

DECEMBER 11, 2012

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

A regular meeting of the Mishawaka Board of Zoning Appeals was held Tuesday, December 11, 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: David Bent, Ken Prince, Greg Shearon, Peg Strantz, and Kari Myers.

Don McCampbell explained the Rules of Procedure.

The Minutes of the November 13, 2012, meeting, were approved as distributed.

Conflict of Interest was not declared.

PUBLIC HEARING:

APPEAL #12-48 An appeal submitted by Gary R. and Karen L. Wyrick requesting a Developmental Variance for **1522 East Third Street** to permit a handicap accessible ramp with a 17' front building setback.

No one was present to present the Appeal. It will be continued to the January 8, 2013, meeting.

APPEAL #12-49 An appeal submitted by David C. and Mary A. Brown requesting a Developmental Variance for **721 West Mishawaka Avenue** to permit an oversized accessory structure and a trellis with 0' exterior side-yard setback.

David Brown, 721 W. Mishawaka Avenue, presented the Appeal. He said when designing the garage addition, they respected the current side yard setback. He also said that if they decide to sell the home in the future, the new owner could tear down the older section of garage if need be.

Mr. Brown said the installed screen is not solid and the intent is not to hide anything. He said they wanted to create the feeling of space in the yard.

Mr. McCampbell closed the Public Hearing on Appeal #12-49.

Staff Recommendation

Staff recommends approval of Appeal 12-49 to: (1) allow construction of a 22' by 24' (528 SF) addition to an existing freestanding garage, and (2) maintain existing 16' long privacy fence 2.5' from west sidewalk at 721 West Mishawaka Avenue. 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 because all state and local building codes will be adhered to during construction;*
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 addition will only be 168 square feet larger than what is allowed by ordinance. The design will be consistent with the residential character of the property and the owners plan to match the exterior style of the garage with that of the historic home. The garage addition and trellis will represent a significant investment in the neighborhood; and*
3. *Strict application of the terms of this chapter will result in practical difficulties in the use of the property because the size limitations were implemented with respect to the size of single residential lots. There are no provisions in the Ordinance for larger accessory structures that are located on a single address with two (2) lots. In addition, the limited size requirement of accessory structures would not supply sufficient space for storage. If the trellis if installed to code would interfere with the recently planted garden/wildlife area.*

MOTION: Rosemary Klaer moved to approve Appeal #12-49. Ross Portolese seconded; motion carried with a vote of 4-0.

APPEAL #12-50 An appeal submitted by the City of Mishawaka Redevelopment Commission requesting a Developmental Variance for **426 West Ninth Street** to permit a new single family home with a 7' front building setback and 9' exterior side-yard setback.

Ken Prince, City Planner, presented the Appeal on behalf of the Redevelopment Commission. He said the variance will allow for the lot to be consistent with those in the neighborhood.

Mr. Trippel asked if the house will line up with others in the neighborhood. Mr. Prince said yes and will be much better than what used to be there.

Mr. McCampbell closed the Public Hearing on Appeal #12-50.

Staff Recommendation

Staff recommends approval of Appeal 12-50 to allow the construction of a home at 426 West 9th Street with a 7-foot front-yard building setback and 9-foot exterior 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 because all state and local building codes will be adhered to during construction;*
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 home will be consistent with the existing front-yard building setbacks in the area.*
3. *Strict application of the terms of this chapter will result in practical difficulties in the use of the property because the required 25-foot building setback would push the home further back into the lot, thus reducing that amount of usable yard area;*

furthermore, the required 25-ft front-yard building setback would not be consistent with the residential front-yard building setbacks in the area.

MOTION: Jim Trippel moved to approve Appeal #12-50. Ross Portolese seconded; motion carried with a vote of 4-0.

ADJOURNMENT: 6:08 p.m.

Kenneth B. Prince, City Planner

Kari Myers, Administrative Planner