

MINUTES
BOARD OF ZONING APPEALS
August 24, 2015

The Warsaw Board of Zoning Appeals met for regular session on Monday, August 24, 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, Jack Wilhite, Ron Shoemaker, Mike Valentine (City Attorney), Tim Dombrosky (Assistant City Planner), Kim Arnold (Recording Secretary)

Absent: Tammy Dalton

CALL TO ORDER

Allen called the meeting to order.

The July 27, 2015 meeting minutes were reviewed and presented for approval. Keeven made a motion to approve the July 27, 2015 meeting minutes with corrections. Wilhite seconded the motion. The motion carried unanimously.

ORAL OR WRITTEN COMMENTS OR REPORTS

None

OLD BUSINESS

None

NEW BUSINESS

Item 2015-08-01- 423 E Arthur St. – Accessory Structure with no Principle Structure – Ed Crousore-

Assistant City Planner Dombrosky gave a brief review of the request. The petitioner has requested permission to build a garage for personal use on this lot. The regulations for accessory buildings are as follows:

“12.0.4.1.a. Accessory buildings, defined as a structure at least six feet in height and 30 square feet in area:

- 1. Shall be incidental to, subordinate to, and commonly associated with the operation of the principal use of the lot**
- 2. Shall be operated and maintained under the same ownership and on the same lot, or adjoining lots, as the principal use. If the accessory building is on an adjoining lot, the owner shall provide a restrictive covenant, which stipulates that the adjoining lots will not be sold separately from each other. The restrictive covenant shall be recorded at**

the Kosciusko County Recorder's Office. A copy of the recorded document must be provided to the plan director before the issuance of an improvement location permit.

3. Shall meet the following height, size, and setback regulations:

(i) Residential districts:

- 1) The height of the structure shall be limited to 18 feet; however, no structure shall be taller than the principal building.
- 2) The total size of all permitted structures shall be no larger than 7% of the lot size. Also, structures shall not be limited to less than 720 square feet.

Lot Size	Permitted Size
<10,285 sq ft	720 sq ft
More than 10,286 sq ft	7% of lot size

3) A detached accessory building shall not be located closer to the front property line than the principle structure or nearest adjacent principle structure.

4) Setbacks from property line as follows;

Setbacks		Side		
		Front	Side	Rear
Adjacent to	Street	N/A	10'	10'
	Alley	3'	3'	3'
	Lot	3'	3'	3'

5) The accessory building shall be used for the storage of personal property only and shall not be used for any commercial or industrial purpose.

6) No more than two freestanding accessory buildings shall be permitted per zone lot.

(ii) Commercial and industrial districts:

- 1) The height, size, and setback regulations for accessory buildings are the same as for principal buildings. Refer to Table 5 of this appendix.

4. Shall not be permitted before the erection and operation of the principal use, except as a temporary use as permitted in section 4.4.”

The lot would contain no other buildings, and the City does not permit garages on lots not associated with a principle structure to ensure residential districts are not encroached upon by non-residential uses. An isolated storage building is not a purely residential use.

The property in question has been vacant since a fire destroyed the 3 unit apartment building less than 2 years ago. It is a wide residential lot with no floodplain restrictions, and is surrounded by improved City Right of Way on 3 sides. It has been used as a residence recently, and there is no indication it could not be used in that way again. It is next to active railroad tracks.

The comprehensive plan encourages residential development in buildable areas to increase density, property values, and attractiveness. The relevant section of the Plan is attached.

Dombrosky does not believe there is anything peculiar about this property that warrants a variance, or that the restrictions of the zoning ordinance constitute a hardship in the use of the

property. Based on the information provided Dombrosky recommended the Board deny the petition.

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

Ed Crousore was present to explain the request and answer questions of the Board members. He wishes to use the 1,200 sq. ft. structure to work on cars, which is his hobby. No commercial activity will take place at the location. He wishes to have sewage and water for a restroom and sink. Discussion followed.

