

JANUARY 8, 2019

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

The regular meeting of the Mishawaka Board of Zoning Appeals was held Tuesday, January 8, 2019, 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: Larry Stillson. 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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The meeting was turned over to Ken Prince for the election of officers.

**ELECTION OF OFFICERS:**

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

**MOTION:** Charles Krueger moved to nominate Marcia Wells as Vice-Chairman. Don McCampbell seconded; motion carried with a vote of 3-0.

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Mr. Trippel explained the Rules of Procedure.

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The Minutes of the December 11, 2018, meeting, were approved as distributed.

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Conflict of Interest was not declared.

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**PUBLIC HEARING:**

**APPEAL #18-45** An appeal submitted by Edison Lake View Associates, LLP requesting a Conditional Use for a tattoo establishment at **236 W. Edison Road.**

Amber Olsen, 710 W. 7<sup>th</sup> Street, Mishawaka, said she has been scouring Mishawaka for the past two years looking for a space for a tattoo studio. She said she has been emailing back and forth with Christa and discussed this location with staff.

Ms. Olsen said the owner is receptive to what she wants to do with the space. She said she wants to work in Mishawaka as she lives here, her kids go to school here. Ms. Olsen said she currently works nearly in Michigan and is inconvenient for her.

Mr. McCampbell asked if she had seen the conditions of approval. Ms. Olsen said yes she is aware of them and agrees to them.

Mr. Krueger asked how many people will be doing the tattooing. Ms. Olsen said starting off, probably just her and a co-worker, but at a maximum not more than 4 or 5.

Mr. Trippel closed the Public Hearing on Appeal #18-45.

Mr. Krueger asked Mr. Prince if he was aware of how many people would be doing the tattoo work. Mr. Prince said it is not a concern.

**Staff Recommendation**

*The Staff recommends **approval** of Appeal 18-45 for a use variance to allow a tattoo establishment within an existing multi-tenant commercial building at 236 W Edison, subject to the following conditions:*

1. *The tattoo and body piercing studio must comply with all regulations and permitting requirements per Chapter 18-Business Regulations, Article X-Tattoo and Body Piercing Establishments of the City of Mishawaka.*
2. *There shall be no loitering or disruptive behavior in or around the business. If problems are encountered as identified by the Mishawaka Police Department, and those problems are not corrected, the Conditional Use shall be revoked by default.*
3. *No one under the age of 18 shall be permitted to have art work done to their body unless accompanied by their parent or legal guardian and proof of identification is shown. Identification must include a certified birth certificate.*

*This recommendation is based on the following findings of fact:*

1. *The approval will not be injurious to the public health, safety, morals, and general welfare of the community because the tattoo studio will be located within an existing commercial plaza and be permitted, operated and managed according to all applicable regulatory codes. Additionally, tattoos have experienced resurgence in popularity and acceptance in recent decades and coupled with advancements in tattoo pigments and ongoing refinement of the equipment used, has led to an improvement in the quality of tattoos being produced.*
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 studio will be located in a building that is surrounded by commercial and office development in an area of various commercial uses. The plaza has an appropriate number of parking spaces provided for the proposed uses of the building.*
3. *There are two bodies that oversee tattoo establishments, the St. Joseph County Health Department and the City of Mishawaka. These conditions will mitigate any potentially adverse impact of the conditional use upon adjacent property.*
4. *Since the tattoo establishment is moving into an existing commercial center there are proper utilities, drainage, paved access roads, landscape, buffering, fencing, leakproof dikes, safety precautions, and to minimize traffic congestions.*
5. *The granting of the conditional use permit is in the best interest for the community because this location is in one of the area where the 750 foot buffer does not include any residentially zoned or legal nonconforming residential property, public or private elementary, middle, or high school, parks and churches. The orientation of the building provides that tattooing will not be visible from the street.*

**MOTION:** Mr. McCampbell moved to forward Appeal #18-45 to the Common Council with a favorable recommendation. Ms. Wells seconded; motion carried with a vote of 4-0.

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**ADJOURNMENT:** 6:09 p.m.

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Kenneth B. Prince, City Planner

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Kari Myers, Administrative Planner