

**MINUTES**  
**BOARD OF ZONING APPEALS**  
**March 22, 2021**

The Warsaw Board of Zoning Appeals met for regular session on Monday, March 22, 2021 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, Jeff Johnson, Tammy Dalton, Justin Taylor (Senior Planner), Johnny Latsko (Assistant Planner), Scott Reust (City Attorney), Kim Arnold (Recording Secretary)

Absent: None

**CALL TO ORDER**

Allen called the meeting to order.

**APPROVAL OF MINUTES**

The January 25, 2021 meeting minutes were reviewed and presented for approval. Keeven made a motion to approve the January 25, 2021 meeting minutes as presented. Dalton seconded the motion. The motion carried unanimously.

**ORAL OR WRITTEN COMMENTS OR REPORTS**

None

**OLD BUSINESS**

None

**NEW BUSINESS**

***2021-03-01 — Use Variance -215 N. Parker St. - Allow Day Care in an R-1*** - Allen turned the meeting over to City Director Taylor for a brief explanation of the request. The petitioner has requested a Use Variance to allow a Daycare Center to be located within an R-1 Zoning District. The property, located at 615 N Parker St. was constructed as a single-family home and has historically been used in that capacity.

The petitioner wishes to convert this property into a Daycare Center which will operate from 6:30 am to 4:30 pm Monday – Friday. The facility would care for 12 to 16 children at a time. The petitioner has submitted a plan to modify the driveway to help facilitate the pickup and drop-off of children. The large concrete pad would allow cars to do a 3 point turn around in the front of the property.

Historically this Board has protected R-1 zoning districts from uses that may have a detrimental impact or change the character of a neighborhood. The City's municipal code draws a distinction between Home Daycare uses which are permitted within R-1 zoning districts and Daycare Centers which may have a greater impact on the character of the neighborhood and adjacent properties.

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.

1. The approval will not be injurious to the public health, safety, morals, and general welfare of the community;
2. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner;
3. The need for the variance arises from some condition peculiar to the property involved;
4. The strict application for the terms of the Zoning Ordinance will constitute an unnecessary hardship if applied to the property for which the variance is sought; and
5. The approval does not interfere substantially with the comprehensive plan.

**RECOMMENDATION:** It is the recommendation of the Planning Department that the Board deny this request because the proposed use may have a detrimental impact on the value and use of adjacent properties. We do understand that there is a great need for child care, for working families, in our community, however the highest and best use of this property is single family residential.

Allen opened the meeting to any person wishing to speak in favor of the petition. Miriel McFarland, employee and representative for the petitioner, IMD, gave a presentation for the request. She explained it would not be commercial and not what they considered a daycare. Care would be for employees only with 12 to 16 children total. They wish to help the employees of the family owned, local business and the community with a "trickle up effect". McFarland answered questions from the BZA members. Rob Parker, of the Chamber of Commerce, stated the need for childcare in the area is huge and asked if it had been a request for home based childcare if would have been denied. Taylor stated home based childcare would have to have somebody living at the residence as well as other requirements. Sherry Searles, Director of Launchpad, explained the definition of the three types of childcare. She answered questions of the members. Todd Speicher, owner of IMD, stated he is not familiar with zoning but was concerned about existing businesses near residences in areas of the City of Warsaw. He stated he wishes to help his employees become financially successful. He requested the Board make an exception and set a precedent. Madeleine Baker, of the ECA, stated families request home

childcare 75% of the time. IMD is willing to provide the remedy. 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. Ken Chupp, adjacent property owner, stated he has concerns with traffic congestion in the late afternoon hours. He stated the traffic can become backed up to Walter Way at times. He also stated concerns about pool safety. He has a pool in his yard close to the property line of 615 North Parker. He has a privacy fence but is worried about pool danger. He stated the request at this time is for first shift but may change in the future to include second or third shift, which is another concern. He has an existing drainage issue near the property line as well. He stated he feels asphalt addition for more parking will create a larger drainage problem and is concerned about the value of his home. Dave Lincoln, adjacent property owner to the rear, explained he has a chain-link fence and requests they install a privacy fence if they should move forward with the daycare. Allen explained the board has no control over a fence but could recommend it. Dan Conley, neighbor at 2330 Brookview, is retired and is home during the hours of operation of the daycare. He is concerned about noise. Tam Lincoln, neighbor adjacent in the rear of the property, stated they have a rescued Greyhound dog. She is concerned about children being nearby and interactions with the sensitive dog. Allen closed the meeting to the public.

Discussion followed among the members of the BZA. They discussed the need to meet the five criteria the decision must be based on after being reminded by City Attorney Scott Reust. Motion was made by Dalton to deny the request. Johnson seconded the motion. The motion passed unanimously to deny *2021-03-01 — Use Variance -215 N. Parker St. - Allow Day Care in an R-1.*

#### **OTHER MATTERS THAT MAY COME BEFORE THE BOARD**

- Next meeting will be April 26, 2021

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

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Tom Allen, President

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Kim Arnold, Recording Secretary