

JUNE 9, 2015

**BOARD OF ZONING APPEALS
MISHAWAKA, INDIANA**

A regular meeting of the Mishawaka Board of Zoning Appeals was held Tuesday, June 9, 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, Don McCampbell, and Marcia Wells. Absent: Ross Portolese. 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. McCampbell explained the Rules of Procedure.

The Minutes of the May 12, 2015, meeting, were approved as distributed.

Conflict of Interest was not declared.

**PUBLIC HEARING:
APPEAL #15-20**

An appeal submitted by LCS Realty LLC requesting a Developmental Variance for **225 East Cleveland Road, Granger**, to allow a 5' front pavement setback and a reduction in interior landscape island widths.

Terry Lang, Lang, Feeney & Associates, 715 S. Michigan Street, South Bend, appeared on behalf of the Appellant. He said they are asking for two parking variances for the property.

Mr. Lang said the proposed new parking lot to be located on the recently-vacated street is located 5' off the north property line. He said it's a tapering property line shared with INDOT, but they're still well over 100' from State Road 23. But because of the actual property line, they needed to request this variance.

Mr. Lang said the second request is for an interior parking island width for maximum traffic flow. He said the size of the island needed to be reduced to accommodate the flow of thru traffic.

Mr. McCampbell closed the Public Hearing for Appeal #15-20.

Staff Recommendation

The Planning Department recommends approval of AP 15-20 to allow for a 5-ft front-yard pavement setback and a minimum 2-ft interior parking island width for the property located at 277 Cleveland Road. This recommendation is based on the following finding of fact:

- 1. Approval will not be injurious to the public health, safety, morals and general welfare of the community.*
- 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 additional parking*

will be added, stormwater will be maintained on site, and access to adjacent property will not be hindered.

- 3. Strict application of the terms of this chapter will result in practical difficulties in the use of the property because the access easement must be remain and parking can't encroach into this easement, and existing parking layout and circulation will not allow the required 6-ft interior island widths in some places.*

MOTION: Charles Trippel moved to approve Appeal #15-21. Charles Krueger seconded; motion carried with a vote of 4-0.

APPEAL #15-21 An appeal submitted by Brixmor Property Group requesting a Sign Variance for **306 Bittersweet Road** to permit an oversized freestanding sign.

Randy Whiteman, US Signcrafters, 216 Lincolnway East, Osceola, appeared on behalf of the Appellant. He said they are requesting a new sign to replace the existing, but will exceed the height and square footage allowed by code.

Mr. Whiteman said the existing sign has been up for over 20 years and is an eyesore and maintaining it further doesn't accomplish anything good for Martin's or their tenants. He said the new sign, while over code, is smaller and much more attractive that has space for more tenants and will be a great improvement to the neighborhood and the property. Mr. Whiteman said Brixmor has spent a good deal of money over the past two years improving the appearance of the property and this is a significant investment in the shopping center. There will also be new landscaping around the base of the sign.

Mr. McCampbell closed the Public Hearing on Appeal #15-21.

Staff Recommendation

*The Staff recommends **approval** of Appeal #15-21 to permit a new oversized freestanding sign with 277 sqft of display area and 150 sqft of copy area. 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 construction will be completed in accordance with all applicable state and local building codes, and will be professionally installed with quality materials. Further, with the proposed electronic message board, employees will no longer be required to harness up, climb a ladder and manually change messages. Public safety will also be improved as well since manual letters can fall off when subjected to the elements;*
- 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, and may in fact be somewhat enhanced by the reduced sign size and updated design;*
- 3. Strict application of the terms of the On-Premise Sign Standards Ordinance will result in practical difficulty in the use of the property because of its design as a multi-tenant center. In addition to Martin's Super Market, there are nine (9) tenants and the new sign will allow most tenants to be represented on the new sign in an aesthetically pleasing, and be of an size size appropriate way.*

MOTION: Marcia Wells moved to approve Appeal #15-21. Charles Krueger seconded; motion carried.

