

MARCH 8, 2022

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

The regular meeting of the Mishawaka Board of Zoning Appeals was held Tuesday, March 8, 2022, at 6:00 p.m. in the Council Chambers, City Hall, 600 East Third Street, Mishawaka, Indiana. Board members attending: Michael Portolese, Chris Tordi, Larry Stillson, and Joel Dendiu. Absent: Charles Krueger. In addition to members of the public, the following were also in attendance: David Bent, Derek Spier, Ken Prince, Christa Hill, Shad Annis, and Kari Myers.

Mr. Tordi explained the Rules of Procedure.

The Minutes of the January 11, 2022, and February 8, 2022, meetings were approved as distributed.

Conflict of Interest was not declared.

PUBLIC HEARING:

APPEAL #22-02

An appeal submitted by Stephen and Linda Koch requesting a Use Variance for **3931 Lincolnway East (That Hair Place)** to allow microblading services at an existing salon.

Stephen Koch, 3931 Lincolnway East, Mishawaka, said last year they changed to independent contractors at the shop and said he has two young ladies who leased the space upstairs are licensed aestheticians and will be adding microblading. He said he is excited to help these young ladies get their business off the ground.

Mr. Tordi closed the Public Hearing on Appeal #22-02.

Mr. Portolese asked if they will be doing tattoos? Mr. Koch said no, only eyebrows.

Staff Recommendation

*Staff recommends in **favor** of Appeal #22-02 to allow microblading services at That Hair Place, 3931 Lincolnway East. 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 establishment;*
- 3. The need for the variance arises from some condition peculiar to the property involved in that the C-1 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 the existing business; and*
5. *The approval will not interfere substantially with the Mishawaka 2000 Comprehensive Plan because the plan identifies this area for general commercial.*

MOTION: Joel Dendiu moved to forward Appeal #22-02 to the Common Council with a favorable recommendation. Larry Stillson seconded; motion carried with a vote of 4-0.

APPEAL #22-03 An appeal submitted by LWW LLC owned by Wheelchair Help.org Inc. requesting a Developmental Variance for **2629 Lincolnway West** to allow for 0' front yard setback and 0' side yard setbacks.

Joe Lidy, 515 East Street, Elkhart, IN, said he bought the building about two years ago with the intent of putting on a new façade. Mr. Lidy said he wants to do it tastefully.

Mr. Lidy said there is an existing loading dock and is unsightly. He said the building was in terrible shape and they have done a lot to it. Mr. Lidy said they tried working with the existing brick and glass and Mr. Prince recommended they tone it down and recommended a dark band around the building.

Mr. Lidy said the reason they are here is the front part of the building is within 25' of the front property line. They aren't really adding much.

Mr. Tordi closed the Public Hearing on Appeal #22-03.

Staff Recommendation

The Planning Staff recommends approval of Appeal 22-03 to allow for a reduction in the required front and side yard setbacks for a building enclosure/addition. 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 addition to be built with the same setbacks as the existing building.*
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 variances arise from an interest to invest in a property that has sat vacant for the past few years.*
3. *Strict application of the terms of this chapter will constitute an unnecessary hardship if applied to the property since no addition could be added according to current setbacks. The existing building has a 0' setback because it was built prior to the current zoning ordinance.*

MOTION: Larry Stillson moved to approve Appeal #22-03. Michael Portolese seconded; motion carried with a vote of 4-0.

APPEAL #22-04 An appeal submitted by Five City Plaza LLC seeking a Use Variance for **1238 East University Drive, Granger**, to allow microblading services in an existing salon.

Tyler Foley, Jefferson Sola LLC, 1238 E. University Drive, said they are requesting a Use Variance for microblading at their salon. He said they have a licensed aesthetician that does microblading.

Mr. Foley said their other location at University Park Mall was approved in 2019. It's a fast growing business and want to add this service to their location.

Mr. Tordi closed the Public Hearing on Appeal #22-04.

Staff Recommendation

Staff recommends in **favor** of Appeal #22-04 for a Use Variance, to allow microblading services in (Sola Salon) of City Plaza. 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 large commercial development;*
3. *The need for the variance arises from some condition peculiar to the property involved in that the S-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;*
5. *While the location sits outside the original Mishawaka 2000 Comprehensive Plan boundary it will not conflict with the general commercial and surrounding area.*

MOTION: Michael Portolese moved to forward Appeal #22-04 to the Common Council with a favorable recommendation. Joel Dendiu seconded; motion carried with a vote of 4-0.

ADJOURN: 6:11 p.m.

Derek Spier, City Planner

Kari Myers, Administrative Planner