

DECEMBER 8, 2020

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

The regular meeting of the Mishawaka Board of Zoning Appeals was held Tuesday, December 8, 2020, at 6:00 p.m. in the Council Chambers, City Hall, 600 East Third Street, Mishawaka, Indiana. Board members attending: Charles Krueger, Chris Tordi, Marcia Wells, and Joel Dendiu. Absent: Larry Stillson. In addition to members of the public, the following were also in attendance: Ken Prince, Derek Spier, Christa Hill, and Kari Myers.

Mrs. Wells explained the Rules of Procedure.

The Minutes of the November 10, 2020, meeting, were approved as distributed.

Conflict of Interest was not declared.

PUBLIC HEARING:

APPEAL #20-52 An appeal submitted by Steven Van Damme requesting a Use Variance for **823 East Third Street** to allow a three-unit apartment to remain in R-1 Single Family Residential zoning.

Steven Van Damme, 1619 Rockwood Lane, Mishawaka, said he wants to keep a 3-unit house which it has been since he purchased in 1981. He said it was also a 3-unit apartment for at least 20 years prior to that.

Mr. Tordi asked Mr. Van Damme if he understood he was to provide four paved parking spaces and how would he complete that recommendation. Mr. Van Damme said it has parking for 5 cars and he will pave it.

Mr. Tordi asked if he understood it was a requirement. Mr. Van Damme said yes.

Mrs. Wells closed the Public Hearing on Appeal #20-52.

Staff Recommendation

The Planning Staff recommends approval of Appeal #20-52 to allow a Use Variance for a 3-unit apartment in the R-1 Single Family Residential District to remain subject to the following condition:

1. *Appellant required to provide four paved off-street parking 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 no physical changes are being made to the property;*

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 has been used in this way for many years, without any problems that we know of;*
3. *The need for the variance arises from some condition peculiar to the property in that the property was built as a single-family residence and was at least converted to a duplex by 1968, and an additional unit by 1981, but the zoning was never changed to match the use;*
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 building has been used as a 3-unit since at least 1981; and*
5. *The recommendation is reasonably consistent with Comprehensive Plan which indicates low density residential uses for this area.*

MOTION: Joel Dendiu moved to forward Appeal #20-52 to the Common Council with a favorable recommendation. Charles Krueger seconded; motion carried with a vote of 4-0.

APPEAL #20-53 An appeal submitted by Jeffrey and Deborah Van Poppel requesting a Developmental Variance for **713 Prism Valley Drive** to allow an accessory structure with a 2' side yard setback.

Jeffrey Van Poppel, 713 Prism Valley Drive, Mishawaka, presented the appeal. He said he has 9.5' on the side of his house and he wants to give up 3' to build a shed. He said he would like the shed to be 6' wide and is asking for a 2' setback in order to have room on either side of the shed.

Mr. Van Poppel said it's hard to tell from the pictures, but he has a swale in his back yard and has no flat area behind the house to place the shed, so the side of the house is the only place to put it. He said he talked to his neighbor and he is fine with it as long as he doesn't block his windows.

Mrs. Wells closed the Public Hearing on Appeal #20-53.

Staff Recommendation

Staff recommends **approval** of Appeal #20-53 to allow a shed at 713 Prism Valley Dr with a 2' side 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 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 side yards are larger than the ordinance requires to begin with, which provides room to maneuver around the shed and still remain on their property; and*
3. *Strict application of the terms of this chapter will result in practical difficulties in the use of the property because the rear yard is not suitable for the shed due to the elevation change and drainage easement.*

MOTION: Chris Tordi moved to approve Appeal #20-53. Joel Dendiu seconded; motion carried with a vote of 4-0.

APPEAL #20-54 An appeal submitted by Bethel University, **1001 Bethel Circle**, requesting a Sign Variance at to allow a 115 sqft non-illuminated wall sign at the Athletic Training Center.

Doug Merritt, US Signcrafters, 216 Lincolnway East, Osceola, presented the request. He said Bethel University is excited to have a training facility. He said the sign is non-illuminated and the scale of the building is substantial.

Mr. Merritt said the sign will identify the building which is located on property of the former mobile home park and is separated somewhat from the main campus.

Mrs. Wells closed the Public Hearing on Appeal #20-54.

Staff Recommendation

The Planning Staff recommends approval of Appeal #20-54 to allow a second sign, 115 sf in area, on the Bethel Athletic Training facility, zoned R-3 Multi-Family Residential District. 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 construction will be completed in accordance with all applicable state and local building codes and 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 improvements are meant to provide better visibility for the building as a part of the Bethel University campus.*
- 3. Strict application of the terms of the On-Premise Sign Standards Ordinance will result in practical difficulty because the ten (10) square feet provided by ordinance is not sufficient for a building of this size, over 100' tall.*

MOTION: Charles Krueger moved to approve Appeal #20-54. Joel Dendiu seconded; motion carried with a vote of 4-0.

APPEAL #20-55 An appeal submitted by Kyla Townsend requesting a Developmental Variance for **5110 Breeze Wood Drive** to allow a home addition with a 2' side yard setback.

Ed Hill, Pro Roofing and Construction, 408 Lamport, Osceola, IN, appeared on behalf of the Appellant. He said the homeowner is proposing a 12' X 12' addition on the front of the existing garage which would give a 2' setback vs. the required 5'. He said he talked to the next door neighbor and they have no problem with it.

Mrs. Wells closed the Public Hearing on Appeal #20-55.

Staff Recommendation

The Staff recommends **approval** of Appeal #20-55 to permit a garage addition with a 2' side 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 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 allow storage of 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 house is built on an angle to the property line and any addition would require a variance.

MOTION: Joel Dendiu moved to approve Appeal #20-55. Charles Krueger seconded; motion carried with a vote of 4-0.

ADJOURNMENT: 6:17 p.m.

Kenneth B. Prince, City Planner

Kari Myers, Administrative Planner