

MINUTES
BOARD OF ZONING APPEALS
April 24, 2017

The Warsaw Board of Zoning Appeals met for regular session on Monday, April 24, 2017 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, Jeff Johnson, Dan Smith, Tammy Dalton, Jeremy Skinner (City Planner), Kim Arnold (Recording Secretary), Mike Valentine (City Attorney)

Absent: Justin Taylor

CALL TO ORDER

Allen called the meeting to order.

The March 27, 2017 meeting minutes were reviewed and presented for approval. Keeven made a motion to approve the March 27, 2017 meeting minutes as presented; Smith seconded the motion. The motion carried unanimously.

ORAL OR WRITTEN COMMENTS OR REPORTS

None

OLD BUSINESS

None

NEW BUSINESS

2017-04-01-Variance from Development Standards-101 Argonne Rd. - City Planner Skinner gave a brief explanation of the request. The petitioner is seeking a variance from development standards to allow a 4'x 8' addition to an existing 5'x 8' sign. The height of the existing sign is 11'. The petitioner wishes to add a sign cabinet for the second business below the existing sign. The proposed sign would not create a detrimental impact on visibility for passing motorists. The streetscape in this area features several large signs including a billboard so the impact on the existing esthetics would be minimal. Historically variance requests regarding signs that exceed development standards have been granted in this area. Based on the information provided and the Findings of Fact Taylor recommended that the Board could provide a positive Finding of Fact in order to grant approval for the requested variance from development standards.

Allen opened the meeting to any person wishing to speak in favor of the petition. Ryan Hamilton, representing Hamilton Realty, was present to answer any questions and explain the request. Discussion followed. No other person was present to speak in favor of the request.

Allen opened the meeting to any person wishing to speak in opposition of the petition. No person was present to speak against the petition.

Keeven made a motion to approve 2017-04-01. Smith seconded the motion. The motion passed unanimously.

2017-04-02-Use Variance – 1311 Saint Mary’s Dr. - City Planner Skinner gave a brief explanation of the request. The petitioner is requesting a use variance to permit a home occupation in an R-1 zoning district. The petitioner’s occupation consists of the sale and repair of firearms. Currently, the petitioner has a home-based business located in Silver Lake. He has submitted paperwork to confirm that his current business complies with the state and county regulations regarding the sale and repair of firearms. The petitioner has stated that customers, for his home occupation, visit by appointment only and generally come one at a time.

R-1 zoning districts in the City of Warsaw are the most restrictive of the residential districts and include the low density single-family residential areas of the City and those open areas where similar residential development appears to be likely to occur. The intent of this R-1 district is to provide for an environment of predominantly low density single-family development with certain additional uses such as schools, parks and other public uses which serve the residents living in the area per section 12.0.1 of the zoning ordinance.

Historically home occupations involving the on premise sale of goods in an R-1 zoning district have been frowned upon by this board. Taylor was unable to locate a single approved Use Variance for a home occupation in an R-1 zoning district that involved on premise sales. There were, however, several approvals for home occupations involving repair services. For this reason, the board could potentially have a favorable opinion of the gunsmith aspect of the petitioner’s Use Variance and an unfavorable opinion of the petitioner’s desire to sell firearms at this location. Based on the information provided, the Findings of Fact, it is the opinion of the Planning Department that retail sales would have a negative impact on an R-1 Zoning district.

Allen opened the meeting to any person wishing to speak in favor of the petition. Trevor Long, the petitioner, was present to answer questions and explain the request. Discussion followed. No other person was present to speak in favor of the petition. Allen closed the meeting to the public as there was no other person wishing to speak in favor of the petition.

Allen opened the meeting to any person wishing to speak in opposition of the request. Val Metzger, a neighbor, feels the residential area is not conducive to a firearm business and is against increased traffic in the neighborhood. No other person was present to speak against the petition. Allen closed the meeting to the public.

Discussion followed between the Board Members. Motion was made by Dalton to deny 2017-04-02. Johnson seconded the motion to deny 2017-04-02. The motion passed unanimously.

2017-04-03-Request for Special Exception- -212 N. Columbia - City Planner Skinner gave a brief explanation of the request. The petitioner is requesting a special exception to permit a

home occupation in an R-3 zoning district. The petitioner is a Professional Seamstress who has operated her business in downtown Warsaw for the past 15 years. The home owners to the west expressed a concern about potentially losing access to parking spaces in front of their residence as a result of this home occupation however after speaking with the petitioner directly their concerns seem to have been addressed and the overall sentiment seems to be positive. The petitioner stated that costumers, for her home occupation, come generally come one at a time.

