

JANUARY 11, 2022

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

The regular meeting of the Mishawaka Board of Zoning Appeals was held Tuesday, January 11, 2022, at 6:00 p.m. in the Council Chambers, City Hall, 600 East Third Street, Mishawaka, Indiana. Board members attending: Charles Krueger, Michael Portolese, Chris Tordi, Larry Stillson, and Joel Dendiu. In addition to members of the public, the following were also in attendance: David Bent, Ken Prince, Derek Spier, Shad Annis, and Kari Myers.

The meeting was turned over to Ken Prince for the election of officers.

ELECTION OF OFFICERS:

MOTION: Charles Krueger moved to nominate Chris Tordi as Chairman.

MOTION: Joel Dendiu moved to nominate Larry Stillson as Chairman. Mr. Stillson declined the nomination due to meetings he would not be present in person.

Mr. Prince closed the nominations. The Board unanimously approved Chris Tordi as Chairman.

MOTION: Larry Stillson moved to nominate Joel Dendiu as Vice-Chairman. Charles Krueger seconded; motion carried with a vote of 4-0.

Mr. Tordi explained the Rules of Procedure.

The Minutes of the December 14, 2021, meeting, were approved as distributed.

Conflict of Interest was not declared.

PUBLIC HEARING:

APPEAL #21-43 An appeal submitted by VFW Mishawaka Post 360 requesting a Developmental Variance for vacant property located at the northeast corner of Jefferson Boulevard and Maplehurst Avenue to allow reduced parking for eight residential homes and accessory buildings.
Continued from the December 14, 2021, meeting.

Greg Shearon, Danch, Harner & Associates, 1643 Commerce Drive, South Bend, appeared on behalf of the Appellants. He said he was here on behalf of the VFW seeking a parking variance for the lot at the northeast corner of Jefferson and Maplehurst. He said the VFW wants to develop a project for veterans; transitional housing. He said the project will consist of eight small apartment type units, 700-800 sqft centered around a central courtyard. The request is to reduce the required number of parking spaces from 1.5 per unit to 1. Mr. Shearon said due to the nature of the project, one parking space should be

enough to meet the needs. If there is need for additional parking, the VFW is across the street and can utilize.

Mr. Krueger asked if it would serve veterans who served in foreign wars. Mr. Shearon said he believed it would be any veteran.

Mr. Portolese said Maplehurst has no parking all along and would the City consider removing the restrictions. Mr. Shearon said he didn't know.

Mr. Portolese said Jefferson is five lanes and makes sense to park along Maplehurst and maybe it's something we should address for safety. Mr. Shearon said they can discuss with Engineering to allow parking along that block.

Mr. Portolese asked if you will contractually limit the renters to one spot. Mr. Shearon said he believes that may be the case. He also said the housing is transitional and residents may not even have a car.

Mr. Krueger asked if the veterans would rent or buy.

James Metherd, 10291 Charles Street, Osceola, said he was here in 2020 for this type of housing at another location and it went over well. He said they decided to move the location for financial reasons as the previous location would take too much prep work. He also said they have raised over \$170,000.00 since November.

Mr. Metherd said the homes would be 350-400 sqft. He said they have established an operation board, all veterans, a lawyer and local business owner. They have established rules and expectations for each resident and they will be required to sign to be a part of the unit.

Mr. Metherd said they have strict rules and have reached out to various organizations and some will come by weekly to help them seek employment. They have a verbal commitment with Bethel University and Mario Sims for spiritual guidance when needed, and also a financial planner.

Mr. Metherd said this is a transitional opportunity and the typical time spent there is typically 14-20 months. Our community could be different, but are trying to combat veteran homelessness.

Mr. Portolese asked if they are recently discharged veterans. Mr. Metherd said he doesn't have that information.

Mr. Krueger asked if the proposal was discussed with the VFW. Mr. Metherd said yes, they are the current property owners and they have been marvelous to work with. He said the VFW is open seven days a week and the veterans can go over for fellowship.

Opposition

Jose Montes De Oca, 1315 E. Borley Ave., said this sounds like a wonderful organization. He said he's currently a National Guardsman and understands the homeless vets and the help they need. However, the location doesn't seem to fit in an established residential area. They don't like the idea of it being here in this specific area; perhaps a busier street.

Mr. Montes De Oca said transitional means they're going to be in and out and doesn't want any issues or problems. He said where he lives is a quiet community. He also said he understands that they say about screening.

Mr. Montes De Oca said there aren't any resources in the area for them such as Walgreens; where would they get food, no transportation. It's just not a good fit for the area.

Mr. Prince said the parking variance is being considered by this Board. The Zoning will be considered at this evening's Plan Commission meeting.

Alan Ritchie, 1327 E. Borley Ave., said he has been a resident of the area for 13 years and it's a nice quiet area that are primarily single family homes. The neighbors like their quiet, peaceful surroundings.

Mr. Ritchie said he admires the effort, but doesn't think it's a good fit for the area. His primary concerns is the effect on property values and can't find anyone to advocate for it and feels like property values would be affected and asked if other areas had been considered.

