

APRIL 12, 2022

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

The regular meeting of the Mishawaka Board of Zoning Appeals was held Tuesday, April 12, 2022, at 6:00 p.m. in the Council chambers, City Hall, 600 East Third Street, Mishawaka, Indiana. Board members attending: Larry Stillson, Michael Portolese, Chris Tordi, Denise Graves, and Joel Dendiu. 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 asked for a moment of silence in remembrance of Charles Krueger who passed away on March 14. He said Chuck was a proud and dedicated Mishawaka citizen. He had served on this Board for 39 years and was kind, considerate and loved conversation. He was a friend to everyone and will be dearly missed.

Mr. Tordi explained the Rules of Procedure.

The Minutes of the April 12, 2022, meeting, were approved as distributed.

Conflict of Interest was not declared.

PUBLIC HEARING:

APPEAL #22-05

An appeal submitted by Mishawaka Commons LLC requesting a Use Variance for **502 West McKinley Avenue (former CVS)** to permit an event center (assembly hall) with bingo in C-2 Shopping Center Commercial zoning district.

Chad Harper, 10231 Conover Drive, Granger, said he started Celebrations Palace on Laurel Street. He said they started doing the bingo for Mishawaka and Penn High School's wrestling club and it has grown and now there is no parking on Fourth street and he has been looking for another venue. Mr. Harper said he thinks they have a good space, plan, and location for them to have a gathering center for assembly and more parking for their bingo events.

Mr. Harper said he will still have Celebrations Palace on Fourth street for small stuff, but would like to do 150-160 people and this new space will allow it.

Mr. Tordi asked Mr. Harper about the food service. Mr. Harper said they started bingo before Covid hit. They had started doing food service and kind of catering with the Skillet. At bingo, folks will often call Dominos and they have sweet snacks. He said any food will be pre-packaged food similar to a concession stand. He said players are there to play; not do dinner and drinks. Mr. Harper said they won't be putting in any kind of kitchen; just a concession stand.

Mr. Tordi asked Mr. Harper if they were aware of the recommendations of the safety issues recommended by the Fire Department. Mr. Harper said yes, and he did a walk-thru with Fire and Building.

Mr. Portolese asked if the space would be only for bingo. Mr. Harper said yes, and other large gatherings as well. He said Celebrations Palace holds about 200 people, but it is tight. He thinks 90% will be bingo use.

Mr. Portolese asked if it would be available for outside rental. Mr. Harper said he would like to keep that option open. He said per the State, they can only hold bingo three times a week and that leaves four days to have other things.

Mr. Portolese asked if the existing parking was for the whole center. Mr. Harper said yes. They have enough for 200 people max, or that would require a parking variance. He said there is essentially no parking at the existing location.

Mr. Harper said he grew up in Mishawaka and wants to get the parking out of the neighborhood. He said if you've never played bingo, people drive from Merrillville, Benton Harbor and even Kokomo to play bingo. He said why? Because their place is clean and safe, but there's no parking. He said once they get to 125 people, they have to turn them away.

Mr. Tordi closed the Public Hearing on Appeal #22-05.

Mr. Stillson said he's pleased to see the building being utilized.

Mr. Portolese said his concern is the other tenant spaces are vacant and what will happen if someone moves in and needs 100 spaces.

Staff Recommendation

*The Planning Staff recommends **approval** of Appeal #22-05 to allow a Use Variance for an event center (assembly hall) with bingo in C-2 Shopping Center Commercial District subject to the following Conditions:*

- *Exterior grease interceptor will be required if any food service is proposed*
- *Occupancy permit and inspections by the Building Department*
- *Life safety issues will need to be updated*

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 because the proposed event center/assembly hall in the former CVS/pharmacy in a multi-tenant building is consistent and compatible with the density and uses of the adjacent parcels;*
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 proposed event center/assembly hall in an existing multi-tenant commercial building is adjacent to and within property currently zoned for commercial use with adequate parking for the proposed use;*
3. *The need for the variance arises from some condition peculiar to the property as the C-2 zoning district does not permit the use as an event center/assembly hall;*
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 as the Appellant will not be able to expand their business and make use of a current vacant space and enlarged parking facilities; and*

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 use is consistent with the Comprehensive Plan.*

MOTION: Larry Stillson moved to forward Appeal #22-05 to the Common Council with a favorable recommendation. Michael Portolese seconded; motion carried with a vote of 5-0.

APPEAL #22-06 An appeal submitted by Amber Grenert requesting a Developmental Variance for **1540 Troyer Trail** to allow a solid fence with a 2' exterior side yard setback.

Amber Grenert, 1540 Troyer Trail, said she was requesting to build a privacy fence. She said there's a trailer park behind her and folks walk in her yard. Ms. Grenert said a picket fence wouldn't give her much privacy and the required setback along Byrkit would take more than half of her yard. She also said she has a dog and it can jump 4' and when people walk by, it gets excited.

Ms. Grenert also said she almost had a break-in, her back screen was broken. She said privacy is a huge concern for that location.

Mr. Tordi asked if the fence was in yet. Ms. Grenert said no.

Mr. Tordi asked if she was ok with the 8' corner cut. Ms. Grenert said yes.

Mr. Tordi closed the Public Hearing on Appeal #22-06.

Staff Recommendation

*Staff recommends **approval** of Appeal #22-06 to allow a 6' solid fence with a 2' exterior side yard setback at 1540 Troyer Trail with an 8' corner cut at the northeast corner of the fence where the sidewalk meets the alley. 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 line of sight will not be blocked at the alley and Byrkit.*
- 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 only the side yard setback is being affected along the sidewalk.*
- 3. Strict application of the terms of this chapter will result in practical difficulties in the use of the property because the Appellant would have to give up additional space if the fence were installed at the setback.*

MOTION: Michael Portolese moved to approve Appeal #22-06. Joel Dendiu seconded; motion carried with a vote of 5-0.

APPEAL #22-07 An appeal submitted by Topview Holding Group LLC requesting a Use Variance for **309 Bittersweet Road** to allow three (3) tenants in a building in the C-1 General Commercial District.

Andrew Zaremba, 50288 Covered Bridge Trail, Granger, said they purchased the building a few years ago and it used to be a Family Dollar. It shares parking with the liquor store.

Mr. Zarembo said they built out the Twin Branch Dental portion of the building and has been open for little over a year. The other side of the building is approximately 4,000 sqft and they've been wanting to lease it out and any interest has been for smaller tenants. He said right now, they have a letter of intent from a mobile cell phone company and there could be interest for the middle space of physical therapy group.

Mr. Tordi closed the Public Hearing on Appeal #22-07.

Staff Recommendation

The Planning staff recommends approval of Appeal #22-07 to allow a use variance for a maximum of three (3) tenants in a single commercial building. The building is to be located within a 0.59 acre lot with a current address of 309 Bittersweet Road. 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. Building and parking lot are existing with adequate parking.*
- 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.*
- 3. The need for the variance arises from some condition peculiar to the property. The property is zoned C-1 General Commercial and would need to be rezoned to the C-2 Shopping Center Commercial District to allow for three tenants in a single building. Rezoning would result in the need for additional variances.*
- 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 current zoning will not allow for the combined multi-tenant. The preferred means by which to allow the proposed 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: Joel Dendiu moved to forward Appeal #22-07 to the Common Council with a favorable recommendation. Michael Portolese seconded; motion carried with a vote of 5-0.

NEW BUSINESS:

Mr. Tordi welcomed new Board member, Denise Graves.

ADJOURNMENT: 6:20 p.m.

Derek Spier, City Planner

Kari Myers, Administrative Planner