

FEBRUARY 9, 2016

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

A regular meeting of the Mishawaka Board of Zoning Appeals was held Tuesday, February 9, 2016, 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, Derek Spier, and Kari Myers.

Mr. Trippel explained the Rules of Procedure.

The Minutes of the January 12, 2016, meeting, were approved as distributed.

Conflict of Interest was not declared.

PUBLIC HEARING:

APPEAL #16-03

An appeal submitted by Kenneth A. and Diana K Eby and Maurice Bokhart requesting a Use Variance for **411 South Main Street** to permit warehousing and display of high-end, luxury automobiles, and utilize existing commercial kitchen space.

Maurice Bokhart, 16400 Kern Road, Mishawaka, said he owns the property immediately to the north that runs along the railroad tracks. He said parking is limited for those buildings and the attraction of this property is the asphalt parking lot behind the building. Mr. Bokhart said the Eby's have been there many years and are retiring from running the catering business from there.

Mr. Bokhart said there are four garage doors that face Main Street and he will update and give them a fresh look that would tie in with the inventory. He also said the building is in good shape, but the lintels are rusting and breaking up the mortar in the bricks. They will tuck point and replace any broken bricks.

Mr. Bokhart said Kil Architecture has been out and looked at the building. The color scheme will be similar to 403 S. Main and will remove the big bushes to open up the windows facing the street.

Mr. Trippel closed the Public Hearing on Appeal #16-03.

Staff Recommendation

The Planning Staff recommends approval of Appeal #16-03 to allow the warehousing and display of high-end, luxury automobiles, and use of portion of the building for commercial kitchen, in an I-1 Light Industrial District, subject to the following conditions:

- 1. 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 industrial use, (1) space per employees at maximum shift, shall be maintained. A*

site plan shall be submitted showing location of proposed parking and connection to adjacent property's site.

2. *No auto-mechanical and/or auto-body work may be performed on the property.*

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 are zoned for industrial and/or commercial uses.*
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 specific automotive uses within industrial zoned properties. 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 commercial uses for this area.*

MOTION: Ross Portolese moved to forward Appeal #16-03 to the Common Council with a favorable recommendation. Marcia Wells seconded; motion carried with a vote of 3-0.

APPEAL #16-04 An appeal submitted by Habitat for Humanity of St. Joseph County requesting a Developmental Variance for **323 West Ninth Street** to permit a single family residence with a 10' front building setback.

Brad Mosness, Abonmarche Consultants, 750 Lincolnway East, South Bend, appeared on behalf of the Appellant. He said they are requesting approval for a reduced front yard setback for a new home to be closer to the street. Mr. Mosness said this will bring the house in line with neighboring homes and provide more back yard for the homeowner with the garage and driveway off of the alley.

Mr. Trippel closed the Public Hearing on Appeal #16-04.

Staff Recommendation

Staff recommends approval of Appeal 16-04 requesting a developmental variance from the required 25' front yard building setback to a 10' front yard building setback to allow the construction of a new home at 323 West 9th Street. 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 adjacent properties are also occupied with single family residences, and the front yard setback of the proposed home will be consistent with the existing front setbacks of the adjacent homes. Furthermore, the value of the proposed improvements will be similar to or greater than the adjacent homes.*
3. *Strict application of the terms of this chapter will result in practical difficulties in the use of the property because the required 25' front building setback would push the home further back into the lot, thus reducing the amount of usable rear yard area. The required 25' front yard building setback would also not be consistent with adjacent residential front yard building setbacks.*

MOTION: Ross Portolese moved to approve Appeal #16-04. Marcia Wells seconded; motion carried with a vote of 3-0.

ADJOURNMENT: 6:07 p.m.

Kenneth B. Prince, City Planner

Kari Myers, Administrative Planner