

**APRIL 12, 2016**

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

A regular meeting of the Mishawaka Board of Zoning Appeals was held Tuesday, April 12, 2016, 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 Ross Portolese. Absent: Marcia Wells. In addition to members of the public, the following were also in attendance: David Bent, Ken Prince, Derek Spier, Christa Hill, and Kari Myers.

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Mr. McCampbell explained the Rules of Procedure.

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The Minutes of the March 8, 2016, meeting, were approved as distributed.

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Conflict of Interest was not declared.

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**PUBLIC HEARING:**

**APPEAL #16-07**

An appeal submitted by Gary R. Wyrick, Jr. requesting a Developmental Variance for **627 North Mason Street** to permit an accessory structure with a 1' side setback.

Gary and Holly Wyrick, 627 N. Mason Street, presented their appeal. Mrs. Wyrick said they want to add on to their existing garage without moving the structure farther away from the property. She said it's currently about 18" from the property line and it's also as far away from the alley as it needs to be. Mrs. Wyrick said the siding and roof will match the roof and they will be able to store more things like motorcycles, tools, and things inside.

Mr. McCampbell asked if they will change the driveway. Mr. Wyrick said no, it will stay as it is.

Mr. McCampbell closed the Public Hearing on Appeal #16-07.

**Staff Recommendation**

*Staff recommends approval of Appeal 16-07 to allow the construction of a 10' X 20' addition to an existing 10' X 20' garage with a 1' side 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 addition will be well-built, attractive and the Appellant will have more storage space for personal items; and*

3. *Strict application of the terms of this chapter will result in practical difficulties in the use of the property because the accessory building was built at a time (1950) when larger garages and more than one vehicle were not the norm. Any addition to the existing structure would require a variance due to the narrowness of the lot.*

**MOTION:** Charles Trippel moved to approve Appeal #16-07. Ross Portolese seconded; motion carried with a vote of 4-0.

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**APPEAL #16-08** An appeal submitted by Ron Patel requesting a Developmental Variance for **7515 Toscana Court, Granger**, to permit the construction of a new single family home with a 24' front yard setback and a 14' rear yard setback.

Dale DeVon, DeVon Custom Homes, 7508 Toscana Court, appeared on behalf of the Appellant. Mr. DeVon said lots 1-5 got shortened in the back due to the fire lane for the commercial portion of the development.

Mr. DeVon said there are no other homes in the area so the variance won't adversely affect them and a variance is required in order to build a home that would fit in the area.

Mr. McCampbell closed the Public Hearing on Appeal #16-08.

**Staff Recommendation**

*Staff recommends approval of Appeal 16-08 requesting a developmental variance from the required 25' front yard building setback to a 24' front yard building setback and from the required 15' rear yard building setback to a 14' rear yard building setback to allow the construction of a new home at 7515 Toscana Court. 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 new house will be similar in character to other houses on the block.*
3. *Strict application of the terms of this chapter will result in practical difficulties in the use of the property because the lot depth was reduced in a 2012 replat, making them the shallowest along Toscana Court.*

**MOTION:** Ross Portolese moved to approve Appeal #16-08. Charles Krueger seconded; motion carried with a vote of 4-0.

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**APPEAL #16-09** An appeal submitted by Empire Petroleum Partners requesting a Sign Variance for **215 East Cleveland Road** to permit an oversized freestanding sign as well as signs that project above the fuel pump canopy.

Garry Potts, Professional Permits, 58171 Dragonfly Court, Osceola, appeared on behalf of the Appellant. Mr. Potts said they are requesting approval for the new Phillips 66 signs on

the gas pump canopy that project 16" above the canopy roof line and re-branding of the existing freestanding sign. He also said the height of the freestanding sign will be reduced by approximately 5' and overall sqft will be reduced as well.

Mr. Potts said the change to the signage is part of a new national branding for Phillips 66 and they have invested a great deal of time and energy into the updated design. Mr. Potts also said that staff has recommended approval.

Mr. McCampbell closed the Public Hearing on Appeal #16-09.

**Staff Recommendation**

*The Staff recommends approval of Appeal 16-09 to allow the re-imaging of the existing freestanding sign and the installation of three (3) Phillips 66 "shields" to project 16.2" above the gasoline pump canopy. 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 a practical difficulty in the use of the property because the business owner has enjoyed the existing grandfathered sign since before 1990 and would not be allowed to update his sign with the new corporate identity to encourage more business traffic.*

**MOTION:** Charles Trippel moved to approve Appeal #16-09. Charles Krueger seconded; motion carried with a vote of 4-0.

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**APPEAL #16-10** An appeal submitted by Good Oil requesting a Sign Variance for **2319 East Twelfth Street** to permit canopy signs that project above the roofline of the fuel pump canopy.

Garry Potts, Professional Permits, 58171 Dragonfly Court, Osceola, appeared on behalf of the Appellant. Mr. Potts said they are requesting approval for the new Phillips 66 signs on the gas pump canopy that project 16" above the canopy roof line.

Mr. Potts said the signs are 45" X 45" "shields" that will project approximately 16" above the gas pump canopy. He said similar requests have been approved for McDonald's and Burger King in the past.

Mr. Potts said the freestanding sign will be reimaged, but the height will remain at 30'.

Mr. McCampbell closed the Public Hearing on Appeal #16-10.

**Staff Recommendation**

*The Staff recommends approval of Appeal 16-10 to allow three (3) Phillips 66 "shields" to project 16.2" above the gasoline pump canopy. 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 corporate standard signage cannot be utilized on a the canopy and will not be consistent with Phillips 66 national corporate branding.*

**MOTION:** Charles Krueger moved to approve Appeal #16-10. Charles Trippel seconded; motion carried with a vote of 4-0.

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**ADJOURNMENT:** 6:12 p.m.

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Kenneth B. Prince, City Planner

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Kari Myers, Administrative Planner