

AVON BOARD OF ZONING APPEALS
MEETING AGENDA

MEETING DATE: May 17, 2018
TIME: 7:00 PM
PLACE: AVON TOWN HALL COUNCIL CHAMBERS

1. Call to order/Pledge of Allegiance
2. Roll Call/ Determination of Quorum
3. Approval of Minutes: April 19, 2018
4. Request for Continuances or Agenda Modifications: None
5. Public Comments: (Public may comment on items NOT on the Agenda)
6. Old Business: None

7. New Business / Public Hearings:

**DOCKET # VAR(U) 18-07- Coblesprings Professional Building – 7754
Coblesprings Drive- Use Variance**

A request for approval of a use variance to allow a child care center in the SC zoning district. The property is approximately 0.81 acres located at 7754 Coblesprings Drive.

PETITIONER: Kid City USA Acquisition, Inc.

Other Business: Signatures
Rules of Procedure

Adjournment:

Next Meeting: June 21, 2018

Anyone who requires an auxiliary aid or service for effective communication, or a modification of policies or procedures to participate in a program, service, or activity of *Town of Avon*, should contact the *Town Administrative Offices* as soon as possible but no later than 48 hours before the scheduled event

**MINUTES
FOR THE APRIL 19, 2018
AVON BOARD OF ZONING APPEALS
REGULAR MEETING**

- I. **Call to Order/Pledge of Allegiance – 7:00 PM**
- II. **Roll Call/Determination of a Quorum** – In attendance were: Jeremy Eglen, Tara Shaver, Grant Niemeyer, and Charles Bischoff as were Town Planner Jodi Dickey and Town Attorney Kent Minnette.
- III. **Consideration of the minutes** – The minutes from the January 18, 2018 and March 15, 2018 were approved as presented.
- IV. **Election of Officers** – Mr. Eglen made a motion to elect Corey Herbert as Chair. There were no other nominations and Mr. Herbert was duly elected. Mr. Niemeyer made a motion to elect Jeremy Eglen as Vice Chair. There were no other nominations and Mr. Eglen was duly elected.
- V. **Requests for Continuances and Other Agenda Modifications – VAR 18-06 was withdrawn**
- VI. **Public Comments – None**
- VII. **Old Business – None**
- VIII. **New Business:**

SE 18-01 Avon Retail Building – Special Exception

Jodi Dickey briefly presented the request and noted that sites within Tier 1 of the 36 Overlay require a special exception to allow drive through service. She explained the site is a former restaurant with a drive through, but since this is a new building, a new special exception is being sought. She explained the new structure will be a multi-tenant building with at least one restaurant being proposed. The site meets other development standards and staff is recommending approval.

Mr. Jon Scheidler, representing the appellant, then presented. He described the project in detail and noted the drive through location and how traffic would navigate the site.

Mr. Eglen asked if other drive through orientations were considered. Ms. Dickey interjected with information from the zoning ordinance that requires specific placement of those elements.

Ms. Shaver asked about adding a barrier to block direct access to the drive through or some directional device to eliminate confusion and traffic backing up onto Alderson Way, and potentially impacting US 36. She noted the Jack in the Box has installed a concrete barrier. Mr. Eglen agreed the traffic pattern on site could become confusing and congested.

Mr. Scheidler asked if a thin landscape island or curb would be sufficient for a physical barrier.

Members all agreed that would be acceptable.

The public hearing was opened at 7:16 PM. No one was present to speak for or against the petition and the hearing was closed.

Mr. Bischoff made a motion to approve SE 18-01 with the following condition:

- That a physical barrier be placed within the parking lot south of the proposed building to prevent vehicles from directly accessing the drive-through aisle from Alderson Way with directional arrows guiding traffic in the safest manner through the parking lot.

Mr. Niemeyer seconded and the motion passed 4-0.

IX. Other Business – Rules of Procedure

An updated draft of the Rules was distributed and discussed. A few minor edits were suggested as was language to clarify that more than one motion to approve an appeal may be made.