Marcie Ritchie, 1327 Borley Ave., said the VFW uses that lot for overflow parking for their events and asked what is the plan for parking if that is no longer available. Will it fill down Maplehurst and Borley and will create another situation.

Ms. Ritchie said it's a single-family neighborhood and the City has been at work in the area for a while. She said along Borley Avenue are first time homebuyer homes and also the Habitat community.

Jill Schroeder, 1316 E. Jefferson Blvd., said she admires the program and their hearts are in the right place, but the problem is where it's going to be located. Her house is right next door to this lot and will really impact her. She said she has strong family ties to the house she lives in and the whole area in general. Ms. Schroeder said she's watched it grow and said her parent's property was sold to the City for the first time homebuyer homes.

Ms. Schroeder said everyone maintains their property; it's an established neighborhood and just doesn't know that this is something that belongs in that spot.

Mr. Tordi said the only item for consideration this evening is the request for reduced parking. The request for change in zoning is the Plan Commission meeting at 7:00.

Mr. Tordi asked Mr. Prince if it is normal procedure to handle in this way. Mr. Prince said yes, it's the only way to file the items concurrently. He said the BZA has its function and the Plan Commission has its function and it makes sense to do it in this way.

Tammy Micola, 1321 E. Borley Ave., said she knows this is for parking purposes and also that VFW owns the lot and they use for overflow parking. She said her concern is that if they have those special events, what is going to happen with parking if they don't have this lot?

Mary Sisti, 1127 E. Borley, Ave., said she has the same concerns as her neighbors. But being a parent her concerns are more for safety and no one has addressed why veterans become homeless.

Rebuttal

Mr. Metherd said he could address some concerns. He said he is not here representing VFW but Troop Town.

Mr. Metherd said the property will be maintained 24/7 by a caretaker. He said the homes they are proposing will fit into the neighborhood.

Mr. Tordi asked if he could address parking and special events. Mr. Metherd said he isn't representing VFW, but is on the Board for Get Wet for a Vet and they have moved their annual event to the Eagles on Ironwood in South Bend due to space.

Mr. Metherd said he truly doesn't believe many residents will have a vehicle. They have a donated vehicle for appointments, groceries, doctor appointments, etc. They have an on-premise vehicle for such needs and the site is on a bus line.

Mr. Metherd said a lot of the comments are: we just don't know; it's great, but not in our area. He said in any subdivision and any neighborhood, a resident doesn't get to pick their neighbor. He said in this development, they will hand-pick guests. They will not have guests with previous felonies, no drugs, no firearms; guests must adhere to the rules or they will be removed. Mr. Metherd said an attorney helped create the bylaws.

Mr. Tordi closed the Public Hearing on Appeal #21-43.

Mr. Stillson said he is concerned about the impact overflow parking could have on the residents. He said eight parking spaces doesn't seem to be enough.

Mr. Portolese said he has no issue with the parking spaces if the Plan Commission approves the zoning change.

Mr. Krueger said he can't detach from the parking; if this goes in it creates another problem. He said many years ago a restaurant was allowed to go on Lincolnway West and created a parking problem for the residents. Mr. Krueger said he doesn't think anyone would object to this for the veterans, but don't want to create another problem to appease this project.

Staff Recommendation

Planning Staff recommends approval of Appeal 21-43 to allow a reduction in the required number of parking spaces for Mishawaka Troop Town - a proposed residential development consisting of eight (8) starter homes for rental to returning veterans, a welcome center, and recreation/ laundry building. Parking spaces shall be provided at a ratio of one space per dwelling unit. 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. Due to the anticipated minimal parking demand, adequate parking should be provided for the proposed development.*
- 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. Adjacent properties are occupied by single family residential homes and the VFW Mishawaka Post 360. Adequate off-street parking should be provided both within the development and across E. Jefferson Boulevard within the VFW property, also owned by the Appellant, if additional parking is needed.*

3. *Strict application of the terms of this chapter will result in practical difficulties in the use of the property. Due to the limited size of the property, providing the required number of off-street parking spaces within the site would potentially reduce the number of dwelling units and proposed amenities within the development.*

MOTION: Michael Portolese moved to approve Appeal #21-43. Joel Dendiu seconded; motion carried with a vote of 3-2 (Krueger, Stillson).

APPEAL #21-44 An appeal submitted by Joseph Griesinger and Travis Verslype requesting a Developmental Variance for **807 West Third Street** for reduced parking to allow one (1) off-street space for seven (7) apartment units (4 existing and 3 proposed). *Appellant is requesting item be continued to February 8, 2022, meeting.*

The Board unanimously approved the request to continue the item.

APPEAL #21-45 An appeal submitted by C & D LLC requesting a Developmental Variance for **920 and 812 South Logan Street** for reduced separation between a proposed storage facility and residentially zoned property from 250' to 25'.

Jeff Ballard, Danch, Harner & Associates, 1643 Commerce Drive, South Bend, IN, said currently, the site is an abandoned manufacturing facility. A purchaser wants to improve the site and put a self-storage facility there.

Mr. Ballard said the site could go either way; raze some buildings or all the building. He said they may remove all buildings and start over.

