

JANUARY 8, 2013

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

A regular meeting of the Mishawaka Board of Zoning Appeals was held Tuesday, January 8, 2013, at 6:00 p.m. in the Council Chambers, City Hall, 600 East Third Street, Mishawaka, Indiana. Board members attending: Jim Trippel, Ross Portolese, and Rosemary Klaer. Absent: Charles Krueger and Don McCampbell. In addition to members of the public, the following were also in attendance: David Bent, Ken Prince, Greg Shearon, Peg Strantz, and Kari Myers.

Jim Trippel 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: Rosemary Klaer moved to nominate Jim Trippel as Vice-Chairman. Ross Portolese seconded; motion carried with a vote of 2-0.

MOTION: Ross Portolese moved to adopt the 2013 Rules of Procedure. Rosemary Klaer seconded; motion carried with a vote of 3-0.

Mr. Trippel explained the Rules of Procedure.

The Minutes of the December 11, 2012, meeting, were approved as distributed.

Conflict of Interest was not declared.

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. *Continued from the December 11, 2012 meeting.*

Gary Wyrick, 1522 E. Third Street, presented the appeal. He said he installed the ramp for his 90 year old father who recently moved in with him and needs it to get in and out of the house safely. Mr. Wyrick said the ramp will be removed with its no longer needed.

Mr. Trippel closed the Public Hearing on Appeal #12-48.

Staff Recommendation

Staff recommends **approval** of Appeal 12-48 to allow an access ramp to be constructed with a 17-foot front 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 were 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 ramp is because the ramp is modest in size and will be at least 18-feet from the public sidewalk; and*
3. *Strict application of the terms of this chapter will result in practical difficulties in the use of the property because 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: Ross Portolese moved to approve Appeal #12-48. Rosemary Klaer seconded; motion carried with a vote of 3-0.

APPEAL #13-01 An appeal submitted by Brixmor Property Group requesting a Sign Variance for an additional freestanding sign at **4620 Lincolnway East**.

Mr. Trippel said the Appellant has requested this item be continued to the February 12, 2013 meeting. The Board unanimously approved the request.

APPEAL #13-02 An appeal submitted by McKinley Town & Country Shopping Centre, LP, requesting various Developmental Variances for **820 West McKinley Avenue** including building and parking setbacks, parking, and landscaping.

Brad Mosness, Abonmarche Consultants, 750 Lincolnway East, South Bend, appeared on behalf of the Appellant. He said the owner is in the process of replatting the property and several variances are required. The owner needs to exclude this portion of the shopping center in order to refinance debt. Mr. Mosness said the Plat is on this evening's Plan Commission agenda.

Mr. Trippel asked if the owner is selling the property to Firestone. Mr. Mosness said no, this is on paper only, creating a separate tax parcel. No improvements are being made; the purpose is to define the site.

Mr. Trippel closed the Public Hearing on Appeal #13-02.

Mr. Prince said this property was developed prior to the current ordinance and this is result of replatting after the fact.

Mr. Prince said if property ownership should transfer, these variances carry on with the property.

Staff Recommendation

Staff recommends approval of Appeal 13-02 to allow for the aforementioned variances. 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 the site and improvements are existing.*
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 building and site improvements are existing and have been in place for several years.*
3. *Strict application of the terms of this chapter will result in practical difficulties in the use of the property because to adhere to the current developmental standards, portions of the existing building and pavement would need to be removed. Furthermore, the property is small in size and with the required property improvements, vehicles would not be able to access the garage and maneuver throughout the site.*

MOTION: Rosemary Klaer moved to approve Appeal #13-02. Ross Portolese seconded; motion carried with a vote of 3-0.

Mr. Prince said the 2013 Calendar and 2013 Fee Schedules have been included in the packets for reference.

ADJOURNMENT: 6:13 p.m.

Kenneth B. Prince, City Planner

Kari Myers, Administrative Planner