

FEBRUARY 8, 2022

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

The regular meeting of the Mishawaka Board of Zoning Appeals was held Tuesday, February 8, 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, Christa Hill, Shad Annis, and Kari Myers.

Mr. Dendiu explained the Rules of Procedure.

Conflict of Interest was not declared.

**PUBLIC HEARING:
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 six (6) apartment units (4 existing and 2 proposed) and one guest space for a total of seven (7) spaces; reduction in required lot frontage from 90' to 49', and minimum lot area of 10,000 sqft to 7,448 sqft. *Continued from the January 11, 2022, meeting.*

Travis Verslype, 1623 S. West Street, Mishawaka, and Joseph Griesinger, 1309 Beacon Court, Mishawaka, said they bought this property from the previous owner who had owned it for 30 years. He said they are planning on adding two units. The zoning ordinance requires 1.5 parking spaces per unit and they are asking for one per unit plus one for guest parking.

Mr. Verslype said they had originally planned to add 3 units and have compromised by only adding 2 and that would keep with one parking space per unit. The plan is to have the parking lot professionally marked and painted.

Mr. Verslype said they take pride living in Mishawaka; they work in the City and want to provide affordable housing for residents.

In Support

Victor Kasznia, 4012 Harrison Creek Court Drive, Mishawaka, said his father was the original owner and he had very similar plans to do this about 15 years ago. He said after he retired, time got away from him, and he feels this will not be a disruption to the neighborhood.

Opposition

Erik Walchli, 52037 Woodridge Dr., South Bend, owner of 819 Lincolnway West. He said the premise of his objection is overcrowding of the neighborhood. He said there are technically 10 parking spaces double stacked in the back. The four rental units have access from the street and the front door. Mr. Walchli said people don't really park in the back where there is a lot of space. He said four rental units would require 6 spots and that would really mean 2 in the front and 4 will end up on the street.

Mr. Walchli said another issue he has is the site is zoned C-5 and you can have multi-family units and R-3 requires a minimum of 10,000 sqft of lot size. This lot has 7,405 sqft and that is 135% overcrowded. He also said R-3 requires 90' of lot frontage and there is only 49'; 54% of what is required.

Mr. Walchli said overall Smith Street as well as Third Street have a lot of rental units. In the last few days, the back parking area was not plowed. Even if someone wanted to park there, they couldn't.

Linda Walchli 52037 Woodridge Dr., South Bend, said when these homes were developed they were single family homes with one vehicle and on-street parking was not an issue. Things have changed over the years and at some point the parameters changed in renovating to multi-units.

Mrs. Walchli said granting this variance would create a parking and density issue that codes look to avoid. She said with all the new construction along the Riverwalk, would this have been allowed in those new developments? All residents deserve a quality neighborhood.

Rebuttal

Mr. Verslype said he knows how he takes care of the property; not doing snow removal and people parking out front. He said Mr. Walchli is on Lincolnway and a block and a half away from him. He said there are other apartments in the area, but he can't control where they park and he knows how he keeps his neighborhood. Mr. Verslype said when you go to his apartment, he doesn't feel that describes his place.

Mr. Krueger asked if Mr. Walchli was correct about snow removal. Mr. Verslype said he and Mr. Griesinger both work for the fire department and that picture shown could have been taken during their shift.

Mr. Tordi asked Mr. Verslype about the carpet business side of it. What are you doing to furnish 2 extra units. Mr. Verslype said there is 1,600 sqft of unfinished space and they would add (2) 500 sqft apartments in the back with room for lawnmowers. He said a local architect designed the space.

Mr. Tordi said staff is recommending approval. Were there some concessions you gave? Mr. Verslype said they had designed the space for 3 new apartments and staff suggested with the parking issue they drop to 2 apartments and they agreed to that.

Mr. Portolese asked Mr. Verslype if he and Mr. Griesinger were on the same shift. Mr. Verslype said yes.