APPEAL #15-22 An appeal submitted by Jon and Pamela Myers, requesting a Developmental Variance for **517 West Jefferson Boulevard** to allow a garage with a 15' front setback.

John Myers, 517 W. Jefferson Blvd., presented the appeal. He said they are seeking approval of the variance so they can build a new garage that will be even with the front of their house.

Mr. McCampbell said staff has recommended leaving 3-5' near the sidewalk. Mr. Myers said he agrees with that, but not sure what he'll put there; perhaps plants of some kind.

Mr. Krueger asked if the old garage would be demolished. Mr. Myers said yes.

Mr. Trippel asked Mr. Myers if he had a timeframe. Mr. Myers said he hoped to be finished by September.

Mr. McCampbell closed the Public Hearing on Appeal #15-22.

Mr. Trippel asked Mr. Prince if the City was ok with this. Mr. Prince said yes, and he appreciates Mr. Myers' willingness to work with staff.

Staff Recommendation

*Staff recommends **approval** of Appeal 15-22 to allow a garage to be constructed with a 15' front 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 were 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 house already sits less than 15' from the property line; and*
- 3. Strict application of the terms of this chapter will result in practical difficulties in the use of the property because the garage could not be rebuilt at its current location without a variance.*

MOTION: Charles Krueger moved to approve Appeal 15-22. Marcia Wells seconded; motion carried with a vote of 4-0.

APPEAL #15-23 An appeal submitted by Donald James Paczkowski requesting a Developmental Variance to allow a 36' X 48' accessory structure at **2050 East Jefferson Boulevard**.

Don Paczkowski, 2050 E. Jefferson Blvd., presented the request. He said he would like to build a large building on unused portion of his lot. He said his lot is 420' deep and has

plenty of room and wouldn't impose on any of his neighbors. He said he has a letter from his nearest neighbor and she approved of his request.

Mr. McCampbell closed the Public Hearing on Appeal #15-23.

Staff Recommendation

*The Staff recommends **approval** of Appeal #15-23 to construct a 36' X 48' (1,728 sqft), 24' detached garage. 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 large 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 while the Appellant could build several 720 sqft structures on his large lot it is more practical to build one large structure to accommodate his vehicles and personal items.*

MOTION: Charles Krueger moved to approve Appeal #15-23. Charles Trippel seconded; motion carried with a vote of 4-0.

APPEAL #15-24 An appeal submitted by GRIP LLC requesting a Use Variance to allow a warehousing use on C-2 Shopping Center Commercial zoned property at **3618 Grape Road**.

The Appellant requests the item be continued to August 11, 2015, hearing. The Board voted unanimously to continue the item.

APPEAL #15-25 An appeal submitted by Alan Cookerly requesting a Developmental Variance for **1908 North Merrifield Avenue** to allow a handicap accessible ramp with a 19' front building setback.

Lance Kline, 1908 N. Merrifield Avenue, appeared on behalf of Mr. Cookerly. Mr. Kline said the ramp was originally going to be built next to the house, but due to a gas line, it needed to be moved to the front of the house resulting in the need for the variance.

Mr. Campbell closed the Public Hearing on Appeal #15-25.

Staff Recommendation

*Staff recommends **approval** of Appeal 15-25 to allow an access ramp to be constructed with a 20' front 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 were 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 ramp is modest in size and will be at least 20' from the public sidewalk; and*
3. *Strict application of the terms of this chapter will result in practical difficulties in the use of the property because the ordinance has no provision to accommodate a situation such as the Appellant's where special access to an individual's home is needed.*

MOTION: Charles Trippel moved to approve Appeal #15-25. Marcia Wells seconded; motion carried with a vote of 4-0.

ADJOURNMENT: 6:15 p.m.

Kenneth B. Prince, City Planner

Kari Myers, Administrative Planner