

MINUTES
BOARD OF ZONING APPEALS
May 23, 2016

The Warsaw Board of Zoning Appeals met for regular session on Monday, April 25, 2016 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, Jeff Johnson, Dan Smith, Tim Dombrosky (Assistant City Planner), Kim Arnold (Recording Secretary), Mike Valentine (City Attorney)

Absent: Tom Allen

CALL TO ORDER

Keeven called the meeting to order.

The April 25, 2016 meeting minutes were reviewed and presented for approval. Smith made a motion to approve the April 25, 2016 meeting minutes as presented; Johnson seconded the motion. The motion carried unanimously.

ORAL OR WRITTEN COMMENTS OR REPORTS

None

OLD BUSINESS

None

NEW BUSINESS

Item 2016 – 05 - 01 –Use Variance- Auto Repair in C-2- Scott Wickens- 501 Pope St.- Keeven turned the meeting over to Assistant Planner Dombrosky. The petitioner has requested a Use Variance to permit motorcycle repair in a C-2. There is no category for “motorcycle repair” in our Code, only “motorcycle dealership” and the closest comparison to be used is “auto repair”.

The petitioner has requested a Use Variance to permit an automobile repair business at 501 Pope St.

The request will not be injurious to the public. The business would be a productive reuse of an underutilized building in the core of the community.

The use and value of the area adjacent needs to be considered carefully. In Dombrosky's opinion, an automobile repair business is more intrusive to surrounding properties than warehousing, and there is a residential zone to the south and two homes directly across the street.

Automobile DEALERS are allowed as a special exception in this zone condition. For REFERENCE, here are the conditions for approval of a motorcycle DEALER

“Motorcycle dealers shall be permitted in the C-2 and C-3 zone districts provided that:

1. Such uses shall be located on sites having a minimum of two acres.
2. Buildings or structures shall be located a minimum of 50 feet from adjacent property lines, provided that where such use is located adjacent to a residential district, the side and rear requirements shall be increased to 100 feet.
3. Machinery required for such operations shall be installed and operated so as to minimize noise and vibration.
4. Adequate screening and fencing shall be provided as required in this ordinance.”

Dombrosky would advise that automobile repair is more of a nuisance than a dealer, and would need more protection. This site is 0.7 acres, and the building highlighted is 120' from the closest house.

The property is peculiar in that there is an existing industrial building on a C-2 site. The types of C-2 uses that could reuse the building are limited. However, it was granted a use variance for light manufacturing in 1994, which would allow additional uses as well as what is permitted in C-2.

The comprehensive plan identifies this area as community serving commercial. This approval would not interfere with that.

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 recommend the Board deny the Use Variance to permit auto repair in a C-2 zoning district located at the property in question.

Keeven opened the meeting to any person wishing to speak in favor of the petition. Scott Wickens, the petitioner, was present to explain his request. He is interested in using this building because it is close to his residence; it is gated and secure and has a concrete area to work on. He will be doing repair on a part time basis in the evenings and on Saturdays. All work will be done inside. No motors will be running outside. Wickens answered various questions from Board

members. No other person was present to speak in favor or against the petition. Keeven closed the meeting to the public. Motion was made by Dalton to approve **2016-05-01 – Use Variance – 501 Pope St. – Wickens**, with the restrictions of a maximum of two employees and this use only. Smith seconded the motion with restrictions. The motion carried unanimously.

BZA Rules and Procedures Changes- Assistant Planner Dombrosky requested approval of a change to our notification policy. He asked members to approve a change in our notification requirement by certified mail to adjacent properties not owned by the petitioner. Currently we notify the adjacent property owners only which is under Article 10 of the Procedures and Codes. Article 8 requires any person wishing to speak for or against a petition to register with the Secretary before the meeting. It is not a necessary requirement prior to the meeting and Assistant Planner Dombrosky asked approval to re-order the steps. Discussion followed. Dalton made a motion to approve the change to the BZA Rules and Procedures. Smith seconded the motion. The motion carried unanimously. Assistant Planner Dombrosky will make the changes to the policy and bring it to the next meeting to be adopted.

OTHER MATTERS THAT MAY COME BEFORE THE BOARD

- Next meeting will be Monday, June 27, 2016

Keeven adjourned the meeting.

Rick Keeven, Vice President

Kim Arnold, Recording Secretary