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

Discussion followed among the Board members. Several Board members expressed concerns with upkeep and distance for the owner. Allen did not feel it met all five criteria. Motion was made by Shoemaker to deny Resolution 2015-08-01. Wilhite seconded the motion. The motion carried unanimously.

2015-08-02- Hitzler St. – Accessory Structure with no Principle Structure – Paul Henning- Assistant Planner Dombrosky gave an overview of the request. The petitioner has requested permission to build a garage for personal use on this lot. The regulations for accessory buildings are as follows:

“12.0.4.1.a. Accessory buildings, defined as a structure at least six feet in height and 30 square feet in area:

- 1. Shall be incidental to, subordinate to, and commonly associated with the operation of the principal use of the lot**
- 2. Shall be operated and maintained under the same ownership and on the same lot, or adjoining lots, as the principal use. If the accessory building is on an adjoining lot, the owner shall provide a restrictive covenant, which stipulates that the adjoining lots will not be sold separately from each other. The restrictive covenant shall be recorded at the Kosciusko County Recorder's Office. A copy of the recorded document must be provided to the plan director before the issuance of an improvement location permit.**
3. Shall meet the following height, size, and setback regulations:
 - (i) Residential districts:
 - 1) The height of the structure shall be limited to 18 feet; however, no structure shall be taller than the principal building.
 - 2) The total size of all permitted structures shall be no larger than 7% of the lot size. Also, structures shall not be limited to less than 720 square feet.

Lot Size	Permitted Size
<10,285 sq ft	720 sq ft
More than 10,286 sq ft	7% of lot size

- 3) A detached accessory building shall not be located closer to the front property line than the principle structure or nearest adjacent principle structure.
- 4) Setbacks from property line as follows;

Setbacks		Side		
		Front	Side	Rear
Adjacent to	Street	N/A	10'	10'
	Alley	3'	3'	3'
	Lot	3'	3'	3'

5) The accessory building shall be used for the storage of personal property only and shall not be used for any commercial or industrial purpose.

6) No more than two freestanding accessory buildings shall be permitted per zone lot.

(ii) Commercial and industrial districts:

1) The height, size, and setback regulations for accessory buildings are the same as for principal buildings. Refer to Table 5 of this appendix.

4. Shall not be permitted before the erection and operation of the principal use, except as a temporary use as permitted in section 4.4.”

The lot would contain no other buildings, and the City does not permit garages on lots not associated with a principle structure to ensure residential districts are not encroached upon by non-residential uses. An isolated storage building is not a purely residential use.

The property in question is a wide city lot in a neighborhood. It is surrounded on two sides by improved City Right of Way, and is next to active railroad tracks. It does not have immediate access to sanitary sewer or water. The lot elevation is low and would require significant investment to establish a utility connection. Our records show the lot has never been built on.

The comprehensive plan encourages residential development in buildable areas to increase density, property values, and attractiveness. The relevant section of the Plan is attached.

Dombrosky believes that the peculiar constraints constitute a hardship in the use of the property, and recommended that the Board approve the petition.

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

Paul Henning was present to explain the request and answer any questions of the Board. He is planning on using the building for a wood working shop. There will be no commercial activity. There will be no water or sewage. The location is ½ mile from his residence by street and 4/10 of a mile by foot.

Carl Bevins, neighbor of the property on Alward St. supports the petition. The property is not currently being maintained and has been mowed by the City when he has complained. He feels it will be maintained and be a major improvement if Mr. Henning receives approval and purchases it.

No person was present to speak against the petition.

Allen closed the meeting to the public.

Discussion followed among Board members. Motion was made by Keeven to approve Resolution 2015-08-02. Shoemaker seconded the motion. The motion carried unanimously.

OTHER MATTERS THAT MAY COME BEFORE THE BOARD

- Next meeting will be Monday, September 28, 2015

With nothing further to come before the Board, motion was made by Keeven to adjourn the meeting. Wilhite seconded the motion. The motion passed unanimously.

Tom Allen, President

Kim Arnold, Recording Secretary