

# **BOARD OF ZONING APPEALS MINUTES**

**Monday, November 9, 2009**

**7:00 P.M.**

## **A. ROLL CALL**

Members Present:

Mike Hall- Chairman  
Nicole Daily-Vice-Chairman  
Ken Nelson

Mark McCormack – Director of Planning  
Arnold McGill – Attorney

Members Absent:

Rick Pope  
Jim Deaton  
Ashley Webb – Enforcement Officer – attending Town of West Harrison meeting.

## **B. ACTION ON MINUTES**

July 14, 2009 - Tabled to next month due to a lack of quorum from the July meeting.

August 11, 2009 - Mr. Nelson made a motion to approve the August 11, 2009 minutes, as written. Mrs. Daily seconded. All in favor. None opposed. Motion carries.

September 14, 2009- Mrs. Daily made a motion to approve the September 14, 2009 minutes, as written. Mr. Nelson seconded. All in favor. None opposed. Motion carries.

## **C. OLD BUSINESS SCHEDULED TO BE RE-OPENED**

There is no old business.

## **D. OLD BUSINESS TO REMAIN TABLED**

There is no old business.

## E. NEW BUSINESS

1. Request: Conditional Use for the operation of a motorcycle/  
automobile sales and service business.
- Applicant: Bill Farmer / Owner: Charles Daugherty
- Site Location: South State Street
- Legal: Sec. 24, T7, R1, Map #01-24-104, Parcel #029
- Township: Harrison Size: .628 Acres
- Zoning: Restricted Business (B-1)
- Note: This property is located within the Town of West  
Harrison.*

Mr. McCormack states that the applicant is proposing to re-establish a pre-existing nonconforming use for small scale vehicle sales and service on this site, located on the west side of South State Street within the Town of West Harrison. He explains that the zoning of the property is Restricted Business (B-1) and that the proposed use is only permitted as a conditional use within the West Harrison Zoning Ordinance. He also states that no additional improvements are proposed. Mr. McCormack explains that the site contains a shop with attached service garage (3,496 square feet), a pole sign (permitted—32 square feet), a parking lot (approximately 34,000 square feet), and is serviced by two access points, 43' - 10" (South) and 65' - 6" (North). He further states that there is an existing outbuilding dealer, Cricket Valley Structures, also operating on site, which subleases from USA Choppers. He explains that this use has been in place since 2008 (after the West Harrison Zoning Ordinance went into effect), and has no previous authorization. According to Article 1100, Section 1125, Item 2 of the West Harrison Zoning Ordinance, outbuilding sales are also a conditional use. There is also a second (unauthorized) sign on site, which advertises Cricket Valley Structures, and would require a dimensional variance. He states that USA Choppers intends on seeking an additional, separate conditional use permit for Cricket Valley Structures in December, if this application receives approval. Mr. McCormack reviews the staff report and shows slides.

Mr. Hall asks how this case came about. Was a complaint filed?

Mr. McCormack states that the applicant came into the office to apply for a dealer license. He states that during the staff review process it was discovered that this business was out of compliance with the West Harrison Zoning Ordinance since the previous business has ceased operation. He states that staff advised the applicant to request a conditional use to re-establish the business.

Mrs. Daily asks about the Cricket Valley sign and the variance noted in the staff report?

Mr. McCormack states that the sign on site now is a previously approved sign. If the applicant would add the Cricket Valley signage to the existing structure, and meet the square footage requirements, there would not be an issue. However, if a new sign is erected, then a variance would need to be granted to allow the new sign at that time. He also explains that this request will not require site plan review because no utility installation, construction, nor parking will be added.

*Open public comment.*

Mr. Bill Farmer, of USA Choppers, Inc. states that he intends to bring Cricket Valley back to the Board for review at a later time. He would like to take care of this request tonight and be able to move forward with the vehicle sales use.

Mr. McGill states that to his knowledge, this site was used for about 35 years as an automobile lot. He had previously purchased a car from this location.

*Close public comment.*

Mr. Nelson made a motion to approve a conditional use for operation of an auto and motorcycle sales and service business for Bill Farmer (applicant) and Charles Daughtery (owner) on South State Street in the Town of West Harrison, with consideration to the Ordinance criteria: 1) that this request will not endanger the public health, safety, and welfare of the community; 2) that this request will be harmonious with existing uses within the area; 3) that this request has adequate public facilities; 4) that this request will not impede the development or improvement of adjoining properties; 5) that this request will not create any additional traffic, 6) that this request will not involve uses, materials, or construction that would be detrimental to the community. He states that the newer businesses were established at a time when the previous car lot was in operation and those new businesses chose to locate there anyway. He feels that re-establishing the car lot would not be detrimental to the surrounding established businesses. Mrs. Daily seconded. All in favor. None opposed. Motion carries.

**F. ADMINISTRATIVE**

Mr. McCormack gives a brief update on:

- The Enforcement Report
- Preliminary Flood Insurance Rate Maps – Public Open House on Thursday from 4:00pm – 7:00pm at Ivy Tech

Mrs. Daily made a motion to adjourn the meeting. Mr. Nelson seconded. All in favor. None opposed. Motion carries.

Meeting adjourned at 8:30 P.M.

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Mike Hall, Chairman

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Mark McCormack, Planning Director