

**MINUTES
BOARD OF ZONING APPEALS
MAY 26, 2020**

The Warsaw Board of Zoning Appeals met for regular session on Tuesday May 26, 2020 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, Scott Reust (City Attorney), Justin Taylor (Senior Planner), Johnny Latsko (Assistant Planner), Kim Arnold (Recording Secretary)

Absent: None

CALL TO ORDER

Allen called the meeting to order.

APPROVAL OF MINUTES

The January 27, 2020 meeting minutes were reviewed and presented for approval. Dalton made a motion to approve the January 27, 2020 meeting minutes as presented. Smith seconded the motion. The motion carried unanimously by roll call vote of all members.

ORAL OR WRITTEN COMMENTS OR REPORTS

None

OLD BUSINESS

None

NEW BUSINESS

2020-03-01-1118 Country Club Lane.-Variance from Development Standards- Allow Less than a 25' Front Setback in an R-1- Allen turned the meeting over to Senior Planner Taylor for a brief explanation of the request. The petitioner is requesting a Variance from Development Standards to permit a 22' front yard setback instead of the permitted 25' setback. The petitioner would like to construct an attached garage at the front of the property. The attached plan shows the location of the proposed garage.

The property is in a part of town characterized by lake cottages, many of which are non-conforming with existing setback regulations. Many of the homes within the immediate area do not meet the required setbacks.

The proposed garage does not encroach on any easements, or into the public right-of-way.

12.0 – Residential Districts

Table 3. Residential Uses and Requirements - One Family Dwelling

Zoning District	R-1
Minimum Front Yard	25' ⁽²⁾

12.0.1. - RR-1, R-1 residential district.

12.0.1.1. Description of district. This [R-1] district is the most restrictive of the residential districts and includes 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.

It is the opinion of the planning department, that the approval this variance would not have a detrimental impact on the adjacent properties or the public right-of-way. Nor would approval drastically change the character of this neighborhood.

Taylor recommended the approval of the request. Allen opened the meeting to the public. George Clemens, the petitioner, was present to explain the request and answer any questions. He is requesting a garage for the property which would require less than 25' setbacks. No other person was present from the public. Senior Planner Taylor opened the meeting to texts from the public. No texts were received. Allen closed the meeting to the public.

Motion was made by Dalton to approve *2020-03-01-1118 Country Club Lane-Variance from Development Standards-Allow Less than a 25' Front Setback in an R-1*. Johnson seconded the request. The motion passed unanimously by roll call vote.

2020-04-01- 3114 E US 30 – Special Exception – Allow Outside Storage in an I-2- Allen turned the meeting over to Senior Planner Taylor for a brief explanation of the request. The petitioner is requesting a Special Exception to allow an outdoor storage area to be located within an I-2 zoning district. The property is located along the eastern stretch of US 30 and is currently an empty grass lot.

Outdoor warehousing uses are permitted in I-2 zoning districts through Special Exception per the Municipal Code provided they meet the requirements of section nn of Section 12.2 (I-2 Industrial District) as well as section 13.6 (Development Plan).

It is important to note that the eastern adjacent property has a mobile home park (Timber Creek Estates) with residential usage. The parcel containing the mobile homes is unincorporated.

12.2. - Industrial districts.

The industrial district regulations are intended to govern the location, intensity and method of development of the industrial areas in the City of Warsaw. The regulations are designed to provide for the grouping together of industries that are compatible to the community as a whole. The regulations preserve lands for industrial and allied uses and prohibit the intrusion of residential and other non-compatible, uses into the industrial area. All industrial uses are contained in the following districts.

nn. Warehousing (outside storage) of materials, equipment or products shall be permitted in the I-2 and I-3 zone districts, provided that:

1. Lot coverage, including building coverage and storage areas shall not exceed 75 percent of the gross site area.
2. Outside storage areas shall be completely enclosed by a solid fence not less than eight feet in height and which shall bear no advertising, other than the name of the premises, as in accordance with [section] [13.3](#).
3. Outside storage of flammable, explosive or radioactive materials or products, or of dangerous gases shall not be permitted.