X. Adjournment – 7:32 PM.

NEXT BOARD OF ZONING APPEALS MEETING

Thursday May 17, 2018

Corey Herbert– Chair

Jodi Dickey - Secretary

VAR(U) 18-07 Cobblesprings Professional Building – Kid City

Planning & Building Department Staff Report

May 7, 2018

Board of Zoning Appeals, Public Hearing

Jodi Dickey

- A. Petition Number: VAR(U) 18-07 Cobblesprings Professional Building
- B. Applicant: Kid City USA Acquisition, Inc.
- C. Location: The subject property lies on the west side of Cobblesprings Drive, north of US 36. The parcel has a common address of 7754 Cobblesprings Drive and is part of the Avon Crossing commercial subdivision.
- D. Parcel Size: 0.81 acres
- E. Land Use and Zoning: Current land use is office. Current zoning is SC (Shopping Center District). Properties to the east and south are zoned SC and contain commercial uses. To the north, property is zoned R-3 and is part of Cobblestone Springs subdivision. The lot west of and immediately adjacent to the subject parcel is vacant. To the west, the remaining properties are zoned C-3 and contain commercial uses (Beechwood Center) and a few additional vacant lots.
- F. Action Requested: Grant a Variance of Use to permit the use of the existing structure for a day care center. According to Chapter 27, Table 27-1 (Permitted Use Table), child care facilities are not permitted within the SC zoning district. That is the reason for this request.
- G. History
The subject property contains a single story professional office building (~8,700 sqft.) and approximately 24 parking spaces. The proposed child care would occupy the entire building. Staff understands the subject parcel was initially developed as a child care center. However, no project specifics were uncovered so it's unknown how many children and employees the original use had on the site.

This site was granted a use variance in 2012 to permit a place of worship in the SC District. A new use variance was granted in 2014 to allow the original use to continue. In 2017, another use variance was granted to allow a different worship facility to occupy the space.
- H. Staff Comments: The subject site is a single parcel that is approximately 0.81

acres and is zoned SC. There is one single story, multi-tenant structure on site. The building is currently arranged for two tenants, although the proposed use will occupy the entire structure. Preliminary information given by the appellant indicates there could be up to 200 children and 12-15 employees at the facility. As noted earlier, there are 24 parking spaces on site. To develop the desired use, there will need to be a minimum of 35 spaces provided. Staff is concerned with the amount of traffic this use could generate on a daily basis, coupled with the lack of adequate parking. The appellant has not submitted a variance request to reduce the amount of required parking. The Plan Commission, through a waiver request associated with a Development Plan Review petition, may approve a shared parking arrangement. In this case the appellant would need to obtain at least 11 spaces from an adjoining or nearby lot.

The SC zoning district is intended to be used for multi-tenant retail structures, constructed and managed as a unified entity. This district also allows more than one principal use on a single lot. Intensive, commercial uses are contemplated here and should be designed to accommodate the associated vehicular and pedestrian traffic such uses generate. The subject site does not have the characteristics typically associated with SC uses. It looks and functions more like an office (C-4).

Staff is not generally supportive of this request and recommends denial.

I. Statutory Findings for Variance of Development Standard:

The Board of Zoning Appeals shall approve, conditionally approve or deny variances from the development standards (such as height, bulk, or area) of the Avon Zoning Ordinance. A variance may be approved under IC 36-7-4-918.5 only upon a determination in writing that:

Criterion 1: The approval will not be injurious to the public health, safety, morals, and general welfare of the community

It is unlikely a child care center in this location will be detrimental to public health, safety, and welfare.

Staff believes this criterion has been met.

Criterion 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

Staff has some concerns with the amount of traffic that could be generated by this use. Access to the site is from Cobblesprings Drive, which is also a main road into

Cobblestone Springs subdivision. While most of the residents in the subdivision would probably use the entry onto Dan Jones Road, many may use Cobblesprings Drive to access US 36. At morning and evening rush hours there could be excessive congestion due to drivers trying to turn left into the day care facility, backing up traffic onto US 36. Staff is also concerned with the lack of adequate parking for this site and whether the 11 additional spaces needed could be supplied from an adjacent business without negative impact.

Staff does not consider this criterion to be met.

