

MINUTES
BOARD OF ZONING APPEALS
June 28, 2021

The Warsaw Board of Zoning Appeals met for regular session on Monday, April 26, 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, Tammy Dalton, Dan Smith, Jeff Johnson, Jack Whilhite, Jacob Ihrle (Assistant City Planner), Justin Taylor (City Director), Whitney Shilling (Recording Secretary), Scott Reust (City Attorney)

Absent: Rick Keeven

CALL TO ORDER

Allen called the meeting to order.

APPROVAL OF MINUTES

The March 22, 2021 meeting minutes were reviewed and presented for approval. Dalton made a motion to approve the April 26, 2021 meeting minutes as presented. Smith seconded the motion. The motion carried unanimously.

ORAL OR WRITTEN COMMENTS OR REPORTS

None

OLD BUSINESS

None

NEW BUSINESS

2021-06-01 - Park Ave and Webber St. – Allow parking lot in R-2 zone – Allen turned the meeting over to the Assistant City Planner Ihrle for a brief explanation of the request. The petitioner is requesting to utilize three lots numbered 166 through 168 as a parking lot in an R-2 Zone. These lots cover approximately .356 acres and are located at the corner of Park Avenue and Webber Street. A portion of these lots are already being used for parking as shown in attachment three. If approved, the parking lot will serve the church located at 614 Old Father Street. Churches are allowed as a special exemption for districts zoned R-2. Further, churches are subject to the minimum parking requirements, one per two employees; plus one per four seats in the main sanctuary area.

It should be expected that parking lots be near churches located in residential districts. The lots, if a variance is granted, would also fall under the landscape buffer and screen requirements contained within the City of Warsaw's municipal code and, "are designed to minimize nuisances between adjacent land uses" (Warsaw Indiana – Code of Ordinances, 13.3). Ihrle recommends that this case should be viewed favorably due to the lack of potential for detrimental impacts on surrounding properties

Allen opened the meeting to any person wishing to speak in favor of the petition. Kimberly Clark, Coldwell Banker, realtor for Betty Wallace, property owner of vacant lots 166-168; Clark stated they want to make the vacant lots a parking lot to go with the adjacent church. The church currently sits on its own lot with very limited parking. Wallace currently owns all seven lots that will be listed for sale. She wants to make sure significant parking is provided with the church when it does sell. Clark stated there have been times in the past when cars do park in the grass when the church ministry was large.

Allen opened the meeting to any person wishing to speak against the petition. Frances Lane, property owner of 617 Webber Street, right behind the church, stated she has lived at that address since the church was remodeled and there has never been enough people attending that church where they had to park on the grass. She stated there has always been plenty of parking for the church. Lane said Wallace has had the church opened about a half dozen times for a healing ministry and at the most five or six cars attend. Lane also stated if the church does open up she doesn't think more than fifty people could attend. She said Park Avenue always had a distaste to people. The city finally fixed the road and people have fixed their homes up. Lane stated it finally has a good reflection and doesn't want to see that area go downhill. She also said she doesn't think Webber Street can handle that kind of traffic, Webber Street is very narrow with no sidewalks. Brenda Houtz, adjacent property owner, stated she owns two properties on the lake and she is concerned about runoff. About twenty years ago when it rained it would run down the hill toward her houses. About fifteen years ago the City of Warsaw paved the alley and it corrected the water from running down that hill. Houtz is concerned when they pave the parking lot it will be higher than the road and push the runoff down the hill towards her house. Allen clarified she is concerned about the drainage and Houtz agreed, drainage is a huge concern for her. Bennie Banghart, property owner at 618 Webber Street, one thing she wants to point out is when she pulls out to Park Avenue from Webber Street there is a dip in the road. She expressed concern about the danger the dip causes.

Allen closed the meeting to the public. Reust reviewed the five requirements needed to pass the motion. Discussion continued. Motion was made by Dalton to deny 2021-06-01- *Use Variance- Park Avenue and Webber Street* to allow parking lot in R-2 zone. Johnson seconded the motion to deny 2021-06-01. The motion passed to deny the request with three nay votes and Allen voting aye.

2021-06-02 – 123 S. Buffalo St. – Allow Tattoo Parlor in C-4- Allen turned the meeting over to the Assistant City Planner Ihrle for a brief explanation of the request. The petitioner has requested a Use Variance to allow a tattoo parlor in a C-4 district. The petitioner has been operating within the City of Warsaw for six years at 2124 E Winona Avenue and is seeking to relocate to 123 S Buffalo Street, at the northeast corner of Buffalo and Market Streets. The hours

of operation will be 12:00 pm to 8:00 pm Tuesday through Thursday and 12:00 pm to 10:00 pm Friday and Saturday. The tattoo parlor will be closed Sunday and Monday. The tattoo parlor is currently employing five individuals and expects to maintain that number of employees if this variance were to be granted. This business would also be occupying a storefront that has been vacant for approximately two years. As tattooing becomes more socially acceptable, it becomes important to embrace these changing attitudes. Many cities of comparable size to Warsaw have loosened the restrictions or have allowed tattoo shops to locate in their downtown such as Cambridge, Ohio (pop. 10,360) and Palestine, Texas (pop. 17,989). Tattoo shops are immune to the negative impacts that e-commerce has on retail businesses that traditionally have occupied this storefront. This combined with the tattoo parlors established business history would indicate that it could be a long-term fixture in downtown and prevent the recurrence of this property becoming vacant. Research has shown that vacant properties have been associated with higher crime rates, reduced property values, elevated risks of fire, and negative public health impacts. During a time when we are experiencing a nationwide increase in storefront vacancies, attracting and promoting sustainable businesses in downtown is important enough to consider a variance such as this. Ihrie recommends that this variance could be ruled 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 request. No person spoke in favor or against the request. Dalton asked for clarification where the tattoo parlor is currently is located and where they want to relocate to. Motion was made by Dalton to approve *2021-06-02- Use Variance- 123 S. Buffalo Street-allow tattoo parlor in C-4*. Smith made the motion to second the request. The motion passed unanimously.

OTHER MATTERS THAT MAY COME BEFORE THE BOARD

- Next meeting will be July 26, 2021

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

Tom Allen, President

Whitney Shilling, Recording Secretary