but simply an appeal of a determination that had already been made. He explained what was being asked was if the determination of the Building Commissioner was properly interpreted and applied with the zoning ordinance.

Gidley asked City Councilmen Randy Longanecker to step forward and explain how he got involved.

Longanecker stated that he had a constituent reach out to him who was concerned about this fence being installed incorrectly. He stated it was John Mills who reached out to him as this property falls under his district so he had contacted the Building Commissioner. He reached back out to Manuwal for an update and he had informed him he was in contact with the owner's grandson. He referenced that Manuwal stated that he can't get around to everything and as a representative of the public, it was his position to relay concerns from the public.

Gidley asked for clarification that a neighbor expressed concern on the way it looked.

Longanecker replied that it was not on the way it looked but how the installation did not comply with the zoning ordinance. He stated he agreed with Manuwal's interpretation as he was also a contractor and every time he gets a permit he has to follow the National Electrical Code, as he was an electrician by trade, it referenced that this was the code at a minimum but local jurisdiction has all interpretation rights. He stated that had always been a national standard for interpretation of any code. He stated that similar to a roof, the shingles face outward and not inward. He stated that the decorative portion should be facing outward and not inside according to our ordinance. He stated that as a builder, our local Building Inspector has all jurisdiction rights and interpretation by State Statute.

Daley stated that if the Building Commissioner had all interpretation rights that he could have installed the fence the other direction and he could have said it was wrong. He stated that the code stated that the nonstructural face should be facing outward and all the structural materials were installed inward.

Longanecker stated that the nonstructural was facing inward as the structure would be the 4x4's.

Daley asked if the structural materials were installed inward, then how could the nonstructural face outward. He stated that the 4x4's were a face.

Longanecker replied that the 4x4's were holding the fence up.

Daley stated they are not a face.

Longanecker stated that was not a face but instead it was the structure.

Daley stated that the nonstructural face must be presented outward.

Longanecker stated that was correct and the fence was backwards.

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Manuwal stated that Daley was trying to say that he disagrees with how our zoning ordinance was worded and how he interpreted it.

Daley stated to clarify that if the neighbor had installed the fence that it would be fine and not needed to be changed.

Longanecker stated this fence was on his grandmother's property.

Daley stated that the picture would have looked the exact same.

Richie stated that the neighbors do not own this fence.

Daley asked what changing this would do.

Richie stated if the neighbors put this fence up that his grandmother would like to see the nice looking side. He stated that he put this fence up and the neighbors want to see the nice looking side.

Daley stated that the direct neighbor was not the one complaining.

Richie stated it still came down to how this was supposed to be built by ordinance.

Daley believed that as a homeowner if he went through all the hurdles to build a fence that he would want the best part of that fence as it was his money and his property.

Longanecker stated that he understood that but that was not the ordinance that had to be followed.

Daley stated the ordinance was very vague and he also asked the Building Commissioner if these meetings were a matter of fact and he said they were a matter of opinion. He stated he was not sure if they were expressing opinion here or fact.

Richie stated they were facts with the ordinance.

Daley stated that he also asked the Building Commissioner if he were to alternate the pickets if that would change the situation and he stated that the code did not cover that. He stated that he could alternate the pickets and it would be just fine so there was no point of this fine.

Manuwal stated that he would have to put the 2x4 furring strips on the other side and then alternate the pickets so you make a shadowbox.

Daley stated that it would be uglier than it was now but it would be passable.

Wendel stated it was like building a house and putting on the drywall on the outside.

Daley stated that whoever described the roof earlier that shingles are not meant to be decorative but instead they are there to protect the roof.

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Houin encouraged everyone to remember that this was not a determination of what was most aesthetically pleasing but rather what the language in the ordinance means. He stated that language was what the structural side of the fence was. He stated that Manuwal as the Building Commissioner had made an interpretation of what that means and their role that night would be to decide whether his interpretation was correct or if by some ambiguity that it was not a correct interpretation of the ordinance.

Daley asked if they could prove that the materials facing inward were nonstructural.

Richie replied that they did not have to as the burden of proof was not on them to do that.

Daley asked if he could bring them proof and they could accept the appeal.

Gidley replied that this had been the way Plymouth had always interpreted it's zoning ordinance.

Daley asked what about the other 20 fences in Plymouth that were installed incorrectly.

Wendel replied that this was done on a per case basis and they are not doing 20 other properties that night. He stated that they were doing this property.

Daley asked if he called about the other 20 properties that they would rule the same way.

Wendel replied that it would be up to the Building Commissioner to delve into that.

Manuwal stated he spoke to Daley about that as there were other fences installed like that but they were installed long before his time.

Daley stated he knew some of them were new.

Manuwal stated he was aware that Daley travels for work and recommended giving him time.

Houin stated that it could also be left to the discretion of the Building Commissioner to work with the property owner.

Gidley asked if his interaction had been sufficient enough that he felt he could work with him.

Manuwal replied that the biggest thing was the interpretation of the structural side. He stated that he would give him six months to get it started and if it was not started, then he would go from there.

Houin stated that the normal procedure would be that the normal procedure was that the Building Commissioner has some discretion there and if he feels there was not cooperation that he could start the process of imposing a fine but that could be left up to him.

Board members Richie and Garner moved and seconded to deny BZA 2025-03 as presented and that it be left to the discretion of the Building Commissioner to enforce. The motion passed by roll call vote.

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Yes: Garner, Gidley, Richie, Wendel, Secor  
No: None  
Absent: Jacobs

**Other Business:**

Houin stated that after discussions of the last meeting and this meeting that he would like to remind everyone that they do have a Zoning Subcommittee of the Comprehensive Plan that meet the second Friday of every month at 9:00 A.M. in the Mayor's Conference Room. He stated if any of them were interested in participating that they are welcome to join those meetings if they have comments or would like to have any input. He stated they could also reach out to Ty Adley or him if they could not make it but would still like to have input. He stated that a lot of the questions that night would be addressed at that meeting.

Gidley asked if anyone from any of these boards come to those meetings.

Houin replied that some have but it was not a set membership. He explained that it was an open discussion for anyone who would like to participate. He stated he had chaired those meetings, but Adley would be chairing them from now on. He stated that Manuwal had also sat in on those meetings, so City Administration had been involved.

Gidley stated his concern was that the people making these decisions had not lived through what the Plan Commission or Board of Zoning Appeals live with.

Houin stated that all recommendations would go to the Plan Commission, and they would have the authority to say yes or no.

Gidley expressed that he would want them to know to some authority what they deal with.

Houin replied that was why he continually encouraged all of them to get involved in the conversations.

There being no other business, Board members Richie and Wendel moved and seconded to adjourn the meeting. The motion carried, and the meeting adjourned at 9:13 p.m.

  
\_\_\_\_\_  
Kyle Williams, Recording Secretary