Criterion 3: The need for the variance arises from some condition peculiar to the property

The appellant states that the location of this building within the SC zoning district is the peculiar condition that requires the use variance. Staff does not agree with this reason alone and suggests the child care use is better suited to one of the other commercial zoning districts in which the use is already permitted (C-1, C-2, and C-4).

Staff does not believe this criterion has been met.

Criterion 4: The strict application of the terms of the Avon Zoning Ordinance will result in an unnecessary hardship if applied to the property in question

The appellant notes that the cost of obtaining a building on an appropriately zoned lot would be prohibitive. The Board may consider financial hardship as part of its deliberations, however staff does not believe that reason by itself rises to the level of unnecessary hardship.

Staff does not believe this criterion has been met.

Criterion 5: The use does not interfere substantially with the Town's comprehensive plan

The subject property lies just outside of an Innovation Cluster as shown on the Future Land Use Map. The areas outside of designated Clusters are presumed to develop as underlying zoning would permit. This use would not interfere with the comprehensive plan.

Staff believes this criterion has been met.

CONDITIONS

Per IC 36-7-4-918.5, the Board may impose reasonable conditions as a part of the Board's approval.

J. Recommendation:

Deny VAR(U) 18-07, request for a variance of use to permit Kid City USA to provide day care services within the SC (shopping center) zoning district.

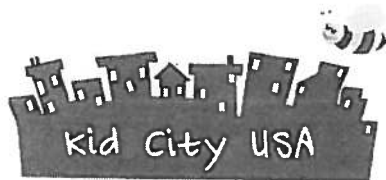
Sample BZA Motion

AVON BOARD OF ZONING APPEALS

Approval of a Variance of Use

Case Number: VAR(U) 18-07, Cobblesprings Professional Building-Kid City

I move that we **deny** VAR(U) 18-07, a variance of use to permit a day care center in the SC zoning district, as **not** having satisfied all the requirements for variances under state law and subject to the staff Findings of Fact.



"Where Kids Can *Bee* Kids"

Jeri L. Walker
Growth & Development
Telephone: 386.795.2227
Email: Jeri@KidCityUSA.com

Kid City USA Enterprises, Inc.
4530 South Ridgewood Ave.
Port Orange, Florida 32127

April 18, 2018

Town of Avon
Board of Zoning
6570 East US Highway 36
Avon, Indiana 46123

RE: 7754 Cobblestone Drive, Avon, Indiana 46123, in Washington Township, Hendricks Co.
Variance from Use Letter of Intent

Dear Members:

This letter will serve as a letter of intent and introduction of Kid City USA and Audrey Bruner to the Town of Avon and the Members of the Board of Zoning.

Kid City USA, Inc. was created in 2000 and has been issuing franchises since November 1, 2011. Our principal place of business and corporate office is located at 4530 South Ridgewood Avenue, Port Orange, Florida. We have twenty-four (24) schools opened and operating in seven (7) counties in Florida. We are in the process of opening six (6) additional schools in College Park, New Smyrna Beach, St. Cloud, Jacksonville, Gainesville and Ormond Beach, Florida. We have schools in Jasper and Indianapolis, Indiana. We are in the process of opening a school in Fishers, Indiana.

Kid City USA is requesting the variance in order to open a school at 7754 Cobblestone Drive, Avon, Indiana. This property is well suited for daycare use. We are acquiring a neighboring land parcel that will add 7/10 acre of land to our concept that will support necessary additional parking for our use. We feel Kid City USA will be an asset to Avon, Indiana, as we offer the highest quality schools that are affordable to working people and foster families.

Kid City USA offers learning programs and child care services for children between the ages of six (6) weeks and twelve (12) years of age. The services provided by Kid City USA are used primarily by parents who work outside the home. Kid City USA schools are opened year-round, usually accommodate more than 100 children, and operate, typically, from 6:00 a.m. to 6:30 p.m., Monday through Friday.

