

MINUTES
BOARD OF ZONING APPEALS

June 24, 2013

The Warsaw Board of Zoning Appeals met for regular session on Monday, June 24, 2013 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, Mary Ellen Jordan, Tammy Dalton, Jack Wilhite, Elaine Call (Common Council Liaison), Adam Turner (City Attorney), Tim Dombrosky (Assistant City Planner), Kim Arnold (Recording Secretary)

Absent: None

CALL TO ORDER

Allen called the meeting to order.

The April 22, 2013 meeting minutes were reviewed and presented for approval. Keeven made a motion to approve the April 22, 2013 meeting minutes as presented; Wilhite seconded the motion. The motion carried unanimously.

ORAL OR WRITTEN COMMENTS OR REPORTS

None

OLD BUSINESS

None

NEW BUSINESS

Item 2013 – 06 -01 – Use Variance – 835 N. Lake St. – Little Blessings Daycare

Director's Comments:

The petitioner has requested a Use Variance to use an existing commercial structure for a daycare. The petitioner wishes to use the building, owned by Mr. Dave Messer, as a daycare on weekdays. They are prepared to make the necessary renovations to comply with the needs of the daycare.

This building has been underutilized in the past because of structural and fire protection requirements. Expanding the permitted uses for it will be of benefit to the community.

The lot has enough parking so that customers will not have to park on the street. Lake Street is an urban principle arterial, so it is already designed to handle any traffic increases from this site.

The daycare will be utilizing an existing underused commercial structure, and only be open during normal business hours. The adjacent property should not be negatively affected.

Commercial daycares are better suited to neighborhood commercial sites and buildings, but commercial daycare centers are permitted only as special exceptions in R-2 and R-3 zones. It is peculiar that any commercial daycare wishing to open in the city will have to receive BZA approval, and they are preferred in residential zones.

This structure has been seeking a tenant for some time now, and this use is very appropriate to the context. The strict application of the zoning ordinance will result in an unnecessary hardship.

The Comprehensive Plan identifies this area as suited for commercial, and adjacent to residential. A daycare is the perfect buffer commercial use not to a neighborhood.

Recommendation:

- The requested use will not be injurious to the public health, safety, morals, and general welfare of the community.
- The use and value of the area adjacent to the property will not be affected in a substantially adverse manner.
- The need for this variance does not arise from some condition peculiar to the property involved.
- The strict application for the terms of the Zoning Ordinance will constitute an unnecessary hardship in the use of the property.
- The approval of this use variance will not interfere substantially with the comprehensive plan.

Based on the information provided and the Findings of Fact, Dombrosky recommended the Board approve the Use Variance to permit a Commercial Daycare Center in a C-2 zoning district located at 835 N. Lake Street.

Bobbi Crouch, representative of the daycare, was present to answer questions from the board members.

With no one else to speak in favor or against the petition the meeting was closed to the public.

The board members discussed the petition.

Keeven made a motion to **approve *Item 2013 – 06-01 – Use Variance – 835 N. Lake St.-Little Blessings Daycare***; Wilhite seconded the motion. Jordan abstained from the vote. The motion carried unanimously.

Item 2013 – 06 -02 – Use Variance – 129 Roosevelt St. – Zachary T. Netzley

Director's Comments:

The petitioner has requested a Use Variance to permit a Church in a C-2 neighborhood commercial zone.

The petitioner wishes to operate a church on the property, which is owned by Mr. Donald E. Klosinski. Mr. Klosinski operates a bookstore out of the building, and has agreed to let the church use some additional space in the back. Churches are allowed as special exceptions in residential districts, and are permitted in the C-4 central business district.

The use will not be injurious to the community.

The use and value of the adjacent areas will not be affected. The church will use an existing separate entrance, and will stay within the sign regulations of a C-2 district. The off-street parking area is adequate to handle the building capacity, and the church size is limited by the small building size.

The C-2 zone is characteristically suited for churches, but they are not permitted there by right. Allowing a church to operate during non-business hours of a retail establishment is a good example of maximizing useable development space and should be encouraged. The strict application of the zoning ordinance in this case is counterproductive.

The Comprehensive Plan does not address this area specifically, but does encourage neighborhood commercial development along Center Street.

Recommendation:

- The requested use will not be injurious to the public health, safety, morals, and general welfare of the community.
- The use and value of the area adjacent to the property will not be affected in a substantially adverse manner.
- The need for this variance arises from some condition peculiar to the property involved.
- The strict application for the terms of the Zoning Ordinance will constitute an unnecessary hardship in the use of the property.
- The approval of this use variance will not interfere substantially with the comprehensive plan.

Based on the information provided and the Findings of Fact, Dombrosky recommended the Board approve the Use Variance to permit a Church in a C-2 zoning district located at 129 Roosevelt Street.

Zachary T. Netzley was present to answer questions from the board members.

With no one else to speak in favor or against the petition the meeting was closed to the public.

The board members discussed the petition.

Dalton made a motion to **approve *Item 2013– 06-02 – Use Variance –129 N. Roosevelt St.- Zachary T. Netzley***; Jordan seconded the motion. The motion carried unanimously.

OTHER MATTERS THAT MAY COME BEFORE THE BOARD

- Next meeting will be Monday, July 22, 2013

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

Tom Allen, President

Kim Arnold, Recording Secretary