USES	RR-1	R-1	R-2	R-3	C-2	C-3	C-4	C-5	I-1	I-2	I-3	M
Warehousing ...outside storage										SE	SE	

12.2.2. - I-2 light industrial district.

12.4.5.

List of special exceptions. Buildings or premises may be used and buildings may be erected or structurally altered only for the purpose set forth in the following list of special exceptions only within those districts specified and subject to the additional conditions as specified:

Description of district. The I-2 light industrial district is intended to provide lands for development by most general types of industrial firms. The regulations are designed to permit operations in a clear and quiet manner and to protect adjacent district uses and industries within the [I-2] district. Residential uses are prohibited in this district to conserve and protect the supply of industrial land for industrial use.

12.0.3.2.

The potential of having outdoor storage is not necessarily a concern because this is an industrial

area where outdoor warehousing is permitted through special exception. If approved, Superior Developing LLC will still be required to screen the area with an opaque fence and adhere to the other rules for exceptions. 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 delineated within the Findings of Fact.

Allen opened the meeting to any person wishing to speak in favor or against the petition. Dale Custer, of Superior Developing, was present to explain the request and answer any questions. He explained he has had soil borings done and there are issues with the soil. He is asking for outside storage due to the soil conditions and the difficulty involved in building a permanent structure. He provided a rough drawing for the members. He feels it would be a good fit with the neighbors. Discussion followed. Dalton asked Custer if he was only going to have outside storage. Taylor explained the request for outside storage is considered a special exception in the City Municipal Code. Inside storage is allowed in that zoning district. Taylor opened the meeting to text messages from the public after providing the number. Motion was made by Smith to approve *2020-04-01- 3114 E US 30 – Special Exception – Allow Outside Storage in an I-2*. Keeven seconded the motion. The motion passed unanimously by roll call vote.

2020-04-02-3114 E US 30- 3114 E US 30-Variance from Development Standards- Allow Gravel Parking Area- Allen turned the meeting over to Senior Planner Taylor for a brief explanation of the request. The petitioner is seeking a variance from development standards to use gravel as a parking/outdoor warehousing surface.

Article 13 states that parking areas shall be a finished hard surface.

The lot in question has soil unsuitable for construction in the areas intended to be finished with gravel/stone. Reports suggest the unsuitable soil could result in damage to a hard surface lot over time and require consistent repaving.

The majority of the surrounding lots do not have hard surfaces and instead use gravel/stone for outdoor warehousing and parking surfaces. The use of gravel/stone as a surface would have no significant adverse impact on the surrounding areas and matches the current development along the corridor.

13.0.2.4. All areas for parking and maneuvering shall be graded for proper drainage and finished hard surface, either paved or concrete in accordance with the City of Warsaw drainage ordinance.

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 delineated within the Findings of Fact.

Allen opened the meeting to any person wishing to speak in favor or against the petition. Dale Custer remained available for any additional questions or explanation. He stated he is asking for the gravel due to the poor soil conditions. He stated the surrounding lots have gravel as well and were annexed into the City in that condition. No other person spoke for or against the petition. Taylor opened the meeting by providing a phone number in order to submit text comments and

waited approximately seven minutes. No text was received. Allen closed the meeting to the public. Motion was made by Dalton to approve *2020-04-02-3114 E US 30-Variance from Development Standards- Allow Gravel Parking Area*. Johnson seconded the motion. The motion passed unanimously by roll call vote.

2020-05-01-CR 200 North- Use Variance -Multi-Family Residential in an I-2- Allen turned the meeting over to Senior Planner Taylor for a brief explanation of the request. The petitioner is requesting a Use Variance to construct multifamily housing within an I-2 zoning district. The proposed development would have two phases consisting of affordable apartments in Phase 1 and market-rate apartments in Phase 2. The petitioner selected this site because of its proximity to shopping centers, schools and the YMCA. The attached site plan shows the locations of the proposed residential structures.

