

MINUTES
BOARD OF ZONING APPEALS
September 24, 2018

The Warsaw Board of Zoning Appeals met for regular session on Monday, September 24, 2018 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, Dan Smith, Tammy Dalton, Jeff Johnson, Mike Valentine (City Attorney), Justin Taylor (Assistant City Planner), Aerial Jones (Assistant City Planner), Kim Arnold (Recording Secretary)

Absent: None

CALL TO ORDER

Allen called the meeting to order.

The August 27, 2018 meeting minutes were reviewed and presented for approval. Keeven made a motion to approve the August 27, 2018 meeting minutes as presented; Dalton seconded the motion. The motion carried unanimously.

ORAL OR WRITTEN COMMENTS OR REPORTS

None

OLD BUSINESS

None

NEW BUSINESS

Item 2018-09-01 – Variance from Development Standards –618 Webber St. - Allow an Accessory Structure to be Closer to the Front Property Line than the Primary Structure – Bennie Banghart - Allen turned the meeting over to Assistant Planner Jones for a brief explanation of the request. The petitioner is requesting a Variance from Development Standards to permit an accessory structure to be located closer to the front property line than the primary structure. The petitioner initially wanted to place the garage behind their house but because they do not have a paved alley this was not an option. The Public Works Department stated that because of budgetary limitations they are unable to pave new alleyways at this time. The cost of creating a new alleyway is significantly higher than maintaining an existing alley.

This property is designated as urban residential per the comprehensive plan. Additions to homes in this area should be encouraged to maintain value in a competitive market. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner. The proposed accessory building will not exceed the permitted impervious lot

coverage of 50% and petitioner will adhere to all other ordinances pertaining to accessory structures.

12.0.4.1. Accessory structures. Accessory structures may be allowed in all districts in accordance with this section. 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 such 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 sf

The planning department feels that the denial of this variance would constitute an unnecessary hardship for the property owner because they do not have an economically viable way to locate their garage in the rear of their property. Based on the information provided, it is the opinion of the Planning Department that this case could be viewed favorably, when measured by the criteria outlined within the Findings of Fact.

Allen opened the meeting to any person wishing to speak in favor or against the petition. Bennie Banghart, the petitioner, was present to explain the request and answer any questions. She presented photos of the property and a diagram of the location of the proposed accessory structure. No other person was present to speak for or against the petition. Allen closed the meeting to the public.

Motion was made by Johnson to approve *Item 2018-09-01 – Variance from Development Standards – 618 Webber St. - Allow an Accessory Structure to be Closer to the Front Property Line Than the Primary Structure*. Smith seconded the motion. The motion passed unanimously.

Item 2018-09-04- Variance from Development Standards – 618 Webber St.- Allow 16’ Front Setback for an Accessory Structure in an R-2 - Allen turned the meeting over to Assistant Planner Jones for a brief overview of the request. The petitioner is seeking a 16-foot variance from a 25-foot front yard setback. The petitioner wishes to construct a detached garage closer to the front property line than permitted in an R-2 zoning district. This neighborhood, like other historic neighborhoods in the city, has many properties that do not adhere to the current setback ordinance. There are several examples of houses on the same block, as well as along the lake front that have existing non-conforming setbacks. Having a 16-foot setback will not be out of character with adjacent properties.

12.0. - Residential districts.

Table 3. Residential Uses and Requirements - One Family Dwelling

Zoning District	RR-1	R-1	R-2	R-3
Minimum Front Yard	35'	25' ₍₂₎	25' ₍₂₎	20' ₍₂₎
Minimum Side Yard	10'	7' ₍₁₎	6' ₍₁₎	5' ₍₁₎
Minimum Rear Yard	25'	25'	*20'	*15'

5 - On a corner lot, the side yard facing the street shall not be less than 15 feet. (All Districts)

Based on the information provided, it is the opinion of the Planning Department that this case could be viewed favorably. The approval will not be harmful to the public health, safety, morals and general welfare of the community.

Allen opened the meeting to any person wishing to speak in favor or against the petition. Bennie Banghart, the petitioner, was present to explain the request or answer any questions. Allen closed the meeting to the public as there was no other person to speak for or against the petition.

Keeven made a motion to approve *Item 2018-09-04- Variance from Development Standards – 618 Webber St. - Allow 16' Front Setback for an Accessory Structure in an R-2* Johnson seconded the motion. The motion carried unanimously.

Item 2018-09-02 - Variance from Development Standards – 2008 E. Center St.- To Exceed Allowed Square Footage and Height of Sign Requirements in an R-3 - Allen turned the meeting over to Assistant Planner Jones for a brief overview of the request. The petitioner is requesting to exceed the allowed 16 square footage and 4-foot height sign requirements in an R-3 district. The proposed sign will be 36.5 square feet and 6 feet in height. This property is within the overlay district along the Center St Corridor. The overlay district is designated to encourage professional uses while retaining some of the residential characteristics in this area. Signs are used to maintain and enhance the aesthetic environment enabling the city to attract sources of economic development. The implementation of a sign this size will not negatively impact the line of vision for drivers entering and exiting the site.