Town of Avon
Board of Zoning
April 18, 2018
Page 2

Our schools are subject to state and local governmental regulations and licensing requirements. These regulations and requirements concern, without limitation, the following: the fitness and adequacy of buildings and equipment; the appropriateness of materials and supplies; qualifications of staff; the ratio of staff to children in each classroom; staff training; records-keeping; dietary requirements; daily curriculum; and health, fire and safety standards. Our schools must obtain an annual, renewable child care license and must be maintained as long as the center is operated as a Kid City USA.

Kid City USA strives to not only meet all state and local requirements, but to exceed them. Our real estate and operations personnel work closely to make sure our centers represent the highest quality, operational condition and educational status in the industry. Therefore, we feel Kid City USA will be an asset to the families of Avon, Indiana.

Audrey Bruner is our founder and CEO of Kid City USA. Ms. Bruner has nineteen (19) years of experience in the childcare industry. Her education is in Business and Early Childhood Development. She is a member of the Florida Association of Child Care Management, Gold Seal Accreditation and the Child Abuse Prevention Task Force. Ms. Bruner is dedicated to maintaining a reputation built on quality, service and uncompromising ethics.

All of our staff at Kid City USA look forward to working with the Town of Avon and the Board of Zoning as we continue to grow and open another school in Avon, Indiana.

Thank you, in advance, for your assistance through this process.

Sincerely,

KID CITY USA ENTERPRISES, INC.

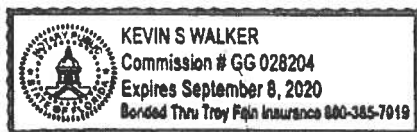


Jeri L. Walker
Growth & Development

cc: Audrey Bruner, CEO
Kid City USA Enterprises, Inc.

Sworn to and subscribed before me this 18 day of April, 2018.

(Seal)


Notary Public

FINDINGS OF FACT
VARIANCE FROM USE
BOARD OF ZONING APPEALS
AVON, INDIANA



Project Name: Cobblesprings Professional Building - Kid City USA

Requested Variance From Use: To permit a child care facility in a Shopping Center (SC) district.

The petitioner seeking a variance from the use before the Avon Board of Zoning Appeals must answer the following five (5) questions, which may serve as the basis for the written Findings of Fact for this petition.

1. **Will the approval of the variance be injurious to the public health, safety, morals, and general welfare of the community?** (Please answer *yes* or *no* and state the reason[s] for your answer on the lines below.)

No because the proposed variance will permit a child care center which will be community focused and will provide the benefit of that use to the surrounding neighborhoods.

2. **Will the use and value of the area adjacent to the property included in the variance be affected in a substantially adverse manner?** (Please answer *yes* or *no* and state the reason[s] for your answer on the lines below.)

No, the proposed use will not have an adverse affect on the surrounding property values. The adjacent properties are mostly businesses and the adjoining residential neighborhood will benefit from the child care center nearby, which should have a positive effect.

3. **Does the need for the variance arise from some condition peculiar to the property?** (Please answer *yes* or *no* and state the reasons[s] for your answer on the lines below.)

Yes, the need for the requested variance arises from the current zoning for the property, which is SC-1. The area directly to the west is zoned C-2 and the use would be permitted there, but due to the fact that this property is where it is, the variance is required.

4. **Will the strict application of the terms of the Avon Zoning Ordinance constitute an unnecessary hardship if applied to the property for which the variance is sought?** (Please answer *yes* or *no* and state the reasons[s] for your answer on the lines below.)

Yes, the strict application of the zoning ordinance will not allow the property to be used a child care facility as this use is not permitted in the SC-1 district. It would be allowed in the neighboring C-2 district, however the cost to acquire and construct a new building would create a financial hardship on the petitioner from a cost standpoint where as the building as it exists now will require minimal renovations to make it ready for the proposed use.

5. **Does the use interfere substantially with the Town's comprehensive plan?** (Please answer *yes* or *no* and state the reasons[s] for your answer on the lines below.)

No, the comprehensive plan designates this area as a commercial cluster and the request would not change the commercial nature of the use.

Person Completing This Form:

Printed Name: Donald J. Smith, ~~Katy Korin Cunningham~~ PC

Signature: 

Title: Attorney

Date: 4/16/18

Telephone Number: 317-464-1100