

SEPTEMBER 14, 2021

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

The regular meeting of the Mishawaka Board of Zoning Appeals was held Tuesday, September 14, 2021, at 6:00 p.m. in the Council Chambers, City Hall, 600 East Third Street, Mishawaka, Indiana. Board members attending: Chris Tordi, Marica Wells, Larry Stillson, and Joel Dendiu. Absent: Charles Krueger. In addition to members of the public, the following were also in attendance: Ken Prince, David Bent, Derek Spier, Christa Hill, and Kari Myers.

Mrs. Wells explained the Rules of Procedure.

The Minutes of the August 10, 2021, meeting, were approved as distributed.

Conflict of Interest was not declared.

PUBLIC HEARING:

APPEAL #21-27

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 **318 West Cleveland Road and 320 West Cleveland Road, Granger**, to allow dog grooming and cat boarding on C-2 Shopping Center Commercial property.

John Shea, 466 S. Prospect Avenue, Elmhurst, IL. He said he was requesting an appeal granting his tenant, Gordon's Pet Grooming, to be allowed dog grooming in one store and cat grooming and boarding in another space. He said all grooming services will be done within the store.

Mr. Shea said one tenant space is 2,400 sqft and the other is 1,200 sqft. There will be no dogs overnight, only cats on the boarding side.

Mrs. Wells closed the Public Hearing on Appeal #21-27.

Staff Recommendation

*Staff recommends in **favor** of Appeal #21-27 to allow pet grooming/cat boarding services at Gordon's Grooming at 318 and 320 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 no exterior changes are proposed, thus, there will be no impact on the character of the buildings in the area;*
- 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 pet grooming/boarding services, 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 retail with the added convenience of some pet services 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: Larry Stillson moved to forward Appeal #21-27 to the Common Council with a favorable recommendation. Joel Dendiu seconded; motion carried with a vote of 4-0.

APPEAL #21-28 An appeal submitted by Ross J. and Nancy S. Trimboli requesting a Developmental Variance for **1809 Linden Avenue** to allow a front porch with a 15' front yard setback.

Ross Trimboli, 1809 Linden Avenue, said he would like the setback to be granted for replacing a front porch. He said there's an existing step and landing is in disrepair and replace with a deck and railing. He said as it is, the steps are within the required setback.

Mr. Tordi asked if the work had been done. Mr. Trimboli said no.

Mrs. Wells closed the Public Hearing on Appeal #21-28.

Mr. Prince read a Letter of Support from Richard and Susan Baxter at 1902 Linden Avenue.

Staff Recommendation

*Staff recommends **approval** of Appeal #21-28 to allow an open front porch addition to be constructed with a 15' front 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 request is modest and represents an investment in their home and neighborhood; and*
3. *Strict application of the terms of this chapter will result in practical difficulties in the use of the property because the home has a front yard setback of approximately 24' and any addition to the home would require a variance.*

MOTION: Chris Tordi moved to approve Appeal #21-28. Larry Stillson seconded; motion carried with a vote of 4-0.

APPEAL #21-29 An appeal submitted by The Vineyard Church, Inc., requesting a Use Variance for **635 East Twelfth Street** Indiana, to allow a parking lot for a mobile medical clinic. *Appellant is requesting continuance to the October 12, 2021, meeting.*

The Appellant has requested the item be continued to the October 12, 2021, meeting. The Board unanimously approved the request.

APPEAL #21-30 An appeal submitted by The Vineyard Church, Inc., requesting a Developmental Variance for **635 East Twelfth Street** to allow a gravel parking lot for the use of a mobile medical clinic. *Appellant is requesting continuance to the October 12, 2021, meeting.*

The Appellant has requested the item be continued to the October 12, 2021, meeting. The Board unanimously approved the request.

APPEAL #21-31 An appeal submitted by Michael Heck requesting a Developmental Variance for **1945 East McKinley Avenue** to allow an 18' tall, 24' X 36' accessory structure.

Michael Heck, 1945 E. McKinley Avenue, said he would like to put up a garage with an 18' tall peak as he would like to store his motor home.

Mrs. Wells closed the Public Hearing on Appeal #21-31.

Staff Recommendation

*The Staff recommends **approval** of Appeal #21-31 to construct a 864 sqft (24' X 36'), 18' tall accessory structure. 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 size of the structure is proportionate to the size of the lot, and will store items normally stored outside getting them out of view of adjacent properties; and*
- 3. Strict application of the terms of this chapter will result in practical difficulties in the use of the property because the Appellant could build several 720 sqft structures on the lot, but it is more practical to build one large structure to accommodate their items.*

MOTION: Joel Dendiu moved to approve Appeal #21-31. Larry Stillson seconded; motion carried with a vote of 4-0.

APPEAL #21-32 An appeal submitted by GLC-MAP McKinley Trust requesting a Use Variance for **422 West McKinley Avenue** to allow a three-tenant

building, one with drive-thru window, on C-1 General Commercial zoning district.

Jeff Ballard, Danch, Harner & Associates, 1643 Commerce Drive, South Bend, appeared on behalf of the Appellants. He said the request is for a proposed restaurant facility with drive-thru and retail store and sit-down restaurant.

Mr. Ballard said he met with Staff to determine the best procedure to accommodate the request and they suggested rezoning to C-1 and request a Use Variance for the drive-thru and having three tenants in the same building as C-1 only allows two tenants.

Mrs. Wells asked if there was an existing building. Mr. Ballard said yes and it will be demolished.

Mr. Dendiu asked if he had a timeline. Mr. Ballard said he doesn't, but assumes they'll want to move quickly.

Mrs. Wells closed the Public Hearing on Appeal #21-32.

Staff Recommendation

*The Planning Staff recommends **approval** of Appeal 21-32 to allow a use variance for a maximum of three (3) tenants in a single commercial building with one (1) restaurant with drive-thru facilities. The building is to be located within a 1.62 acre area with a current address of 422 W. McKinley Avenue. This recommendation is based on the following findings of fact:*

- 1. Approval will not be injurious to the public health, safety, morals and general welfare of the community. The proposed restaurant with drive-thru use in a multi-tenant building is consistent and compatible with the density and uses of the adjacent parcels. Furthermore, 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. The proposed multi-tenant commercial building is adjacent to and within property currently zoned for commercial use. The uses within the single multi-tenant building will be consistent with those in the surrounding area. Two restaurants with drive-thru facilities are currently present immediately adjacent to the west. Other multi-tenant commercial buildings are located to the north and northwest.*
- 3. The need for the variance arises from some condition peculiar to the property. The property is pending a rezoning to the C-1 General Commercial District. The zoning ordinance does not have a zoning classification that would allow for the proposed three (3) tenant commercial building to include on (1) drive-thru restaurant.*
- 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. The pending zoning will not allow for the combined multi-tenant use and drive-thru restaurant use. The preferred means by which to allow the proposes uses is through the use variance process.*

5. *The approval will not substantially interfere with the Mishawaka 2000 Comprehensive Plan. The Plan, created in 1990, guided general commercial development within this property. The proposed uses are consistent with the Comprehensive Plan.*

MOTION: Larry Stillson moved to forward Appeal #21-32 to the Common Council with a favorable recommendation. Joel Dendiu seconded; motion carried with a vote of 4-0.

ADJOURNMENT: 6:14 p.m.

Kenneth B. Prince, City Planner

Kari Myers, Administrative Planner