There are numerous businesses along the Center Street Corridor that have signs approximately the same size. Granting this variance would not have a detrimental impact on the character of this area. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner.

12.0.3. - R-3 residential district.

12.0.3.1.

Description of district. This [R-3] district provides for high density residential areas within the community. The intent of this district is to create a predominantly residential environment for all types of residential structures, in addition to schools, parks, public facilities and other uses which serve the residents of the [R-3] district. Professional offices and some commercial uses, serving

the neighborhood, will be permitted. This [R-3] district should relate to the central business district and to primary thoroughfares providing access to site and to other areas of the community.

12.0.3.2.

Development standards. See Tables 3 and 4 for the development standards for this [R-3] district.

R-3	Residential and Professional Office District
	A. One monument sign is permitted at each primary entrance to a subdivision, apartment complex, or other residential development.
	a. The sign shall not exceed 16 square feet in area and 4 feet in height.
	b. The sign may be externally lit.
	c. The sign shall incorporate at least one of the following decorative features:
	i. Landscaping around the base equal ½ the area of the sign face
	ii. Decorative brick embellishments around two sides of the sign
	iii. An alternative design feature if approved by the Warsaw Planning Department
	B. One sign is permitted per lot. It shall not exceed 16 square feet in area and 6 feet in height. See Table 6 for types of permitted signs.
	C. In addition, temporary signs are permitted, subject to section 13.4.3.1.

It is the opinion of the Planning Department that this case could be viewed favorably, when measured by the criteria outlined within the Findings of Fact. The approval will not be harmful to the public health, safety, morals, and general welfare of the community.

Allen opened the meeting to any person wishing to speak in favor or against the petition. Scott Gray, of Graycraft Signs, was present to represent Brian Peterson, the property owner. He answered several questions and explained the request. No other person was present to speak for or against the petition. Allen closed the meeting to the public.

Smith made a motion to approve *Item 2018-09-02 - Variance from Development Standards – 2008 E. Center St.- To Exceed Allowed Square Footage and Height of Sign Requirements in an R-3*. Dalton seconded the motion. The motion passed unanimously.

Item 2018-09-03 - Variance from Development Standards – 2008 E. Center St.- To Allow a Second Free Standing Sign in an R-3 - Allen turned the meeting over to Assistant Planner Jones for a brief overview of the request. The petitioner is requesting to add a second free-standing sign in an R-3 district. This lot is within the overlay district along the Center St Corridor. The overlay district is designated to encourage professional uses while retaining some of the residential characteristics in this area. Allowing the petitioner to have a freestanding sign, in addition to the existing wall sign, will not be out of character for this area. Many other businesses along this corridor have both sign types displayed for their businesses. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner.

12.0.3. - R-3 residential district.

12.0.3.1.

Description of district. This [R-3] district provides for high density residential areas within the community. The intent of this district is to create a predominantly residential environment for all types of residential structures, in addition to schools, parks, public facilities and other uses which serve the residents of the [R-3] district. Professional offices and some commercial uses, serving the neighborhood, will be permitted. This [R-3] district should relate to the central business

R-3	Residential and Professional Office District
	A. One monument sign is permitted at each primary entrance to a subdivision, apartment complex, or other residential development.
	a. The sign shall not exceed 16 square feet in area and 4 feet in height.
	b. The sign may be externally lit.
	c. The sign shall incorporate at least one of the following decorative features:
	i. Landscaping around the base equal ½ the area of the sign face
	ii. Decorative brick embellishments around two sides of the sign
	iii. An alternative design feature if approved by the Warsaw Planning Department
	B. One sign is permitted per lot. It shall not exceed 16 square feet in area and 6 feet in height. See Table 6 for types of permitted signs.
	C. In addition, temporary signs are permitted, subject to section 13.4.3.1.

district and to primary thoroughfares providing access to site and to other areas of the community.

12.0.3.2.

Development standards. See Tables 3 and 4 for the development standards for this [R-3] district.

Certain terms and words used herein shall be interpreted and defined as follows:

13.4.1.1.

g. Freestanding sign. A sign supported by one or more uprights, poles, columns or braces placed in or upon the ground surface and not attached to any building or structure. Freestanding signs shall be designed so that all framework for the lateral support of the sign shall be contained within the body of the sign or within the structure to which it is attached and shall not be visible. Exposed guy wires, chains or other connections shall not be made a permanent part of the sign.

Based on the information provided, it is the opinion of the Planning Department that this case could be viewed favorably. The approval will not be damaging to the public health, safety, morals, and general welfare of the community.

Allen opened the meeting to any person wishing to speak in favor or against the petition. Scott Gray, of Graycraft Signs, was present to represent Brian Peterson, the property owner. He answered several questions and explained the request. No other person was present to speak for or against the petition. Allen closed the meeting to the public.

Motion was made by Dalton to approve *Item 2018-09-03 - Variance from Development Standards – 2008 E. Center St.- To Allow a Second Free Standing Sign in an R-3*. Johnson seconded the motion. The motion passed unanimously.

OTHER MATTERS THAT MAY COME BEFORE THE BOARD

- Next meeting will be October 22, 2018

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

Tom Allen, President

Kim Arnold, Recording Secretary