

JUNE 11, 2013

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

A regular meeting of the Mishawaka Board of Zoning Appeals was held Tuesday, June 11, 2013, at 6:00 p.m., in the Council Chambers, City Hall, 600 East Third Street, Mishawaka, Indiana. Board members attending: Jim Trippel, Don McCampbell, and Rosemary Klaer. Absent: Charles Krueger and Ross Portolese. In addition to members of the public, the following were also in attendance: David Bent, Ken Prince, Greg Shearon, and Kari Myers.

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Mr. McCampbell explained the Rules of Procedure.

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The Minutes of the May 15, 2013, meeting, were approved as distributed.

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Conflict of Interest was not declared.

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**APPEAL #13-15** An appeal submitted by Mario R. Martinez requesting a Developmental Variance for **506 Meridian** to permit a deck with a 19' front setback.  
*Continued from the May 14, 2013 meeting.*

Mario Martinez, 506 Meridian, presented the appeal. He said there is a cement porch and he would like to build a deck so he can keep the sun, wind, and rain away from the windows.

Mr. Trippel asked if he would enclose it. Mr. Martinez said no, just a roof to cover. He said he would like to sit outside in the evenings with his family.

Mr. McCampbell closed the Public Hearing on Appeal #13-15.

**Staff Recommendation**

*Staff recommends approval of Appeal 13-15 to allow the construction of a front porch deck with roof with a 19-ft front-yard building 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 residences to the south encroach further into the front setback than the proposed deck porch and roof.*
- 3. Strict application of the terms of this chapter will result in practical difficulties in the use of the property because the house currently encroaches into the front-yard setback. An appropriate and sufficient roofed porch to the house cannot be constructed without seeking a variance.*

**MOTION:** Jim Trippel moved to approve Appeal #13-15. Rosemary Klaer seconded; motion carried with a vote of 3-0.

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**APPEAL #13-19** An appeal submitted by Siemens Healthcare requesting a Sign Variance for **430 South Beiger Street** to allow a second freestanding sign.

Nikki Kilcline, U.S. Signcrafters, 216 Lincolnway East, Osceola, appeared on behalf of the Appellant. She said Bayer Healthcare, who is leasing the facility, is requesting a 2<sup>nd</sup> freestanding sign to identify the facility. She also indicated the sign would be located approximately 200' from Beiger Street.

Mr. McCampbell asked if it would be located in front of the bushes. Ms. Kilcline said yes, approximately 10' in front of the bushes.

Mr. McCampbell closed the Public Hearing on Appeal #13-19.

**Staff Recommendation**

*The Staff recommends approval of Appeal 13-19 to allow for an additional freestanding sign. This recommendation is based upon the following Finding of Facts:*

- 1. The approval will not be injurious to the public health, safety, morals, and general welfare of the community because all construction will be completed in accordance with all applicable state and local building codes;*
- 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 sign is modest in size, will not have internal illumination, and will be located approximately 200' from the roadway; and*
- 3. The strict application of the terms of this chapter will result in practical difficulties in the use of the property because the On-Premise Sign Standards make no provision for additional freestanding signage in large industrial complexes with multiple buildings and facilities under the same ownership.*

**MOTION:** Rosemary Klaer moved to approve Appeal #13-19. Jim Trippel seconded; motion carried with a vote of 3-0.

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**APPEAL #13-20** An appeal submitted by Kristyn K. Egendoerfer requesting a Developmental Variance for **213 North Elder Street** to permit an oversized garage with a 5' setback on a through lot.

Kristyn Egendoerfer, 213 N. Elder Street, presented the appeal. She said she wants to add on to the existing garage which will have a 5' setback from the street behind.

Mr. McCampbell said he drove by and noticed a "for sale" sign out front. Ms. Egendoerfer said yes, sale is pending contingent upon adding the garage.

Mr. McCampbell closed the Public Hearing on Appeal #13-20.

**Staff Recommendation**

The Planning Staff recommends of Appeal 13-20 to allow an 801.75-ft accessory structure with a 5-ft pavement setback along the rear lot line on a thru-lot. 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 several accessory structures currently encroach into the required rear setback along Barrows Court and the proposed addition will extend no further into the required setback than several other existing structures along Barrows Court. Furthermore, the required side-yard setbacks will be adhered to.
3. Strict application of the terms of this chapter will result in practical difficulties in the use of the property because the depth of the lot is only approximately 106-ft. With the required 25-ft front and rear setbacks, there is not the ability to make appropriate needed improvements to the property without encroaching into the rear setback. Furthermore, the limited size requirement of accessory structures would not supply sufficient space for storage and protection of valuables.

**MOTION:** Jim Trippel moved to approve Appeal #13-20. Rosemary Klaer seconded; motion carried with a vote of 3-0.

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**APPEAL #13-21** An appeal submitted by Todd Sikorski, Diana S. Ritchie, Jack W. Ritchie, JoAnn T. Rorie, and Jessie O. Rorie requesting a Use Variance for **1022 Willow Street** to permit a duplex in an R-1 Single Family Residential District. *Appellant requests continuance to July 9, 2013 meeting.*

Mr. McCampbell said the Appellants have requested this item be continued to the July 9, 2013, meeting. The Board unanimously approved the request.

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**APPEAL #13-22** An appeal submitted by Gus S. Thanos and Theresa L. Thanos requesting a Developmental Variance for **703 West Edison Road** to allow a 1' pavement setback.

Greg Kil, Kil Architecture, 1126 Lincolnway East, South Bend, appeared on behalf of Enterprise Holdings, tenant of the property. He said the request is to reduce the parking setback to 1'.

Mr. Kil said the existing building is a greenhouse; the previous Michael's property, and currently houses car washing area for returned rental cars. He said since Enterprise has been there, they have not used the space as offices. The greenhouse will be removed and become a parking area which will be a "ready lot" to prep cars for rental. A new car wash system will be built into an existing structure. Mr. Kil said without the variance, it would significantly reduce the number of available parking spaces.

Mr. Trippel asked if the car wash would be for Enterprise only. Mr. Kil said yes, staff prep returning cars for rental.

Jeff Goudy, Enterprise Holdings, 703 W. Edison Road, spoke in favor of the request. He said business has grown over the years and the site used to be adequate for their needs and they now require the additional parking.

Mr. McCampbell closed the Public Hearing on Appeal #13-22.

**Staff Recommendation**

*The Planning Staff recommends of Appeal 13-22 to allow a 1-ft pavement setback along the west lot line. 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 proper measures such as curbing and a catch basin will be installed to ensure that no stormwater run-off will encroach into the adjacent property.*
- 3. Strict application of the terms of this chapter will result in practical difficulties in the use of the property because the location of the existing building in relation to the western property line does not allow sufficient space for expansion of the needed parking area without encroaching into the required 5-ft pavement setback.*

**MOTION:** Rosemary Klaer moved to approve Appeal #13-22. Jim Trippel seconded; motion carried with a vote of 3-0.

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**ADJOURNMENT:** 6:14 p.m.

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Kenneth B. Prince, City Planner

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Kari Myers, Administrative Planner