

ORDINANCE NO. 2022-04

AN ORDINANCE AMENDING CHAPTER 154 OF THE CODE OF
THE TOWN OF CENTERVILLE, INDIANA

BE IT ORDAINED in a duly held public meeting by the Town Council (the "Town Council") of the Town of Centerville, Wayne County, Indiana (the "Town") that the following Chapters shall be amended and restated, as follows:

SECTION 1.

The Town Council hereby repeals the following Sections of Chapter 154:

- A. § 154.016 AUTHORITY OF BUILDING COMMISSIONER.
- B. § 154.046 COMPOSITION; APPOINTMENT.
- C. § 154.047 OFFICERS; COMPENSATION.
- D. § 154.052 VARIANCES.

SECTION 2. The Codes repealed in Section 1(A), 1(B) and 1(D) of this Ordinance shall be restated as follows:

- A. § 154.016 AUTHORITY OF BUILDING COMMISSIONER. The Building Commissioner is hereby designated and authorized to enforce this chapter, which authority is subject to the supervision of the Town Manager. The Building Commissioner's authority hereunder may be delegated the Commissioner or Town Manager to other employees of the town, who shall be designated as Code Enforcement Officers.
- B. § 154.046 COMPOSITION; APPOINTMENT; TERMS; REMOVAL; VACANCIES. The Board of Zoning Appeals shall consist of five (5) members, as follows:
 - 1. Three (3) members appointed by the President of the Town Council, of whom one (1) must be a member of the Town Plan Commission and two (2) must not be members of the Town Plan Commission. Each citizen member must reside within the Town's corporate boundaries.
 - 2. One (1) citizen member appointed by the Town Council, who must not be a member of the Town Plan Commission. This citizen member must reside within the Town's corporate boundaries.
 - 3. One (1) member appointed by the Town Plan Commission from the Plan Commission's membership, who must be a county agricultural agent or a citizen member of the plan commission other than the member appointed under subdivision (1). Further, if the Plan Commission does not appoint a county agricultural agent hereunder, then the citizen otherwise appointed:
 - i. Must be one of the members of the Town Plan Commission who was appointed by the Wayne County Commissioners,
 - ii. Must be a resident of the unincorporated area under the jurisdiction of the Town Plan Commission, andThis member is entitled to participate and vote in all deliberations of the Board of

Zoning Appeals.

4. Initial terms for appointments of members shall be:

- i. For the initial appointments under subdivision B(1), four (4) years for two (2) members; and three (3) years for the other member;
- ii. For the initial appointment under subdivision B(2), three (3) years;
- iii. For the initial appointment under subdivision B(3), two (2) years;

Thereafter, when a member's term expires, each new appointment for that seat shall be for a term of four (4) years.

5. Members of the Board of Zoning Appeals may be removed from office by the Town Council for cause upon written charges and after public hearing. Vacancies shall be filled by resolution of the Town Council for the unexpired term of the member affected.

C. § 154.052 VARIANCES; CONDITIONS GOVERNING APPLICATIONS; PROCEDURES. The Board of Zoning Appeals may in its discretion authorize upon appeal in specific cases such variances of development standards or use from the terms of the zoning laws in this Chapter 154 as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this ordinance would result in unnecessary hardship. A variance from the terms of zoning laws in this Chapter 154 shall not be granted by the Board of Zoning Appeals unless and until:

1. A written application for a development standards or use variance is submitted indicating the section of this ordinance, as amended from time to time, under which the variance is sought and stating the grounds on which it is requested.
2. The written application for a development standards variance shall demonstrate:
 - i. The approval will not be injurious to the public health, safety, morals, and general welfare of the community.
 - ii. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner.
 - iii. The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property.
3. The written application for a use variance shall demonstrate:
 - i. The approval will not be injurious to the public health, safety, morals, and general welfare of the community.
 - ii. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner.
 - iii. The need for the variance arises from some condition peculiar to the property involved.
 - iv. The strict application of the terms of the zoning ordinance will constitute an unnecessary hardship if applied to the property for which the variance is sought.
 - v. The approval does not interfere substantially with the comprehensive plan of the Town of Centerville adopted under I.C. 36-7-4-500, as amended from time to time.
4. No non-conforming use of neighboring lands structures, or buildings in the same district, and no permitted or non-conforming use of lands, structures, or buildings in other districts shall be considered for the issuance of a variance.
5. The Board of Zoning Appeals shall hold a public hearing to consider an application

for development standards or use variance. Notice of public hearing shall be given as established in the rules and regulations of the Board of Zoning Appeals.

6. The public hearing shall be held at the place and time specified. A party seeking to appear by agent or attorney at any hearing as provided herein shall submit to the Board of Zoning Appeals, prior to the hearing, a letter of authorization or properly executed power of attorney authorizing the agent or attorney to appear at the hearing on behalf of the party.
7. The Board of Zoning Appeals shall make written findings using the criteria as set forth in subdivisions (C)(2) and (C)(3), as applicable to the application.
8. In granting any variance, the Board of Zoning Appeals may prescribe appropriate conditions and safeguards in conformity with this ordinance, as amended from time to time. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this ordinance and punishable under the Code, as amended from time to time.
9. Under no circumstances shall the Board of Zoning Appeals grant a variance to allow any use expressly or by implication prohibited by the terms of this ordinance in said district.

SECTION 3. If any phrase, clause, reference, paragraph, subsection, and section of the Ordinance are declared unconstitutional, invalid, or unenforceable by a court of competent jurisdiction, such declaration shall not affect the remaining provisions of this Ordinance.

SECTION 4. This ordinance shall be in full force and effect from and after its passage and the signature of the President of the Town Council.

Introduced and filed on the 9th day of August 2022. On the 30th day of August 2022, a motion to consider on first reading was offered and sustained by a vote of 5 in favor and 0 opposed, pursuant to I.C. 36-5-2-9.8. On the 13th day of September 2022, a motion on second reading was offered and sustained by a vote of 3 in favor and 0 opposed. Thereafter, on the 25th day of October 2022, a motion on third reading by title only and for adoption was offered and sustained by a vote of 5 in favor and 0 opposed.

DULY ORDAINED PASSED AND ADOPTED on this 25th day of October, by the Town Council of the Town of Centerville, Indiana, having been passed by a vote of 5 in favor and 0 opposed.

THE TOWN COUNCIL OF CENTERVILLE, WAYNE COUNTY, INDIANA


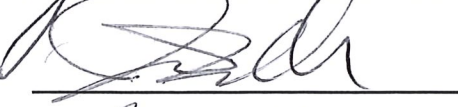

AYE

NAY

Dan Wandersee
Gary Holbert

Dan Wandersee,
President

Gary Holbert,
Vice President


Jack M. Bodiker,
Member

James Bullen,
Member

Josh Tudor,
Member

Constituting a majority of all the members of the Town Council

ATTESTED BY:


Richard K. Tinch, Clerk-Treasurer of
the Town of Centerville, Indiana

Instrument Prepared by: Edward O. Martin, Esq., Town Attorney

