

AUGUST 10, 2021

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

The regular meeting of the Mishawaka Board of Zoning Appeals was held Tuesday, August 10, 2021, 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, Larry Stillson, and Joel Dendiu. In addition to members of the public, the following were also in attendance: David Bent, Derek Spier, Christa Hill, and Kari Myers.

Mrs. Wells explained the Rules of Procedure.

The Minutes of the July 13, 2021, meeting, were approved as distributed.

Conflict of Interest was not declared.

PUBLIC HEARING:

APPEAL #21-24

An appeal submitted by Mark Shea, Trustee of the John C. Shea Sr. Revocable Trust and Rosemary Shea, Trustee of the Rosemary Shea Revocable Trust requesting a Use Variance for **218 West Cleveland Road, Granger**, to allow microblading/permanent make up on C-2 Shopping Center Commercial property.

Autumn Spitler, 2006 Ontario Road, Niles, MI, said they would like to include permanent make up to the service menu at Studio Sixteen.

Mr. Tordi asked if it would be mainly microblading for eyebrows. Ms. Spitler said yes, eyebrows, eyeliner, and lips.

Mrs. Wells closed the Public Hearing on Appeal #21-24.

Staff Recommendation

Staff recommends in **favor** of Appeal #21-24 to allow microblading services at Studio Sixteen, Centennial Place, 218 W. Cleveland Road, Granger. This recommendation is based upon 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 existing business provides similar personal services/salon uses;
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 it is included in a commercial development;
3. The need for the variance arises from some condition peculiar to the property involved in that the C-2 zoning does not permit a tattoo establishment, but does

allow the salon where the process is taking place, thus requiring the Use Variance for the proposed use;

- 4. The strict application of the terms of this chapter will result in practical difficulties in the use of the property because the nature of the business is similar to that of a salon and should not generate more traffic than any of the existing businesses within the development; and*
- 5. The approval will not interfere substantially with the Mishawaka 2000 Comprehensive Plan because the plan identifies this area for general commercial and is in close proximity to one of the largest consolidated retail areas in the State of Indiana.*

MOTION: Chris Tordi moved to forward Appeal #21-24 to the Common Council with a favorable recommendation. Larry Stillson seconded; motion carried with a vote of 5-0.

APPEAL #21-25 An appeal submitted by Bittersweet Plaza LLC requesting various Developmental Variances for **210, 306, 312, 316, 318, 320, 322, 324, 326, 328, 332, 334, 336, 338, and 340 North Bittersweet Road**, for building and parking setbacks, landscaping, and lot area and frontage for a future subdivision.

Jeff Ballard, Danch, Harner & Associates, 1643 Commerce Drive, South Bend, appeared on behalf of the Appellant. He said there are a lot variances and won't go through each one. They are asking for a reduction in property frontage, setbacks, landscaping, and parking.

Mr. Ballard said it is a 9.49 acre parcel zoned S-2 Planned Unit Development and the owners are working on long-term planning on the complex and wish to create individual parcels. He said within each new parcel they are asking for various variances from the C-2 Shopping Center Commercial District zoning regulations. This will allow the property to be split.

Mr. Ballard said additionally, they recognize additional landscaping will be included for parcel 2 along Bittersweet frontage.

Mr. Ballard said that was basically it; it's not that complicated. He said they met with staff prior to filing the variances to ensure it would be in compliance with C-2 zoning.

Mrs. Wells closed the Public Hearing on Appeal #21-25.

Staff Recommendation

The Planning Staff recommends approval of Appeal 21-25 to allow developmental variances for building and pavement setbacks, landscaping, parking spaces, and lot area and frontage for a proposed future subdivision of Bittersweet Plaza. 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. The buildings and site improvements are existing and the variances will allow for the property splits to establish new legal lots of record.*
- 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. Conditions, such as the building `and pavement setbacks, landscaping, and screening, currently exist and will be*

maintained on the property. The only new issue being addressed with the appeal is for the proposed split of the property which affects the interior lot line locations. All improvements along the perimeter of the site are existing and are not proposed to be changed except of the additional landscaping required on proposed Parcel 2.

- 3. Strict application of the terms of this chapter will constitute an unnecessary hardship if applied to the property. Existing conditions such as pavement, lot size, building placement, and existing landscaping do not adhere to the required developmental standards feasible in order to establish separate lots within an existing commercial development.*

MOTION: Joel Dendiu moved to approve Appeal #21-25. Larry Stillson seconded; motion carried with a vote of 5-0.

APPEAL #21-26 An appeal submitted by KAUNDA OSCAR K & KASIMBI YVONNE requesting a Developmental Variance for **1841 DeKever Drive** to allow a solid fence with a 10' exterior side yard setback. *Applicant requests withdrawal.*

The Board unanimously approved the request to withdraw.

ADJOURNMENT: 6:08 p.m.

Derek Spier, Senior Planner

Kari Myers, Administrative Planner