

JANUARY 13, 2015

**BOARD OF ZONING APPEALS
MISHAWAKA, INDIANA**

A regular meeting of the Mishawaka Board of Zoning Appeals was held Tuesday, January 13, 2015, at 6:00 p.m. in the Council Chambers, City Hall, 600 East Third Street, Mishawaka, Indiana. Board members attending: Charles Trippel, Ross Portolese, and Marcia Wells. 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, Christa Hill, and Kari Myers.

The meeting was turned over to Ken Prince for the election of officers.

ELECTION OF OFFICERS:

MOTION: Ross Portolese moved to nominate Don McCampbell as Chairman. Marcia Wells seconded; motion carried with a vote of 3-0.

MOTION: Ross Portolese moved to nominate Charles Trippel as Vice-Chairman. Marcia Wells seconded; motion carried with a vote of 3-0.

Mr. Trippel explained the Rules of Procedure.

The Minutes of the December 9, 2014, meeting, were approved as distributed.

Mr. Trippel welcomed Marcia Wells to the Board.

Conflict of Interest was not declared.

PUBLIC HEARING:

APPEAL #15-02 An appeal submitted by Memorial Hospital of South Bend-Beacon Medical Group requesting a Sign Variance for **6913 North Main Street** to allow a 10' high monument sign in the Main Street freestanding sign corridor overlay district.

Adam Skrzyszewski, Professional Permits, 2319 Lincolnway East, Mishawaka, appeared on behalf of the Appellant. He said they are requesting to modify the existing three monument signs to reflect the new, updated brand of Beacon Medical Group. Mr. Skrzyszewski said they are rebranding their sites throughout the area as they have acquired Memorial.

Mr. Skrzyszewski said they will remove the existing cabinets and replace with new as shown in the packets.

Mr. Portolese asked how many signs will be changed. Mr. Skrzyszewski said three.

Mr. Trippel closed the Public Hearing on Appeal #15-02.

Staff Recommendation

The Staff recommends approval of the 3 oversized signs that will be replaced as submitted. This recommendation is based upon the following Findings of Fact:

- 1. Approval will not be injurious to the public health, safety, morals or general welfare of the community because the all construction will be completed in accordance with all applicable state and local building codes, and will be professionally installed with quality materials;*
- 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 larger signage will be aesthetically pleasing sign given the artistic design, is a small percentage increase, and will be placed on this larger parcel;*
- 3. Strict application of the terms of the On-Premise Sign Standards Ordinance will result in practical difficulty because the property has a linear frontage of 760 feet along Main Street and has three different medical facilities.*

MOTION: Ross Portolese moved to approve Appeal #15-02. Marcia Wells seconded; motion carried with a vote of 3-0.

APPEAL #15-03 An appeal submitted by SLB Properties requesting a Developmental Variance for **1906 E. McKinley Avenue** to allow a 6’ high fence and a reduction in landscaping.

Terry Lang, Lang, Feeney & Assoc., 715 S. Michigan Street, South Bend, appeared on behalf of SLB Properties dba Hose Assemblies. He said this parcel was annexed last year to provide for the expansion of the industrial building.

Mr. Lang said the area is densely wooded and cleaned out and they would like to keep the 6’ opaque fence line that is on the westerly property line. He said the Ordinance requires 7’, but they would like to go with the 6’.

Mr. Lang said regarding landscaping, any trees that are worth saving will be saved and they will fill in new evergreens where any are required. He said they want the flexibility to save trees and place where they are needed instead of every 15’. If that were the case, they would have to clear all the trees and plant new.

Opposition

Charles Nickel, 55063 Bittersweet Road, Mishawaka, appeared on behalf of his brother, Matthew Nickel, 55946 Clover Road, Mishawaka. He said his brother wants the 7’ fence installed. He said there are no trees as they have been removed and wants the City to make sure 7’ fence goes in and the trees are planted as they all have been removed.

Rebuttal

Mr. Lang said the variance request is to maintain the same height fence. He said the building will be 18’ tall and whether the fence is 6’ or 7’ it isn’t going to cover that much of the building.

Mr. Lang said the trees were probably removed as they haven’t been maintained, so new trees will need to go in.

Mr. Prince said in addition to Mr. Nickel speaking on behalf of his brother, a letter of remonstrance was received from Matthew Nickel outlining his request that a 7' fence be installed and trees put in.

Mr. Trippel closed the Public Hearing on Appeal #15-03.

