

SEPTEMBER 9, 2014

BOARD OF ZONING APPEALS  
MISHAWAKA, INDIANA

A regular meeting of the Mishawaka Board of Zoning Appeals was held Tuesday, September 9, 2014, at 6:00 p.m. in the Council Chambers, City Hall, 600 East Third Street, Mishawaka, Indiana. Board members attending: Charles Krueger, Don McCampbell, Ross Portolese, and Rosemary Klaer. Absent: Charles Trippel. 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 August 12, 2014, meeting, were approved as distributed.

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Conflict of Interest was not declared.

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**PUBLIC HEARING:**

**APPEAL #14-19**

An appeal submitted by Whistle Stop Square Associates, LLC, requesting a Use Variance for **3925 Glaser Court** to allow warehousing, resale, detailing, and rental of high-end, luxury automobiles on I-1 Light Industrial zoned property.

Jim Cressy, Whistle Stop Square Associates, 3925 Glaser Court, presented the appeal. He said they own the building and are looking to incorporate warehousing for high end luxury automobiles and resale. Mr. Cressy said most of the business will be done within the facility and said they have put forth everything requested by the City.

Mr. Krueger asked if they will do paint spraying. Maurice Bokhart, 16350 Kern Road, said no.

Mr. Portolese asked what will be inside the building. Mr. Cressy said all work will be done inside, except when cars are delivered they'll be outside.

Mr. Bokhart said they will be leasing office space within the 4 walls of building.

Mr. McCampbell asked if they had reviewed the conditions of approval. Mr. Cressy said yes, and they were addressed to Engineering.

Mr. McCampbell closed the Public Hearing.

**Staff Recommendation**

*The Planning Staff recommends approval of Appeal 14-19 to allow warehousing, resale, detailing, and renting of high-end, luxury automobiles in an I-1 Heavy industrial district subject to the following conditions:*

1. *An oil/grit interceptor shall be installed in the sanitary sewer system. A plan shall be submitted showing the location and associated plumbing that would be routed to the*

*interceptor, i.e. wash-up sink, floor drains, etc.... This plan shall be reviewed and approved by the City Engineering Department.*

- 2. Outdoor parking of vehicles may be allowed. However, vehicles shall be parked only in the existing on-site parking spaces and the required number of parking spaces for the industrial use portion of the building shall be maintained.*

*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 and/or improvements to the existing structure;*
- 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 adjacent properties to the north and west are all zoned for industrial.*
- 3. The need for the variance arises from some condition peculiar to the property in that it is located in an industrial area and does not allow for the proposed auto use which is more applicable to an industrial property than to a commercial property.*
- 4. Strict application of the terms of this chapter will constitute an unnecessary hardship if applied to the property for which the variance is sought because the zoning does not allow for the combined existing industrial use and proposed auto commercial use. The only means by which to allow the proposed car use and maintain the current industrial portion is through the use variance process;*
- 5. The recommendation is consistent, and or, not in conflict with Comprehensive Plan which indicates industrial uses for this area.*

**MOTION:** Charles Krueger moved to forward Appeal #14-19 to the Common Council with a favorable recommendation. Ross Portolese seconded; motion carried with a vote of 4-0.

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**APPEAL #14-20** An appeal submitted by Bethel College requesting Sign and Developmental Variances for the **southwest corner of LaSalle Avenue and Liberty Drive** to allow for a 6' tall wrought iron fence, and an oversized monument sign.

Darla Aldred, Arkos Design, 117 S. Main Street, Mishawaka, and Steve Yaw, Director of Physical Plant for Bethel College appeared. Ms. Aldred said Bethel College was seeking a variance for a new sign and additional fencing along Liberty Drive near LaSalle Avenue. She said it part of ongoing physical improvements on campus. Ms. Aldred said there's one small difference of the fence, there will be fewer pillars allowing for more visibility.

Ms. Aldred said they are excited about the improvements Bethel is making and addressing the aesthetics of the campus.

Mr. McCampbell asked if the new sign will be near the driveway leading to the baseball diamond. Ms. Aldred said yes, it's near the sign and the parking lot will remain as is as the project doesn't impact the ball field parking areas.

Mr. McCampbell closed the Public Hearing on Appeal #14-20.

**Staff Recommendation**

The Planning Department recommends approval of Appeal 14-20 to allow:

1. The construction of a 6-foot wrought-iron ornamental fence with 7-ft high brick columns with limestone caps along Liberty Drive and a portion of West LaSalle Avenue.
2. The construction of brick monument entry sign with an overall display area of 7-ft in height, by 16-ft wide, and 99-sf in area. The sign will be flanked on both ends by 2'X2' brick pillars with limestone caps and bases measuring 9-ft and 7-ft high respectively.

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 proposed fence and signage not hinder views from access points to and from the property or to and from adjacent properties. The fence will still adhere to the required 75% open visibility as to not hinder views at the Liberty Drive and W. LaSalle Avenue intersection; and 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 6-foot height fence and the proposed signage will be in scale with the property and constitutes an investment 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 minimum 4-feet height would appear insignificant on this lot with the over 700-feet of frontage and was written as a standard for single family/urban style lot development. The Ordinance does not allow for the larger size and type of signage that is needed in order to be consistent in scale with the developmental of that of a college campus. Institutions, such as colleges, utilize banners and/or flags as part of the overall design of the campus to enhance the aesthetics, cohesiveness, identity, and heritage of the campus.

**MOTION:** Rosemary Klaer moved to approve Appeal #14-20. Ross Portolese seconded; motion carried with a vote of 4-0.

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**APPEAL #14-21** An appeal submitted by Ken Cichowicz requesting a Developmental Variance for **1324 Chapel Hill Drive** to allow a garage extension with a 13' 6" side yard setback.

Ken Cichowicz, 17027 Jackson Road, South Bend, said he would like to extend the garage 4' in order to accommodate a larger vehicle. He said he could have moved the house closer to the other property line, had he known before he started construction.

Mr. McCampbell asked if it will come closer to the curb. Mr. Cichowicz said yes.

Mr. Krueger asked how high the garage is going to be. Mr. Cichowicz said normal size and no taller than the rest of the house. It meets code.

Mr. Krueger asked if there would be storage space. Mr. Cichowicz said yes, under the peak.

**In Favor**

Dwight Arndt, 59490 Hickory Road, said he is purchasing the house from Mr. Cichowicz. He said his pick-up truck will fit in the garage, but he wouldn't be able to walk around it, that's the reason for the request to extend it. Mr. Arndt said it's a condition of the purchase of the home; that the variance be approved.

Mr. McCampbell closed the Public Hearing on Appeal #14-21.

**Staff Recommendation**

*The Staff recommends **approval** of Appeal #14-21 to construct a garage addition with a 13'6 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 property is large enough to accommodate a larger garage without crowding the property; and*
- 3. Strict application of the terms of this chapter will result in practical difficulties in the use of the property because the decision for a larger garage was made after construction commenced on the home and any increase to the size of the structure on the eastern portion of the property would require a variance.*

**MOTION:** Ross Portolese moved to approve Appeal #14-21. Rosemary Klaer seconded; motion carried with a vote of 4-0.

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**ADJOURNMENT:** 6:13 p.m.

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Kenneth B. Prince, City Planner

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Kari Myers, Administrative Planner