The proposed site is flanked by Robinson Construction to the West, vacant industrial land to the East, wetlands to the South and to the North is B&M Instruments / Lakeland Technology.

12.2.2.1. Description of district. The I-2 light industrial district is intended to provide lands for development by most general types of industrial firms. The regulations are designed to permit operations in a clear and quiet manner and to protect adjacent district uses and industries within the [I-2] district. Residential uses are prohibited in this district to conserve and protect the supply of industrial land for industrial use.

It is the recommendation of the Planning Department that the Board deny this request. The airport industrial park was annexed with the intention of providing space for light industrial and medical device manufacturing. Although there is a high demand for housing in the City, the Planning Department believes that the northern or southern residential TIF districts are much more conducive environments for residential development. The planning department can work with the developer to find a more appropriate location that does not conflict with the comprehensive plan.

Allen opened the meeting to any person wishing to speak for or against the petition. Taylor brought up a letter received by the Planning Department from Dan Robinson of Robinson Construction, requesting the City consider his opinion of multi-family housing in an I-2. He feels it would not be beneficial to the surrounding properties which are mostly industrial and may be medical in the future. Jeff Ryan, of Real America, explained the request to members. He stated Real America was having a very difficult time finding a site which met their criteria. He explained they have very strict criteria for affordable housing. The proposed site is within walking distance and/or has access to grocery stores, secondary education and major employers. He stated they had looked at the newly created Northern and Southern TIF residential districts. The areas do not meet their required criteria. Mr. Ryan explained they wish to expand and have been a good community member with their existing properties. He stated the proximity to the medical facilities is considered a plus. He stated they would have approximately 120 units and will be providing double the number of required units for handicap accessibility. No other person was present to speak for or against the petition. Taylor provided the phone number for text comments to be sent to. No texts were received. Allen asked City Attorney Reust to read the five criteria to consider before making a decision. Allen closed the meeting to the public.

Discussion followed. Motion was made to decline the request by Johnson. Smith seconded the motion. The motion passed unanimously by roll call vote.

2020-05-04-123 E Ft. Wayne St.- Variance from Development Standards-Allow a 0' Front Setback Within an R-3 Zoning District- Allen turned the meeting over to Senior Planner Taylor for a brief explanation of the request. The petitioner is requesting a Variance from Development Standards to permit a 0' front and side yard setback instead of the permitted 20' setback. The Parks Department is hoping to construct a new maintenance garage on the northwest corner of Fort Wayne St. and Indiana St. Considering the parking requirements and lot configuration it makes sense to locate the building on the south property line (see attached site plan).

The American legion and several other structures along this stretch of Fort Wayne St. have 0' front setbacks so this deviation in development standards will not have a negative impact on the character of the neighborhood.

The proposed maintenance garage does not encroach on any easements, or create any visibility issues for the intersection.

12.0 – Residential Districts

Table 3. Residential Uses and Requirements

Zoning District	R-3
Minimum Front Yard	20' ⁽²⁾
Minimum Side Yard	5' ⁽¹⁾

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.

It is the opinion of the Planning Department, that the approval this variance would not have a detrimental impact on the adjacent properties or the public right-of-way. Nor would approval drastically change the character of this neighborhood. We recommend that you approve this variance request.

Allen opened the meeting to any person wishing to speak for or against the petition. No person was present to speak for or against the petition. Taylor presented the phone number in order to allow comments to be texted. No text was received. Discussion followed. Keeven made a motion to approve *2020-05-04-123 E Ft. Wayne St.- Variance from Development Standards-*

Allow a 0' Front Setback Within an R-3 Zoning District. Smith seconded the motion. The motion passed unanimously by roll call vote.

OTHER MATTERS THAT MAY COME BEFORE THE BOARD

- Next meeting will be June 22, 2020

Keeven made a motion to adjourn the meeting. Dalton seconded the motion. The motion carried unanimously by roll call vote.

Tom Allen, President

Kim Arnold, Recording Secretary