

MINUTES
BOARD OF ZONING APPEALS
February 23, 2015

The Warsaw Board of Zoning Appeals met for regular session on Monday, February 23, 2015 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, Tammy Dalton, Jack Wilhite, Ron Shoemaker, Tim Dombrosky (Assistant City Planner), Kim Arnold (Recording Secretary)

Absent: Mike Valentine (City Attorney)

CALL TO ORDER

Allen called the meeting to order.

Mayor Thallemer presented the Oath of Office to Tom Allen.

The January 26, 2015 meeting minutes were reviewed and presented for approval. Keeven requested a change in the wording of the sign requirement for 2015-01-01. Keeven made a motion to approve the January 26, 2015 meeting minutes with correction; Wilhite seconded the motion. The motion carried unanimously.

Motion was made by Dalton to retain the same officers as last year, which is Tom Allen, President and Rick Keeven, Vice President. Shoemaker seconded the motion. The motion carried unanimously.

ORAL OR WRITTEN COMMENTS OR REPORTS

None

OLD BUSINESS

None

NEW BUSINESS

Item 2015-02-01-Oakhurst Signs-Variance from Development Standards- 425 Chinworth Court- The petitioner has requested a Variance from Development Standards to permit a second freestanding identification sign facing US 30 at their property located at 425 Chinworth Court. The R-3 zoning district allows one freestanding sign up to 16 square feet in size and 6 feet tall.

The petitioner operates a residential care facility on the property. These are allowed residential districts. The attached table shows the Sign Regulations. You can compare the size of the sign being reviewed to what is allowed in other districts.

The property has a small frontage on US 30, and is visible when driving by. For commercial zoning, this allows for placement of a second freestanding sign. The property is also large and fits in with the comprehensive Plan's recommendation of high density residential. These factors are somewhat contradictory, and the requested variance will help to rectify this.

The requested placement of the sign is separated from nearby residential uses, and should not be visually disruptive. The sign will not interfere visually with vehicular traffic or residential neighbors.

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 need for this variance arises from some condition peculiar to the property involved.
- The strict application for the terms of the Zoning Ordinance will constitute an unnecessary hardship in the use of the property.
- The approval of this use variance will not interfere substantially with the comprehensive plan.

Based on the information provided and the Findings of Fact Dombrosky recommended the Board approve the Variance of Development Standards to permit a second freestanding identification sign in an R-3 zoning district located at 425 Chinworth Court.

Allen opened the meeting to the public.

No person was present to speak in favor or opposition of the petition.

Allen closed the meeting to the public. The Board discussed the petition.

Motion was made by Keeven to approve *2015-02-01-Oakhurst Signs-Variance from Development Standards*. Wilhite seconded the motion. The motion passed unanimously.

Item 2015-02-02-Greenberg Farrow –Use Variance-SW Corner of CR 300 N and Shelden St.-

The petitioner has requested a Use Variance to permit a transitional care facility. They are interested in purchasing the property for development, and have the support of the property owner. The property owner also owns the property directly to the West.

The C-3 zoning district does not allow this type of use, and in fact, our ordinance does not consider this specific kind of use. It would be a business with rooms available for people to rent

following a medical procedure that requires some rehabilitation. There is also a common area with a lobby and cafeteria. The petitioner has developed multiple facilities of this nature around the State.

In comparing the proposed use to the zoning ordinance, the closest analog, Dombrosky suggested it be compared to a hotel. There are a large number of temporary rooms for rent, with a common area. The parking requirements might be less, considering tenants will be recovering and may not drive themselves to and from the facility.

The requested use is less intense than the C-3 district allows, but is clearly not a residential type use. It is Dombrosky's opinion that this is an almost ideal use for an area between intense commercial and residential uses, and that the adjacent uses will actually benefit from this facility.

This lot is also not ideal for a C-3 type business because it has no frontage on a major road, and commercial interest in the property will probably be limited. The Comprehensive Plan supports the placement of a regional commercial use here.

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 need for this variance arises from some condition peculiar to the property involved.
- The strict application for the terms of the Zoning Ordinance will constitute an unnecessary hardship in the use of the property.
- The approval of this use variance will not interfere substantially with the comprehensive plan.

Based on the information provided and the Findings of Fact Dombrosky recommended the Board approve the Use Variance to permit a transitional care facility in a C-3 zoning district located at the location described herein.

Allen opened the meeting to the public.

David Behrens, Architect from Greenberg Farrow and Kara Strickland of Mainstreet were present to explain the proposed project and answer any questions. Board members asked questions of each individual.

Brad Harris, Senior Vice President of Millers Merry Manor, spoke in opposition of the petition. He stated several statistics concerning rehab patients and his facility. He had concern of a current Senate Bill and the issue of "over-bedding" which costs the taxpayers when too many facilities are in the same market area. Allen reminded the Board Members of the responsibility of the BZA and thanked Mr. Harris for his good comments but explained that the BZA will not be involved with any of the issues he spoke of. Discussion followed among the Board Members.

Allen closed the meeting to the public as there was no other person present to speak in favor or against the petition.

A motion was made by Wilhite to approve *2015-02-02-Greenberg Farrow-Use Variance-SW Corner 300 N and Sheldon St* -The motion was seconded by Dalton. The motion passed unanimously.

Item 2015-02-03-Joel Downs-Use Variance-900 S. Buffalo St.

The petitioner is interested in purchasing the property for a landscaping business, which is only permitted in industrial districts. The request will fill a commercial property that is currently in poor repair. This will not be injurious to the public.

The petitioner has proposed outside storage on the south side of the property, with screening on the northwest side of the storage containers. The north and north east is screened by the building, and the south side is screened by another commercial building. The entrance to the storage area would be to the southeast, and there is an institutional use that will have a limited view of the storage area. Dombrosky doesn't anticipate this to have negative effects on nearby properties.

The property involved is on a constrained lot and has had trouble keeping a tenant. The market has limited the use of this property, and it is our responsibility to provide some flexibility in its use.

The comprehensive plan supports a commercial use in this location.

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 need for this variance arises from some condition peculiar to the property involved.
- The strict application for the terms of the Zoning Ordinance will constitute an unnecessary hardship in the use of the property.
- The approval of this use variance will not interfere substantially with the comprehensive plan.

Based on the information provided and the Findings of Fact Dombrosky recommended the Board approve the Use Variance to permit a landscaping business in a C-2 zoning district located at 900 S Buffalo St. with the condition that any outside storage on the south side of the building be screened according to the Planning Department's discretion.

Allen opened the meeting to the public.

Joel Downs was present to explain his request and plans for his business at the S. Buffalo location. He explained he intended to keep the screening as natural looking as possible and plans on improving the exterior. The outside storage is needed for bulk mulch. The Board asked questions of Mr. Downs. Discussion followed.

Allen closed the meeting to the public as there was no other person to speak in favor or against the petition.

Motion was made by Dalton to approve *2015-02-03-Joel Downs-Use Variance-900 S. Buffalo*. The motion was seconded by Shoemaker. The motion passed unanimously.

OTHER MATTERS THAT MAY COME BEFORE THE BOARD

- Next meeting will be Monday, March 23, 2015

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

Tom Allen, President

Kim Arnold, Recording Secretary