

STATE OF INDIANA
BEFORE THE TOWN COUNCIL OF SELLERSBURG, INDIANA

ORDINANCE NO. 2019 – OR – 018

AN ORDINANCE AMENDING THE ZONING ORDINANCE OF THE TOWN OF SELLERSBURG, INDIANA

WHEREAS, pursuant to Ind. Code § 36-5-2 *et seq.*, this Town Council of Sellersburg, Indiana (this “Council”) is the town legislative body and the President of the town council is the town executive; and,

WHEREAS, pursuant to Ind. Code § 36-5-2-9, the legislative body may adopt ordinances and resolutions for the performance of functions of the town; and,

WHEREAS, after conducting a public hearing, the Plan Commission for the Town of Sellersburg, Indiana unanimously voted to make a favorable recommendation to make certain amendments to the Zoning Ordinance for the Town of Sellersburg (the “Zoning Ordinance”); and,

WHEREAS, a copy of said approval, Resolution No. 01-2019, is attached hereto as **Exhibit A.**

NOW THEREFORE BE IT ORDAINED by this Town Council of Sellersburg, Indiana that the Zoning Ordinance of the Town of Sellersburg is **(AMENDED) / ~~NOT~~** ~~AMENDED~~) as recommended by the Plan Commission.

This ordinance shall be in full force and effect upon its passage and promulgation as evidenced by the affirmative signatures of the undersigned as the majority of the duly elected and serving members of this Council.

So Ordained this 22 day of Jul, 2019

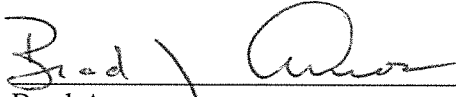
“Aye”

“Nay”



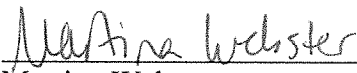
Paul J. Rhodes
Council President

Paul J. Rhodes
Council President



Brad Amos
Council Vice President

Brad Amos
Council Vice President



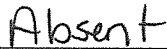
Martina Webster
Council Member

Martina Webster
Council Member



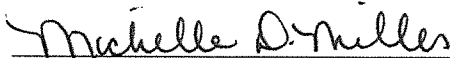
Jim LaMaster
Council Member

Jim LaMaster
Council Member



William Conlin
Council Member

William Conlin
Council Member



Attested by: Michelle Miller
Sellersburg Clerk-Treasurer

FIRST READING

DATE: 7/22/2019

MOTION: Webster

SECOND: LaMaster

VOTE: 4 AYE 0 NAY 0 ABSTAIN

SECOND READING

DATE: 7/22/2019

MOTION: Webster

SECOND: LaMaster

VOTE: 4 AYE 0 NAY 0 ABSTAIN

EXHIBIT A

RESOLUTION NO. 1 - 2019

RESOLUTION TO THE TOWN OF SELLERSBURG. INDIANA

COMMON COUNCIL

**REFERENCE AMDENDMENT TO THE
TOWN OF SELLERSBURG ZONING ORDINANCE**

Whereas, pursuant to IC 36-7-4-605 the Sellersburg Plan Commission (Commission) shall certify a favorable recommendation, an unfavorable recommendation, or no recommendation to the legislative body on proposed changes to the Town of Sellersburg's Zoning Ordinance, Resolution No. 01-2019; and

Whereas, the Town of Sellersburg's Plan Commission in accordance with IC 36-7-4604 held a public hearing on July 15, 2019, on the proposed amendment to Section One, General Provision, Section 1.9 Definitions and Delete Section Four, Board of Zoning Appeals of the Town of Sellersburg's Zoning Ordinance, as follows:

- I. Section One, General Provision, Section 1.9 the Town of Sellersburg's Zoning Ordinance by deleting the following definitions:

"ABUTTING PROPERTY OWNER." Official owner of record (based on the tax records of the Clark County Clerk's office) of property adjoining at any point the subject property (property of the applicant for change in zoning, contingent use, special exception, variance or off street parking requirement waiver); of property directly across any public right-of-way, railroad, stream or creek, easement, alley, and the like from subject property; of property which adjoins at any point the adjoining property or the property directly across the public right-of-way, railroad, stream or creek, easement, alley, and the like, provided such abutting property is not more than five hundred (500) feet from the subject property.

"INTERESTED PARTIES." Those parties who are owners of properties adjoining or adjacent to the property for which a zoning map change, "contingent use" or "special exception" is being sought.

- II. Section Four, Board of Zoning Appeals of the Town of Sellersburg's Zoning Ordinance by deleting the following:

SECTION FOUR

BOARD OF ZONING APPEALS

Section 4.1 - Establishment: Membership: Term

- (1) The Board of Zoning Appeals is hereby established as a part of the Sellersburg Plan Commission, under the provision of IC 36-7-4-902 (a)
- (2) The Board of Zoning Appeals consist of five (5) members, as follows:
 - (a) Three (3) citizen members appointed by the Town Council President of Sellersburg, of whom one (1) must be a member of the Plan Commission and two (2) must not be members of the Plan Commission.
 - (b) One (1) appointed by the Town Council of Sellersburg, who must not be a member of the Plan Commission.
 - (c) One (1) citizen member appointed by the Plan Commission, who must be a member of the Plan Commission other than the member appointed under the subsection (a).
- (3) The terms of the office shall be as follows:
 - (a) One (1) member for a term of one (1) year. One (1) member for a term of two (2) years. One (1) member for a term of three (3) years. Two (2) members for a term of four (4) years.
 - (b) Each term expires on the first Monday of January of the first, second, third, or fourth year, respectively, after the year of the member's appointment. (c) Thereafter, as a term expires, each new member shall be appointed for a term of four (4) years. Each member is eligible for reappointment.
- (4) If a vacancy occurs among the membership, the original appointing authority shall appoint a new member for the unexpired term
- (5) The Board of Zoning Appeals shall elect a chairman and a vice-chairman from its membership at the first meeting of the year. The vice-chairman shall have the authority to act as chairman during the absence of or disability of the chairman.
- (6) The majority of the entire membership of the BZA shall constitute a quorum. No action is official, however, unless authorized by a majority of the members of the Board.