Mr. Ballard said in order to maximize the property, they are asking to reduce separation from residential to 25'.

Mr. Ballard said Engineering has asked for additional 5' right-of-way along Logan Street for a tree law and sidewalks. He said they are working with the purchaser and buildings will be placed per standards. Security will be 100% around the perimeter.

Mr. Portolese asked if the building will be multi-story. Mr. Ballard said no.

Mr. Tordi closed the Public Hearing on Appeal #21-45.

Staff Recommendation

Planning Staff recommends approval of Appeal 21-45 to reduce the 250 foot separation from residentially zoned property to 25 feet for a self-service storage facility. 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. The proposed new building is consistent with the history of this site as industrial. Furthermore, the proposed site improvements, including but not limited to, landscaping, screening, and drainage improvements will comply with the applicable zoning and engineering regulations.*

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 adjacent properties to the south and east is a large industrial user (WellPet). The houses across Logan Street will be protected by new site improvements, such as landscaping and drainage, that will be made as a result of the new building construction.*
3. *Strict application of the terms of this chapter will result in practical difficulties in the use of the property. With residentially zoned property directly across the street. Being that the property is zoned I-2 Heavy Industrial, there are several more intense uses, like manufacturing, that do not have separation requirements. Limiting the building size will not allow maximum utilization of the property, while adhering to the parking space, building setbacks, landscaping, screening, and other required development regulations.*

MOTION: Charles Krueger moved to approve Appeal #21-45. Joel Dendiu seconded; motion carried with a vote of 5-0.

APPEAL #21-46 An appeal submitted by Kruk Real Estate Holdings, LLC requesting a Developmental Variance for **2123 Lynn Street** for reduced front lot width for proposed Lot 2 of Kruk Minor Subdivision from 60' to 50'.

Greg Shearon, Danch, Harner & Associates, 1643 Commerce Drive, South Bend, appeared on behalf of the Appellant. He said currently, the automotive business on McKinley and the Lynn Street property is currently one property. They plan on subdividing the property separating the business from the residential property. Doing so would require at least 60' of frontage on Lynn Street and currently has 50' which is a non-conforming situation.

Opposition

April Dorn, 2119 Lynn Street, lives next door. She asked exactly what their plans were and doesn't like the idea of a car lot between 2 houses. She said she has children living in the home and asked if they would be putting up a privacy fence.

Ms. Dorn also said she feels it would decrease her property value and what were they going to do about that. She said the car lot across the street has had issues with people breaking into the lot and that's a major problem.

Mr. Prince said to clarify, the property was rezoned to C-4 years ago. He said they will probably come back at some point and rezone the house to residential as any lending institution would need that zoning. He said what they are doing is splitting the zoning. The front house will remain residential going forward. There will be nothing changing that currently exists. Mr. Prince said the fence issue is a separate issue and may have to put up in the future.

Rebuttal

Mr. Shearon said to clarify, there will be changes to the use of the property. The home will remain and the business will remain. He said if the business expands, they'll be required to add fencing or screening.

Mr. Tordi closed the Public Hearing on Appeal #21-46.

Staff Recommendation

Staff recommends **approval** of Appeal #21-46 to allow a reduction in the required front lot width from 60’ to 50’. 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 will continue to be used as a single-family residence; and
3. Strict application of the terms of this chapter will result in practical difficulties in the use of the property because the lot width has remained the same for nearly 100 years and would not have been an issue but for the subdivision request.

MOTION: Michael Portolese moved to approve Appeal #21-46. Charles Krueger seconded; motion carried with a vote of 5-0.

APPEAL #21-47 An appeal submitted by Bokhart Properties, LLC, requesting various Developmental Variances for **403 and 411 S. Main Street** for reduced pavement/building setbacks, landscaping, and front lot width for a proposed subdivision (property split).

Terry Lang, Lang, Feeney & Associates, 715 S. Michigan St., South Bend, appeared on behalf of the Appellant. He said the property is located along the railroad. There are 2 parcels with 3 buildings and has potential buyers for one of the buildings and they are asking to reconfigure the property.

Mr. Lang said they are asking for variances for setbacks and parking and all are existing on the site. He said this will allow parking for the building along the railroad.

Mr. Tordi closed the Public Hearing on Appeal #21-47.

Staff Recommendation

The Planning Staff recommends approval of Appeal 21-47 to allow for a reduction in the required pavement/parking lot setbacks, landscaping, rear yard setback and lot width for the proposed Bokhart Properties Minor Subdivision. 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 to be subdivided to establish new legal lots of record. The reduction in the landscaping between the proposed lots will allow the configuration of the existing parking spaces and access drives to remain.
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 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.

3. *Strict application of the terms of this chapter will constitute an unnecessary hardship if applied to the property. Existing conditions such as pavement, 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 #21-47. Michael Portolese seconded; motion carried with a vote of 5-0.

NEW BUSINESS:

Mr. Prince officially introduced Shad Annis, new Associate Planner. He said Derek Spier has been named City Planner; Christa Hill is now Senior Planner and is in Disney World on vacation.

ADJOURNMENT: 6:57 p.m.

Derek Spier, City Planner

Kari Myers, Administrative Planner