

**JANUARY 10, 2012**

**BOARD OF ZONING APPEALS  
CITY OF MISHAWAKA, INDIANA**

A regular meeting of the Mishawaka Board of Zoning Appeals was held Tuesday, January 10, 2012, at 6:00 p.m. in the Council Chambers, City Hall, 600 East Third Street, Mishawaka, Indiana. Board members attending: Jim Trippel, Don McCampbell, Ross Portolese, and Rosemary Klaer. Absent: Charles Krueger. In addition to members of the public, the following were also in attendance: Ken Prince, David Bent, Greg Shearon, Peg Strantz, and Kari Myers.

---

Don McCampbell turned the meeting over to Ken Prince for the election of officers.

**ELECTION OF OFFICERS:**

**MOTION:** Jim Trippel moved to nominate Don McCampbell as Chairman. Rosemary Klaer seconded; motion carried with a vote of 3-0.

**MOTION:** Ross Portolese moved to nominate Jim Trippel as Vice-Chairman. Rosemary Klaer seconded; motion carried with a vote of 3-0.

**MOTION:** Ross Portolese moved to adopt the 2012 Rules of Procedure and 2012 Meeting Dates. Rosemary Klaer seconded; motion carried with a vote of 4-0.

---

Don McCampbell explained the Rules of Procedure.

---

The Minutes of the December 13, 2011, meeting, were approved as distributed.

---

Conflict of Interest was not declared.

---

**APPEAL #11-47** An appeal submitted by W. Scott and Julia Robbins requesting a Use Variance to permit a dog day care and boarding facility with an outdoor play area at **2406 Schumacher Drive**. *Continued from the December 13, 2011 meeting. Appellant requesting continuance to February 14, 2012 meeting.*

Mr. McCampbell said the Appellant had requested this item be continued to the February 14, 2012 meeting. The Board unanimously approved the request.

---

**APPEAL #12-01** An appeal submitted by Menard, Inc. requesting a Use Variance at **365 West University Drive**, to permit outside sale of trailers in an S-2 Planned Unit Development.

Tyler Edwards, Real Estate Representative for Menard, Inc., said the State of Indiana is requiring all Menard's locations to apply for a Dealer Business License to sell the trailers and

Menard's zoning does not permit the sale of trailers. Mr. Edwards said the size of the trailers is typically 5' X 10' and they keep 2 or 3 of them in the parking lot.

Mr. Portolese asked if more than 3 are stored at a time. Mr. Edwards said they reserve spaces for up to 4, and they keep 2 varieties on hand.

Mr. McCampbell asked if the trailer location is near the flowers. Mr. Tyler said yes, at the far north and they are not in the way of parking.

Mr. Trippel asked if this was the only style of trailer they keep. Mr. Tyler said yes and said there was a picture of the trailer in the packets.

Mr. McCampbell closed the Public Hearing on Appeal #12-02.

Mr. Trippel asked if this was an issue because of the license. Mr. Prince said yes, the City cannot sign the State application giving approval because the sale of trailer use is considered automotive.

### **Staff Recommendation**

*The Staff recommends in favor of Appeal 12-01, a use variance to allow outdoor sales of trailers. This recommendation is based on the following findings of fact:*

- 1. The approval will not be injurious to the public health, safety, morals, and general welfare of the community because the trailers will be located out of the paths of pedestrian and vehicular traffic.*
- 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 because the trailers will be located in an area that does not impact abutting property.*
- 3. The need for a variance arises from the fact that the Ordinance does not specifically address the outside sale/storage of such items that are an integral part of the home improvement center business.*
- 4. The strict application of the terms of this chapter will result in practical difficulties in the use of the property because the trailer sales are an important product in the home improvement business, to prevent the continuation of sales would eliminate a product desired by consumers.*
- 5. The approval will not interfere substantially with the Mishawaka 2000 Plan because the plan identifies the area as Commercial. The approval is consistent with the goals and objectives of the Comprehensive Plan.*

**MOTION:** Ross Portolese moved to forward Appeal #12-01 to the Common Council with a favorable recommendation. Rosemary Klaer seconded; motion carried with a vote of 4-0.

---

### **APPEAL #12-02**

An appeal submitted by the City of Mishawaka Redevelopment Commission on behalf of Mary L. Collins requesting a Developmental Variance at **313 Wards Court**, to permit a handicap accessible ramp with a 4' front yard setback and 2' side yard setback.

Ken Prince presented the Appeal on behalf of City of Mishawaka Redevelopment Commission. He said this ramp is to be built as part of the Community Development Department's wheelchair program for a resident's son who is wheelchair bound and cannot leave the home without the ramp.

Mr. Prince said the materials are funded through the Community Development Department and labor will be provided by River Valley Church.

Mr. McCampbell closed the Public Hearing on Appeal #12-02.

**Staff Recommendation**

*Staff recommends approval of Appeal 12-02 to allow an access ramp to be constructed with a 4' front setback and a 2' side-yard setback. This recommendation is based upon the following findings of fact:*

- 1. Approval will not be injurious to the public health, safety, morals, and general welfare of the community.*
- 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 because the proposed ramp will extend out no further than the existing front of the house and the side yard setback will be at least 2-feet from the property line.*
- 3. Strict application of the terms of this chapter will result in practical difficulties in the use of the property because the house cannot be accessed with the wheelchair. The Ordinance has no provision to accommodate a situation such as the Appellant's where special access to an individual's home is needed.*

**MOTION:** Jim Trippel moved to approve Appeal #12-02. Rosemary Klaer seconded; motion carried with a vote of 4-0.

---

**ADJOURNMENT:** 6:10 p.m.

---

Kenneth B. Prince, City Planner

---

Kari Myers, Administrative Planner