

**MINUTES  
BOARD OF ZONING APPEALS  
May 26, 2015**

The Warsaw Board of Zoning Appeals met for regular session on Tuesday, May 26, 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: Rick Keeven, Tammy Dalton, Jack Wilhite, Ron Shoemaker, Mike Valentine (City Attorney), Tim Dombrosky (Assistant City Planner), Kim Arnold (Recording Secretary)

Absent: Tom Allen

**CALL TO ORDER**

Keeven called the meeting to order.

The April 27, 2015 meeting minutes were reviewed and presented for approval. Wilhite made a motion to approve the April 27, 2015 meeting minutes. Shoemaker seconded the motion. The motion carried unanimously.

**ORAL OR WRITTEN COMMENTS OR REPORTS**

None

**OLD BUSINESS**

**Item 2015-04-01-Development Standards-415 E. Winona Ave.-Manchester Rental-**

This item had been tabled due to the advertisement not being printed ten days prior to the meeting.

Assistant City Planner Dombrosky gave a brief review of the request. He explained to the BZA members and the audience why we ask requests of this nature to appear before the Board.

The petitioner has requested a variance to permit outdoor sales of accessory structures. The zoning ordinance is not clear on this use, but it is Dombrosky's opinion that outdoor storage and sale of large products is not incidental to retail sales in this district. However, this area is not typical of the C-4 Downtown Commercial District. This area is adjacent to both railroads, and other heavy commercial uses. While the presence of more intense uses nearby does not justify the request, it does make it somewhat of a hardship to use this property as a normal C-4 use.

The City and BZA should carefully monitor requests in the Winona Avenue corridor to gradually raise the standards back to that accepted in a Commercial district.

This use should be treated similar to accessory structures. The height, size, and setback regulations for accessory buildings are the same as for principal buildings, i.e. 15' front yard and 10' rear yard. This will insure that there are no vision issues with traffic, and that the area adjacent is not affected in an adverse way.

- 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 of Development Standards to permit outdoor sales in a C-4 zoning district located at 415 E. Winona Ave.

Keeven opened the meeting to any person wishing to speak in favor or against the petition.

Marco Matavuli, of Homestead Barns, was present to answer questions and explain the request. He is the provider of the structures to be sold. He will be displaying four models on the lot. Board Members asked questions of Mr. Matavuli.

Keeven closed the meeting to the public as no other person was present to speak in favor or against the petition. Discussion followed among Board members. Motion was made by Dalton to approve 2015-04-01- Development Standards- 415 E. Winona Ave., seconded by Shoemaker. The motion passed unanimously.

## **NEW BUSINESS**

**Item 2015-05-01- Use Variance- 1912 LaVista Dr. - Everett Compton-**  
Assistant Planner Dombrosky gave a brief overview of the request.

The petitioner has requested a Use Variance to permit a small engine repair shop at his property located at 1912 LaVista Drive. The R-1 zoning district does not allow any type of business.

Dombrosky would be concerned about the effect this may have on neighboring properties. There is certainly some of this type of work incidental to normal residential living, but the requested use would most likely be more intense than a normal residential setting. For this reason, Dombrosky would recommend that any and all work and storage areas must be either fully indoors or contained within six foot high continuous screening or better.

Dombrosky also recommended that no additional employees be permitted. If the business outgrows the employment of just members of the household, it should find a new commercial location.

- 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 with the conditions stated to permit a home occupation in an R-1 zoning district located at 1912 LaVista Drive.

Keeven opened the meeting to the public for any person wishing to speak in favor of the petition.

Mr. Compton, the petitioner, was present to explain the request and answer questions of the Board. Board members asked questions of Mr. Compton.

Keeven closed the meeting to comments in favor of the petition and opened the meeting to those in opposition.

Brian and Jill DeBatty were present to speak in opposition of the request. They have concerns about increased traffic in the residential area and feel the business could potentially contribute to an already existing eye sore visible from their property. They are concerned about maintaining their property value. Large amounts of various items are stored behind Mr. Compton's building which is visible from the DeBatty property. They provided photos to the Board members.

Keeven closed the meeting to the public as there was no other person present to speak against the request. Discussion followed among the Board members, Assistant Planner Dombrosky and City Attorney Valentine. Motion was made by Wilhite to accept 2015-05-01-Use Variance-1912 LaVista Dr. with the contingencies listed below. Dalton seconded the motion with contingencies. The motion passed unanimously with the following contingencies: a sign no larger than 1' x 1' mounted to the building (not in the yard- per City Ordinance), no more than one employee (himself), reduction of the unsightliness and general clean up of the area, hard surface to park vehicles, vehicles must be current on registration and roadworthy (per City Ordinance). Any items pertaining to the business must be stored within the building. No engines are to be running after 10 pm (per City Ordinance). The issue will be revisited in six months. Any code violation or negative report at six months will result in the termination of the variance immediately.

#### **Rules and Procedures –**

A copy of the Rules of Procedure for the Advisory Board of Zoning Appeals was provided to each member in the packet. Board members discussed the content and will be reviewing it themselves before the next meeting in June.

OTHER MATTERS THAT MAY COME BEFORE THE BOARD

- Next meeting will be Monday, June 22, 2015

Keeven adjourned the meeting.

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Rick Keeven, Vice President

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Kim Arnold, Recording Secretary