

SEPTEMBER 10, 2013

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

A regular meeting of the Mishawaka Board of Zoning Appeals was held Tuesday, September 10, 2013, at 6:00 p.m. in the Council Chambers, City Hall, 600 East Third Street, Mishawaka, Indiana. Board members attending: Charles Krueger, Charles Trippel, Don McCampbell, Ross Portolese, and Rosemary Klaer. 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. McCampbell welcomed Charles Trippel to the Board and said he would be serving out the remainder of his father's term.

Mr. McCampbell explained the Rules of Procedure.

The Minutes of the August 13, 2013, meeting, were approved as distributed.

Conflict of Interest was not declared.

PUBLIC HEARING:

APPEAL #13-33 An appeal submitted by PNC Bank requesting a Sign Variance for 6940 North Main Street, Mishawaka, Indiana, to allow a pylon sign on S-2 Planned Unit Development zoned property.

Scott Franko, US Signcrafters, 216 Lincolnway East, Osceola, presented the appeal. He said the existing sign was installed in 1997 and they want to replace it with a sign that exceeds the permitted height allowed in overlay districts. The new sign will still be non-conforming, but smaller in sqft and lower in height than the existing sign.

Mr. McCampbell closed the Public Hearing on Appeal #13-33.

Staff Recommendation

The Staff recommends approval of a sign variance for PNC Bank, 6940 North Main, at the southeast corner of N. Main Street and SR 23, to allow for a pylon (non-monument) sign with a height of 18 feet, a display area of 46.75 square feet and 21 square feet of copy area. This recommendation is predicated upon the following reasons:

1. *Approval will not be injurious to the public health, safety, morals, or general welfare of the community because all building codes will be adhered to during installation and no vision clearance areas will be encroached into,*
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 new sign will be smaller than what currently exists on the property and the new sign will replace an older sign that prevents the business from*

maintaining their corporate brand, and

3. *Strict application of the terms of this chapter will result in practical difficulties in the use of the property because it would prohibit the placement of a new sign that is considerably reduced in height, display area and copy area and would cause the Appellant to re-use an older less attractive sign in order to get exposure from passing traffic.*

MOTION: Charles Krueger moved to approve Appeal #13-33. Rosemary Klaer seconded; motion carried with a vote of 5-0.

APPEAL #13-34 An appeal submitted by Doster Properties, LLC, requesting a Use Variance for 2020 West Sixth Street, Mishawaka, Indiana, to allow automotive repair, an art/photography studio, and warehouse uses on I-1 Light Industrial zoned property.

John Doster, Doster Properties, 51040 High Meadow, Granger, presented the appeal. He said the property housed the Circle Oil bulk plant for 60 years. Mr. Doster said the property has been broken into five separate spaces and he now wants to rent the facility.

Mr. Doster said he has been renting the 1,400 sqft garage for automotive repair and he didn't realize that the use wasn't permitted in the I-1 zoning district. He also said warehouse spaces "B" and "C" would be storage and non-commercial automotive/motorcycle repair. He said there wouldn't be any walk-in traffic as the repair is a hobby and those folks have regular jobs.

Mr. Doster said he just signed a lease with an artist/photographer for warehouse space "A" where he'll set up an area where he'll paint. He also said he would like to have another artist or 2 in the space with him. Mr. Doster said the artist may occasionally have an event where people could come in and he would show his work. He said the old warehouse lends itself to a funky, artsy approach.

Mr. Doster said all outside storage has been removed and the automotive repair will have spaces for the staging of five vehicles behind the building and that's the only outside storage there will be.

Mr. Portolese asked Mr. Doster what he meant by non-commercial repair. Mr. Doster said if he is restoring an antique car in his garage, then he's doing it for himself. He doesn't need a sign to advertise and have people come in to have work done for them. They won't be out soliciting repair work. He said it's not the kind of shop that's in the Yellow Pages that advertises for work; it's just something that's being done as a sideline.

Mr. Trippel asked if they do the work for money. Mr. Doster said the person does work for money for other people.

Mr. Prince said he considers it a glorified hobby garage or man-cave.

Mr. McCampbell asked Mr. Doster if he had read the conditions of approval. Mr. Doster said yes and Bo Hundt came out and walked through the building and told them the things that needed to be done and he's actually done some of them already.

Mr. Trippel asked if staff set a timetable for improvements. Mr. Prince said no, but they need to be done immediately and prior to business being conducted on the site and certainly prior to occupancy.

Mr. Trippel asked if the City was confident the work will be done in short order. Mr. Prince said yes. If not, the City would pursue as violations.

Mr. McCampbell closed the Public Hearing on Appeal #13-34.

Staff Recommendation

The Staff recommends in favor of Appeal #13-34, a Use Variance to allow non-commercial automotive/motorcycle conditioning/minor repair, an art/photography studio, art gallery, office, and warehouse use on the 0.64 acre site at 2020 West Sixth Street, subject to the following conditions:

- 1. Two exit doors must be installed;*
- 2. A proper fire wall shall be installed to separate the auto use and photography studio in the east building;*
- 3. Guard rail must be installed at the west building;*
- 4. Outside steps shall be made code compliant;*
- 5. Use variance shall be limited to non-commercial automotive body repair and automotive maintenance shall be limited to indoors. No outside storage of materials and/or vehicle parts will be permitted;*
- 6. Temporary vehicle storage, if needed, shall be limited to five (5) and must be parked in the area directly to the rear of the east building;*
- 7. Freestanding Signage on the site is limited to one unilluminated monument style sign with a display area of no greater than four (4) feet high by eight (8) feet wide/ 32 square feet, and with a total sign height not to exceed five (5) feet and with permits secured from Building and Planning Departments;*
- 8. Façade/wall signage is limited to 32 square feet; and*

This recommendation is based on the following reasons:

- 1. The approval will not be injurious to the public health, safety, morals, and general welfare of the community because the proposed uses will have no impact on the surrounding commercial, industrial and residential uses that surround the property;*
- 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 of the mixed commercial/industrial/residential nature of the area along the railroad tracks;*
- 3. The need for a variance arises from the nature of the area, where property owners are very protective of the intensive zonings of their properties. A use variance would allow the proposed non-commercial automotive uses, and work space for artists, while still protecting the industrial zoning for future use and also protecting the residential users in the vicinity;*
- 4. The strict application of the terms of this chapter will result in practical difficulties in the use of the property because the current I-1 light Industrial zoning would not allow for the automotive oriented and professional art studio/gallery uses; and*

5. *The approval will not interfere substantially with the Mishawaka 2000 Plan because the plan identifies other surrounding areas as Commercial. The approval is consistent with the goals and objectives of the Comprehensive Plan.*

MOTION: Ross Portolese moved to forward Appeal #13-34 to the Common Council with a favorable recommendation. Rosemary Klaer seconded; motion carried with a vote of 5-0.

ADJOURNMENT: 6:18 p.m.

Kenneth B. Prince, City Planner

Kari Myers, Administrative Planner