Section 4.2 - Powers of the Board of Zoning Appeals

The Board of Zoning Appeals shall have all the powers and duties as provided under the provision of IC (36-7-4-900 series) as amended.

4.2.1 - Appeals

The Board of Zoning Appeals shall hear and determine appeals from and review [IC 36-74-918.1]:

- (1) any order, requirement, decision, or determination made by an administrative official, hearing officer, or staff member under the zoning ordinance,

(2) any order, requirement, decision, or determination made by an administrative board or other body except the Plan Commission in relation to the enforcement of the zoning ordinance; or

(3) any order, requirement, decision, or determination made by an administrative board or other body except the Plan Commission in relation to the enforcement of an ordinance adopted under this chapter requiring the procurement of an improvement location or occupancy permit.

4.2.2 - Special Exceptions and Contingent Uses

The Board of Zoning Appeals shall approve or deny all:

(1) special exceptions; and (2) contingent uses; from the terms of the zoning ordinance, but only in the classes of cases or in the particular situations specified in the zoning ordinance. The Board may impose reasonable conditions as a part of its approval.

4.2.3 - Variances of Use

The Board of Zoning Appeals shall approve or deny variances of use from the terms of the Zoning Ordinance.

4.2.4 - Variances from Development Standards of Zoning Ordinance

The Board of Zoning Appeals shall approve or deny variances from the development standards of the Zoning Ordinance. Section 4.3 - Grant of Variances

As a matter of public policy, the standards by which variances are approved by the Board of Zoning Appeals shall be strictly adhered.

4.3.1 - Written Findings

A use variance may be approved under subsection 4.2.3 and a variance from the development standards of the Zoning Ordinance may be approved under subsection 4.2.4 only upon a determination in writing that:

(1) The approval will not be injurious to the public health, safety, morals, and general welfare of the community; and

(2) The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner, and

(3) The need for the variance arises from some condition peculiar to the property involved, such condition not being found in common with other properties in the vicinity that are in the same zoning district and such condition not having been created by the applicant for the variance; and such condition will result in practical difficulties;

In addition to the three determinations above, a use variance may be approved under subsection 4.2.3 and a variance from development standards of the Zoning

Ordinance other than dimensional variances may be approved under subsection 4.2.4 only upon a determination in writing that the following additional requirements have been met:

- (1) The strict application of the terms of the Zoning Ordinance will constitute an unnecessary economic hardship if applied to the property for which the variance is sought; and
- (2) The variance shall be the minimum necessary to permit the proposed development such that the substantial intent and purpose of the ordinance shall be preserved.

The Board of Zoning Appeals may add reasonable conditions to the granting of a variance so as to accomplish the ends stated in this subsection.

4.3.2 - Status of Variance

The granting of a variance shall not be an ordinance amending the Zoning Ordinance, and no action by the board shall be taken or decision made except after a public hearing.

Section 4.4 - Time Limit

- (1) Any variance approved by the Board shall expire six (6) months from the date of such action, unless an Improvement Location Permit incorporating a variance has been obtained within said six (6) months or the provisions of the variance have been adhered to within said six (6) months.
- (2) Whenever the Board has taken action to approve or deny a variance application, the Board shall not consider any further variance application on any part of the same property for a period of one (1) year from the date of such action.

Section 4.5 - Application for Variance

Application for Variance shall be subject to Section 3.4.2 of this Ordinance. Section

4.6 Notice Posting

- (1) Upon the filing of an application for a variance, contingent use, special exception, rezoning, or parking requirement waiver, the applicant or his attorney shall post a sign upon the real estate affected by the action in a conspicuous place which is visible at all times to all persons passing said premises. The applicant shall protect the sign from destruction on the site until the action is approved or denied by the Board. The sign shall be at least 18" x 24" with 1-1/2" lettering. The content shall state the purpose, date, time, and location of the public hearing.
- (2) The sign shall be placed thereon not less than ten (10) days prior to the public hearing of the Board, and said sign shall remain posted until approved or denied by the Board.

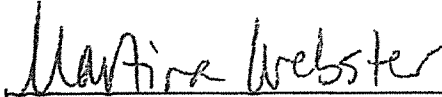
NOW THEREFORE BE IT RESOLVED by the Plan Commission of the Town of Sellersburg that the proposed amendment will not be injurious to the health, safety, and welfare of the community;

BE IT FURTHER RESOLVED that the proposed amendment will not have any substantial, adverse effect on the Town of Sellersburg's Comprehensive Plan; and

BE IT FURTHER RESOLVED, that the Plan Commission of the Town of Sellersburg give a:

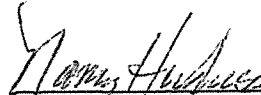
- ☐ **Favorable recommendation;**
- ☐ Unfavorable recommendation;
- ☐ No Recommendation; to the Town of Sellersburg Common Council of the Resolution as presented.

BE IT HEREBY RESOLVED THIS 15th DAY OF JULY, 2019 BY THE PLAN COMMISSION OF THE TOWN OF SELLERSBURG, INDIANA.



Martina Webster, President


Francis A Conroy, Vice President

Brad Amos, Member


Nancy Hughes, Member

Thomas McEwen, Member


Randall Mobley, Member

Attest:


Darla Stahl Secretary

