

FEBRUARY 12, 2013

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

A regular meeting of the Mishawaka Board of Zoning Appeals was held Tuesday, February 12, 2013, at 6:00 p.m. in the Council Chambers, City Hall, 600 East Third Street, Mishawaka, Indiana. Board members attending: Charles Krueger, Jim Trippel, and Rosemary Klaer. Absent: Don McCampbell and Ross Portolese. In addition to members of the public, the following were also in attendance: David Bent, Ken Prince, Greg Shearon, Peg Strantz, and Kari Myers.

Mr. Trippel explained the Rules of Procedure.

The Minutes of the January 8, 2013, meeting, were approved as distributed.

Conflict of Interest was not declared.

APPEAL #13-01 An appeal submitted by Brixmor Property Group requesting a Sign Variance for an additional freestanding sign at **4620 Lincolnway East**. *Continued from the January 8, 2013 meeting. Appellant requesting continuance to March 12, 2013 meeting.*

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

APPEAL #13-03 An appeal submitted by Habitat for Humanity of St. Joseph County requesting a Developmental Variance for **311 Laurel Street** to allow a 10' front yard building setback for a new single family home.

Ken Prince, City Planner, appeared on behalf of Habitat for Humanity. He said they are merely looking to match the setbacks of other homes in the neighborhood and said the adjacent home has a 10' setback.

Mr. Trippel asked if the lot was suitable for building. Mr. Prince said yes it is, but it's narrow as are others in the neighborhood.

Mr. Trippel closed the Public Hearing on Appeal #13-03.

Mr. Krueger asked if he had a sketch of what the home would look like. Mr. Prince said it was not included in the packet, but was shown on the overhead.

Staff Recommendation

Staff recommends approval of Appeal 13-03 to allow the construction of a home lot with a 10-foot front-yard building setback at 311 Laurel Street. 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 of the adjacent homes.*
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 adjacent residential front-yard building setbacks.*

MOTION: Rosemary Klaer moved to approve Appeal #13-03. Charles Krueger seconded; motion carried with a vote of 3-0.

APPEAL #13-04 An appeal submitted by Meijer Stores Limited Partnership/MRC, requesting a Developmental Variance **for 3600 Block of South Bremen Highway** to allow for a reduction in the required number of parking spaces from 66 to 58 for a drive-thru restaurant.

Jeff Ballard, Danch, Harner & Associates, 1643 Commerce Drive, South Bend, appeared on behalf of the Appellant. He said they are requesting a variance to reduce the overall number of parking spaces for a proposed McDonald's. He said the restaurant will be approximately 4,350 sqft and parking will be located on all sides of the restaurant proposed to be located near the southeast corner of Bremen Highway and Fulmer Road.

Mr. Ballard said based on the developer's experience, a double drive-thru will reduce the need for on-site parking as a large portion of patrons use the drive-thru as opposed to dining in. He said they have found that the 58 parking spaces will be more than adequate.

Ms. Klaer asked if the size of the building is average compared to others in the area. Mr. Ballard said yes and each year they develop specific footprints based on the size of the lots and this is a common size.

Ms. Klaer asked what the restaurant's theme will be. Mr. Ballard said McDonald's no longer does themes. The building will be brick and stone with tasteful architectural elements.

Mr. Trippel asked if this variance is approved, will they build. Mr. Ballard said yes and they are moving forward with preliminary engineering plans.

Mr. Trippel closed the Public Hearing on Appeal #13-04.

Staff Recommendation

The Planning Staff recommends of Appeal 13-04 to allow a reduction in parking from 66 spaces to 58 spaces for a proposed drive-thru restaurant. 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 parking is sufficient to support the proposed use compared to similar uses.*
3. *Strict application of the terms of this chapter will result in practical difficulties in the ordinance does not allow flexibility for reduced parking for uses that the majority of business will be drive-thru use rather than sit down restaurant use.*

MOTION: Charles Krueger moved to approve Appeal #13-04. Rosemary Klaer seconded; motion carried with a vote of 3-0.

ADJOURNMENT: 6:15 p.m.

Kenneth B. Prince, City Planner

Kari Myers, Administrative Planner