Home occupations shall be permitted in any principal residential building or structure located in R-2 and R-3 zone districts, provided that:

1. No persons other than members of the family residing on the premises shall be engaged or employed in such occupation.
2. The use of a dwelling unit or private garage for a home occupation shall be clearly incidental to its principal use for residential purposes.
3. There shall be no change in the outside appearance of the building or premises or other evidence of such occupation other than one sign, not exceeding one square foot in area, non-illuminated and mounted flat against the wall of the principal building.
4. There shall be no outside storage.
5. No equipment or process shall be used which creates noise, vibration, glare, fumes, odors or electrical interference outside the dwelling unit in amounts greater than present under normal circumstances.
6. No commodity shall be sold on the premises.
7. No mechanical equipment shall be installed except that which is customarily used for purely domestic or household purposes.

Based on the information provided and the Findings of Fact Taylor recommended that the Board could reasonably provide a positive Finding of Fact to grant approval for the requested Special Exception.

Allen opened the meeting to any person wishing to speak in favor of the petition. Joy Kuhn, the petitioner, was present to explain the request and answer any questions. Discussion followed. Allen closed the meeting to any person wishing to speak in favor of the petition.

Allen opened the meeting to any person wishing to speak against the petition. No person was present to speak against the petition. Allen closed the meeting to the public. Smith made a motion to approve 2017-04-03. Dalton seconded the motion. The motion carried unanimously.

2017-04-04-Use Variance- 318 N. Detroit - City Planner Skinner gave a brief explanation of the request. The petitioner is requesting a Variance of Use to permit an auto repair shop in a C-2 Zoning District. Historically this property has been used in the same capacity as the requested variance and the architecture of the building is conducive to the requested use. Some of the adjacent properties have similar uses involving the automotive service industry. Because of this, the requested Use Variance would not have a negative impact upon neighboring land uses.

Based on the information provided and the Findings of Fact Taylor recommended that the Board could reasonably provide a positive Finding of Fact to grant approval for the requested Variance

of Use.

Allen opened the meeting to any person wishing to speak in favor of the petition. Steve Poe, the petitioner, was present to explain the request and answer any questions. Discussion followed. Allen closed the meeting to any person wishing to speak in favor of the petition.

Allen opened the meeting to any person wishing to speak against the petition. No person was present to speak against the petition. Allen closed the meeting to the public. Keeven made a motion to approve 2017-04-04. Dalton seconded the motion. The motion carried unanimously.

2017-04-05-Variance from Development Standards- 318 N. Detroit - City Planner Skinner gave a brief explanation of the request. The petitioner is requesting a Variance from Development Standards to allow more than 75% lot coverage in a C-2 zoning district. Although it is not ideal to permit the development of properties to surpass the allowable lot coverage requirements, in this case the existing property has been vacant for several years and promoting commercial use of this space should be prioritized over esthetics. Properties in this area typically do not meet permeable surface requirements. Several properties in the immediate vicinity have close to 100% impervious surface coverage.

Approximate Lot Coverage Calculations

14080 sf Total Lot Area

10560 sf Max Allowable Coverage

13415 sf Requested Lot Coverage or 95% Coverage

Based on the information provided and the Findings of Fact Taylor recommended that the Board could reasonably provide a positive finding of fact to grant approval for the requested Variance of Use.

Allen opened the meeting to any person wishing to speak in favor of the petition. Steve Poe, the petitioner, was present to explain the request and answer any questions. Discussion followed. Allen closed the meeting to any person wishing to speak in favor of the petition.

Allen opened the meeting to any person wishing to speak against the petition. No person was present to speak against the petition. Allen closed the meeting to the public. Smith made a motion to approve 2017-04-05. Johnson seconded the motion. The motion carried unanimously.

OTHER MATTERS THAT MAY COME BEFORE THE BOARD

- Next meeting will be Monday, May 22, 2017

Keeven made a motion to adjourn the meeting; Johnson seconded the motion. The motion carried unanimously. The meeting was adjourned.

Tom Allen, President

Kim Arnold, Recording Secretary