Mr. Portolese asked how they would address snow removal. Mr. Verslype said they just purchased the property and would contract out if necessary.

Mr. Griesinger said the new apartments will have an entrance from the back. He said one tenant parks there now and he clears the snow for him. Once these apartments are up and running, they will contract out the snow removal.

Mr. Dendiu closed the Public Hearing on Appeal #21-44.

Mr. Krueger said this seems it will create more problems for the neighbors parking. Tenants are not required to park in those spaces and that can create more problems.

Mr. Tordi said he likes how they worked with staff and actually complied with the things they wanted them to do.

Mr. Portolese said the carpet business probably had vehicles back there and he doesn't see a real change in vehicles other than from commercial to residential.

Staff Recommendation

Staff recommends **approval** of Appeal #21-44 to allow the reduction of parking spaces from 9 to 7; lot area from 10,000 sq. ft. to 7,468 sq. ft.; and lot frontage from 90 feet to 49 feet. 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 the property has been used in this manner for a significant amount of time and has caused no issues;
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 an apartment building and business for many years and has not adversely affected the neighboring properties; and
3. Strict application of the terms of this chapter will result in practical difficulties in the use of the property because the lot dimensions were established prior to the existing zoning ordinance. The Appellant would not be able to expand due to lack of parking spaces.

MOTION: Chris Tordi moved to approve Appeal #21-44. Michael Portolese seconded; motion carried with a vote of 4-1 (Krueger).

APPEAL #22-01 An appeal submitted by DEV 4506 Lincolnway East, LLC, Matthew Bender, Rebecca Parker as Trustee for Rose Glen R. & Mavis H., and Raymond Jeziorski, requesting various Developmental Variances for **4506 Lincolnway East** for parking spaces, parking setback, and landscaping for a proposed new car wash (Drive N' Shine).

Steve Ruby, Abonmarche Consultants, 315 W. Jefferson Blvd., South Bend, appeared on behalf of the Appellants. He said they are seeking several variances for a proposed Drive N'Shine car wash. Mr. Ruby said they are asking to reduce the number of parking spaces to 15 as a drive-thru operation does not need the level of parking as required in the ordinance.

Mr. Ruby said they the pavement setback request from 5' to 1' is currently right-of-way for Wayne Street that is going to go through the vacation process and that will bring the pavement to within 1' of the centerline. Mr. Ruby said this will allow circulation through and around the business.

Mr. Ruby said there is also a request for variance for landscape buffer along said location because of the 1' request of parking setback and wouldn't allow for the buffer. He said there has been communication with the adjacent property owners and Drive N' Shine has expressed their commitment to install landscape on their property as well as a 7' privacy fence.

Mr. Dendiu closed the Public Hearing on Appeal #22-01.

Staff Recommendation

Planning Staff recommends approval of Appeal 22-01 to allow a reduction in the required number of parking spaces, parking/pavement setback, and landscaping for a proposed new Drive N' Shine – a 9,785 sq. ft. automatic car wash facility and lube center. 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 nature of the proposed use and how motor vehicles will use the facility, an adequate number of parking spaces should be provided within the property. Additionally, landscaping and screening shall be provided between the expanded commercial use of the property and the adjacent residential properties.*
- 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. A majority of the property is currently zoned for commercial use, and with the commercial expansion, adequate landscaping and screening shall be provided between the property and adjacent residential area.*
- 3. Strict application of the terms of this chapter will result in practical difficulties in the use of the property. Adhering to the required number of parking spaces, parking/pavement setbacks, and required on-site landscaping would unnecessarily consume land and restrict how the property can be developed for the proposed use.*

MOTION: Michael Portolese moved to approve Appeal #22-01. Larry Stillson seconded; motion carried with a vote of 5-0.

ADJOURNMENT: 6:29 p.m.

Derek Spier, City Planner

Kari Myers, Administrative Planner