Staff Recommendation

Staff recommends approval of Appeal 15-03, a variance to allow a 6-ft opaque fence and existing landscaping to be utilized for required screening requirements. However, additional landscaping shall be installed where areas of existing landscaping are not present. 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 project proposed will improve the property. The developmental variances requested are largely based on working the development into the existing conditions.*
- 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 particular emphasis is being placed on retaining existing screening vegetation and matching existing fencing heights and additional landscaping will be installed where applicable.*
- 3. Strict application of the terms of this chapter will result in practical difficulties in the use of the property because matching the existing fence height and utilizing existing landscaping could not be utilized without a variance. Furthermore, fencing comes in standard heights of 6-ft. Custom fencing would need to be constructed to comply with the 7-ft height requirements.*

MOTION: Ross Portolese moved to approve Appeal #15-03. Marcia Wells seconded; motion carried with a vote of 3-0.

APPEAL #15-04 An appeal submitted by Village Green Mishawaka Holdings, LLC, requesting a Developmental Variance for **1434 Fall Creek Drive** to allow a 1,120 sqft, 15'4" high accessory building.

Chris Elmerick, Homeworks Construction, 1511 Pulaski Street, South Bend, appeared on behalf of the Appellant. He said this building is being constructed to create an awning over the mailboxes that were placed by the Postal Service for a group mail delivery instead of individual delivery. Mr. Elmerick said the concrete was in place as well as the mailboxes.

Mr. Elmerick said due to the size of the concrete pad, the building needs to be in the perimeter to cover the mailboxes.

Mr. Trippel asked if the work was started without permits. Mr. Elmerick said the county told him there was a permit for the concrete, but that wasn't correct. He said he planned on pulling the permit, but didn't know there was a size limit on the size of the building.

Mr. Trippel closed the Public Hearing on Appeal #15-04.

Staff Recommendation

The Staff recommends approval of the oversized accessory structure as submitted. This recommendation is based upon the following Findings of Fact:

1. *Approval will not be injurious to the public health, safety, morals or general welfare of the community because, once a building permit is issued, the construction will be completed in accordance with all applicable state and local building codes, and will be professionally installed with quality materials;*
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 accessory building will be placed at the interior of the site, at least 500 from the nearest property owner;*
3. *Strict application of the terms of the On-Premise Sign Standards Ordinance will result in practical difficulty because a 720 square foot accessory building would not be in scale with the large acreage and the number of residents it is benefiting.*

MOTION: Ross Portolese moved to approve Appeal #15-04. Marcia Wells seconded; motion carried with a vote of 3-0.

APPEAL #15-05 An appeal submitted by Oaklawn Psychiatric Center Inc. requesting a Sign Variance for **1411 Lincolnway West** to allow for an additional 8" x 10' panel sign bringing the total sign size to 46.67 square feet.

Matt Lentsch, Oaklawn Psychiatric Center, Inc., 1411 Lincolnway West, presented the appeal. He said they are requesting a modest sign variance to add a panel to a sign that was installed in 1997. Mr. Lentsch said the proposed panel is removable and can be displayed when they are hiring and removed when no longer needed. It will keep them from adding additional signs.

Mr. Lentsch said there are a lot of ways of advertising. They serve 16,000 clients in 2 counties, but Oaklawn uses many mediums to advertise open positions. Mr. Lentsch said they thought this would be a way to use their own signage to let folks know when there are job openings. He said the Children's Campus needs an efficient way to advertise job openings and that's the reason for the variance.

Mr. Portolese asked who Oaklawn's mother company was. Mr. Lentsch said Oaklawn. They started out 54 years ago in Elkhart and took over Madison Center and the Children's Campus about 2 years ago. He said they love being in Mishawaka and will probably purchase the campus in the near future.

Mr. Trippel closed the Public Hearing on Appeal #15-05.

Staff Recommendation

The Staff recommends approval of the additional signage that will be added to the existing monument sign as submitted. This recommendation is based upon the following Findings of Fact:

1. *Approval will not be injurious to the public health, safety, morals or general welfare of the community because the construction will be completed in accordance with all applicable state and local building codes, and will be professionally installed with quality materials;*
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 additional signage will match the existing aesthetically pleasing sign, is a small addition compared to*

the overall size of the sign, and be placed on this larger parcel so that is at least 300 feet from the nearest property owner;

- 3. Strict application of the terms of the On-Premise Sign Standards Ordinance will result in practical difficulty because a 5' by 8' sign, as required, would not be in scale with the large Lincolnway West frontage (±840') and this proposed larger sign would be more in scale with the property.*

MOTION: Ross Portolese moved to approve Appeal #15-05. Marcia Wells seconded; motion carried with a vote of 3-0.

ADJOURNMENT: 6:17 p.m.

Kenneth B. Prince, City Planner

Kari Myers, Administrative Planner