

FEBRUARY 10, 2015

**BOARD OF ZONING APPEALS
MISHAWAKA, INDIANA**

A regular meeting of the Mishawaka Board of Zoning Appeals was held Tuesday, February 10, 2015, at 6:00 p.m. in the Council Chambers, City Hall, 600 East Third Street, Mishawaka, Indiana. Board members attending: Charles Krueger, Charles Trippel, Ross Portolese, and Marcia Wells. Absent: 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.

Mr. Trippel explained the Rules of Procedure.

The Minutes of the January 13, 2015, meeting, were approved as distributed.

Conflict of Interest was not declared.

PUBLIC HEARING:

APPEAL #15-01

An appeal submitted by Blackburn & Green requesting a Developmental Variance for **1400 block of East University Drive** to allow a reduction in parking spaces.

Marcel Lebbin, May, Oberfell, Lorber, 4100 Edison Lakes Parkway, Mishawaka, appeared on behalf of the Appellant. Mr. Lebbin said the Fire Department has approved the site plan, however, to make this home feel like it's always been there they are trying to push the parking lot closer to the existing building to create more greenspace. He also said it should be better for the Fire Department.

Mr. Lebbin said this is the historic home on the northwest corner of Gumwood Road and State Road 23 and Mr. Blackburn is in discussion with the Historic Society to move to a site south of the existing office. He said this building will be used as a mediation center with conference room space and not be staffed full time. Mr. Lebbin said this is not your typical high-density use and would like to keep the historic structure in line with the current building and reduce the required number of parking spaces so it looks like two historic homes and not two office buildings.

Mr. Lebbin said the number of parking spaces is based on the sqft of the building, thus requiring 13 parking spaces. He said they are asking for a reduction as they won't be using the entire house. Also, there is parking to the north at the current office.

Mr. Prince said regarding the site plan, they are reorienting the parking lot and can add additional spaces in the future if needed.

Mr. Trippel closed the Public Hearing on Appeal #15-01.

Staff Recommendation

The Planning Staff recommends approval of Appeal 15-01 to allow a variance for a reduction of parking from (13) spaces to (6) spaces. 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 requested number of parking spaces is sufficient to meet the parking requirements of the business where only private meetings will occur and additional parking owned by the appellant is located adjacent to the proposed development.*
3. *Strict application of the terms of this chapter will result in practical difficulties because the current Zoning Ordinance does not include parking spaces for uses that are less intense than those for typical office uses. Furthermore, the required number of parking spaces would not be consistent with the "residential" architectural of the relocated building and the desired "campus-like" environment that the appellants desire to create.*

MOTION: Charles Krueger moved to approve Appeal #15-01. Ross Portolese seconded; motion carried with a vote of 4-0.

APPEAL #15-07 An appeal submitted by Hack Properties, LLC, requesting a Use Variance for **3635 North Home Street** to allow a soccer instruction facility on I-1 Light Industrial zoned property.

Doug Merritt, Professional Permits, 2319 Lincolnway East, Mishawaka, appeared on behalf of Steve Dregits, owner/operator of Soccer Shots who was also in attendance. Mr. Merritt said the property is the former Classic Stairs and Trim building and very close to Gymnastics Michiana.

Mr. Merritt said Mr. Dregits would like to operate a youth soccer instruction facility inside the building. There will be no exterior play or instruction and has been in contract with Bo Hundt Building Commissioner regarding building occupancy.

Mr. Portolese confirmed the request is for a Use Variance only. Mr. Prince said yes, soccer instruction is not a permitted use in the I-1 district and will be less intensive than an industrial use.

Mr. Trippel closed the Public Hearing on Appeal #15-07.

Staff Recommendation

The Staff recommends in favor of Appeal 15-07, a use variance for indoor soccer recreational use at 3635 N. Home Street, subject to the following conditions:

1. *Use variance shall be limited to indoors;*
2. *A site plan shall be submitted to the Department of City Planning showing proposed parking layout in regards provided parking space per use;*
3. *Temporary signage is prohibited.*

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 use will have no impact on the adjacent industrial uses that currently operate there. The proposed indoor soccer recreational use is less intense than other uses in the area. A similar recreational use (Gymnastics Michiana) is also located along Home Street.*
- 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 industrial nature of the area along Home Street, and the established recreational use.*
- 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 indoor soccer recreational use, while still protecting the industrial zoning for future use.*
- 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 proposed indoor soccer recreational uses.*
- 5. The approval will not interfere substantially with the Mishawaka 2000 Plan because the plan identifies other surrounding areas as industrial and the property will remain zoned industrial. The approval is consistent with the goals and objectives of the Comprehensive Plan.*

MOTION: Ross Portolese moved to forward Appeal #15-07 to the Common Council with a favorable recommendation. Marcia Wells seconded; motion carried with a vote of 4-0.

APPEAL #15-08 An appeal submitted by FGRE Mish, Inc., requesting a Sign Variance for **4240 North Main Street** to allow a non-conforming wall sign.

Doug Merritt, Professional Permits, 2319 Lincolnway East, Mishawaka, appeared on behalf of the Appellant. He said they are seeking approval of a wall sign that does not conform to the definition of a wall sign due to its location. The front entrance has been redesigned and due to the architecture of the columns, a flush-mounted letterset would detract from the look of the building. The sign will be installed on a raceway between the two entrance columns.

Mr. Trippel closed the Public Hearing for Appeal #15-08.

Staff Recommendation

*The Staff recommends **approval** of Appeal #15-08 to permit the 2' 2" X 10' "Daihido" sign to be mounted between architectural columns at the entrance to the remodeled Houlihan's restaurant. 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 signage is an integral part of the architectural design, is aesthetically pleasing, and represents an investment in the community;*
3. *Strict application of the terms of the On-Premise Sign Standards Ordinance will result in practical difficulty because without the requested Variance, the owner would need to eliminate the signage from the building or design a "backer" panel obscuring architectural features along the west façade.*

MOTION: Ross Portolese moved to approve Appeal #15-08. Marcia Wells seconded; motion carried with a vote of 4-0.

ADJOURNMENT: 6:12 p.m.

Kenneth B. Prince, City Planner

Kari Myers, Administrative Planner