

MINUTES
BOARD OF ZONING APPEALS
July 28, 2014

The Warsaw Board of Zoning Appeals met for regular session on Monday, July 28, 2014 at 7:00 p.m. in the City Council Chambers, 102 S. Buffalo Street, Warsaw, Indiana. The following members were present or excused:

Present: Tom Allen, Rick Keeven, Jack Wilhite, Ron Shoemaker, Tammy Dalton, Tim Dombrosky (Assistant City Planner), Kim Arnold (Recording Secretary)

Absent: Mike Valentine (City Attorney)

CALL TO ORDER

Allen called the meeting to order.

The June 23, 2014 meeting minutes were reviewed and presented for approval. Keeven made a motion to approve the June 23, 2014 meeting minutes as presented; Wilhite seconded the motion. The motion carried unanimously.

ORAL OR WRITTEN COMMENTS OR REPORTS

None

OLD BUSINESS

None

NEW BUSINESS

***Item 2014 – 07 - 01 – Variance from Development Standards- . 505 Oldfather St.
–Doug Neville-***

Director's Comments:

The petitioner has made two requests for one property, to build an oversized accessory building, and to place it in the required front yard. Accessory structures are not permitted in front yards, and they are limited in size in residential districts. Both of the restrictions are to preserve residential character. The size restrictions are below.

Lot Size	Total Maximum Size of Accessory Buildings
Under 10,000 Square Feet	720 Square Feet
10,001 – 25,000	864 Square Feet
25,001 Square Feet and Over	1,200 Square Feet

The petitioner is requesting a 1,200 square foot building, and the lot is 15,800 square feet. The home on the lot has an approximately 560 square foot, foot print.

With respect to the front yard placement;

This property is unique in multiple respects. First, it does not really have an acting front yard. While the address is on Oldfather, there is no public improved street leading to it. The property owner has paved an access street. The placement in front is also necessitated by the placement of a well on the property. The front yard placement of the accessory building will have no impact because of the lack of a typical street front.

With respect to the size;

This property is not in a traditional neighborhood, placed mostly around wetlands. There is not likely to be development in the area. The placement of this building will maximize the value and potential for one of the only useable lots in this immediate area.

Recommendation:

- The requested use will not be injurious to the public health, safety, morals, and general welfare of the community.
- The use and value of the area adjacent to the property will not be affected in a substantially adverse manner.
- The strict application for the terms of the Zoning Ordinance will constitute an unnecessary hardship in the use of the property.

Based on the information provided and the Findings of Fact Dombrosky recommended the Board approve the Variance from Development Standards to permit a 1,200 square foot accessory building in the front yard located at 505 Oldfather St.

Attachments:

- 1) Findings of Fact
- 2) Aerial photo
- 3) Sketch with placement

Allen opened the meeting for any person to speak in favor or against the request for variance from Development Standards.

Doug Neville was present to explain the request and answer any questions.

The meeting was closed to the public, as there was no one else to speak in favor or against the petition.

Discussion followed between Board members. Mr. Neville was asked several questions from the Board.

Keeven made a motion to approve *Item 2014 – 07 - 01 – Request for Variance from Development Standards-* Dalton seconded the motion. The motion passed unanimously.

Item 2014 – 07 - 02 – Variance from Development Standards-1119 Lakeshore Dr.-Nick Stouder-

Directors Comments:

The petitioner is replacing an existing accessory building with a new structure. The current building is under the size required to get a permit for construction. It is a legal non-conforming condition because of the amount of time it has existed. Our regulations require it come into compliance if there is significant alteration. The current location is actually on an unidentified parcel. The requested location is in a required front yard, which is not allowed by ordinance.

It is common for lake front properties to have an accessory structure in the “front yard” because of the nature of the lakeside yard. There are other properties in the area that have similar structures and consider their lakeside to be the true front yard. Absent any objections from neighbors, Dombrosky does not anticipate this to be a negative influence on adjacent property.

Recommendation:

- The requested use will not be injurious to the public health, safety, morals, and general welfare of the community.
- The use and value of the area adjacent to the property will not be affected in a substantially adverse manner.
- The strict application for the terms of the Zoning Ordinance will constitute an unnecessary hardship in the use of the property.

Based on the information provided and the Findings of Fact Dombrosky recommended the Board approve the Variance from Development Standards to permit an accessory building in the front yard located at 1119 Lakeshore Dr.

Attachments:

- 4) Findings of Fact
- 5) Aerial photo
- 6) Sketch with placement

Allen opened the meeting for any person to speak in favor or against the use variance.

Nick Stouder was present to explain the request and answer any questions. He clarified the exact location for placement of the shed. He requested a three foot side yard setback and ten foot from

the road setback. The exact size of the shed will be 16'x10'. Dombrosky approved of the setbacks.

The meeting was closed to the public, as there was no one else to speak in favor or against the petition.

Discussion followed between Board members. There were no further questions of Mr. Stouder.

Keeven made a motion to approve *Item 2014 – 07 - 02 – Variance from Development Standards*. Wilhite seconded the motion. The motion passed unanimously.

Item-2014-07-03-Variance from Development Standards-3700 Shawnee Dr.- Paul Westburg Jr.-

Director's Comments:

The petitioner has requested a Variance from Development Standards to permit a fence on the West side of the property, within the 10' vision clearance setback on a public right of way (street). The property in question is a corner lot, on the intersection of a subdivision entrance and a County Road. 600' to the South, CR 225 E terminates at the back entrance to DePuy Synthes. The right of way extends approximately 17' past the edge of the street and includes utilities and a drainage ditch.

This property is unique because the property to the south previously built a fence on the rear property line, adjacent to the road right of way. This restricts vision of the corridor. However, because of the geometry of the subdivision entrance, the width of the right of way, and the proximity of Old 30, the vision of drivers exiting the subdivision is not impaired.

Considering the sight lines and current conditions, Dombrosky does not anticipate any problems if a fence is built adjacent to the property line.

This request primarily results from the presence of the fence to the South. In order to maintain maximum value for this property and allow the property to be fully utilized, Dombrosky would recommend making an exception in this case.

The Comprehensive Plan could dictate that this street be improved in the future, and in that case the curb line could shift, and other utilities could be present near the petitioner's property line. For this reason, Dombrosky recommended a tapered setback of 10' beginning at the North West corner of the proposed fence, reducing to 0' at the South West corner. This would allow adequate vision clearance in the event of a road expansion and addition of a right turn lane into the subdivision.

Recommendation:

- The requested use will not be injurious to the public health, safety, morals, and general welfare of the community.

- The use and value of the area adjacent to the property will not be affected in a substantially adverse manner.
- The strict application for the terms of the Zoning Ordinance will constitute an unnecessary hardship in the use of the property.

Based on the information provided and the Findings of Fact Dombrosky recommended the Board approve the Variance from Development Standards to permit a 0' setback identification sign in an R-1 zoning district located at 115 Park Ridge Drive.

Attachments:

- 7) Findings of Fact
- 8) Aerial photo with Recommended Fence Location
- 9) Vision Clearance Regulations

Allen opened the meeting to any person wishing to speak in favor or against the petition. Paul Westberg Jr. was present to explain the request and answer any questions. Mr. Westberg explained he wished to fence the back yard only. There were no questions for Mr. Westberg from the Board.

With no other person to speak in favor or against, the public portion of the meeting was closed.

The Board discussed the petition.

Dalton made a motion to approve *Item-2014-07-03-Variance from Development Standards*-Shoemaker seconded the motion. The motion carried unanimously.

OTHER MATTERS THAT MAY COME BEFORE THE BOARD

- Next meeting will be Monday, August 25, 2014

Keeven made a motion to adjourn the meeting; Shoemaker seconded the motion. The motion carried unanimously. Allen adjourned the meeting.

Tom Allen, President

Kim Arnold, Recording Secretary