

**MINUTES
BOARD OF ZONING APPEALS**

June 23, 2014

The Warsaw Board of Zoning Appeals met for regular session on Monday, June 23, 2014 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, Jack Wilhite, Ron Shoemaker, Tammy Dalton, Mike Valentine (City Attorney), Jeremy Skinner (City Planner), Kim Arnold (Recording Secretary)

Absent: Rick Keeven

CALL TO ORDER

Dalton called the meeting to order due to Allen arriving late.

The May 27, 2014 meeting minutes were reviewed and presented for approval. Wilhite made a motion to approve the May 27, 2014 meeting minutes as presented; Shoemaker seconded the motion. The motion carried unanimously.

ORAL OR WRITTEN COMMENTS OR REPORTS

None

OLD BUSINESS

None

NEW BUSINESS

Item 2014 – 06 - 01 – Variance from Development Standards- N. Bay Drive - Sterling Watkins:

Director's Comments:

The petitioner is replacing an existing accessory building with a new, larger structure. The current building is under the size required to get a permit for construction. It is a legal non-conforming condition because of the amount of time it has existed. Our regulations require it come into compliance if there is significant alteration. The location is in a required front yard, which is not allowed by ordinance.

It is common for lake front properties to have an accessory structure in the “front yard” because of the nature of the lakeside yard. There are other properties in the area that have similar structures and consider their lakeside to be the true front yard. Absent any objections from neighbors, Dombrosky does not anticipate this to be a negative influence on adjacent property.

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 strict application for the terms of the Zoning Ordinance will constitute an unnecessary hardship in the use of the property.

Based on the information provided and the Findings of Fact, Dombrosky recommended the Board approve the Variance from Development Standards to permit an accessory structure in an R-1 zoning district located at 2000 North Bay Drive.

Attachments:

- 1) Findings of Fact
- 2) Aerial photo

Dalton opened the meeting for any person to speak in favor or against the request for variance from Development Standards.

Sterling Watkins was present to explain the request and answer any questions.

The meeting was closed to the public, as there was no one else to speak in favor or against the petition.

Discussion followed between Board members. There were no questions of Mr. Watkins.

Wilhite made a motion to approve *Item 2014 – 06 - 01 – Request for Variance from Development Standards*- Shoemaker seconded the motion. The motion passed unanimously.

A change of order was requested for the following items to accommodate the petitioner of 2014-06-03, Mr. Shock, who works second shift. Tom Allen, President, arrived and presided over the remainder of the meeting.

Item 2014 – 06 - 03 – Use Variance-vacant lots east of Mariners Drive-Shock Farms:

Directors Comments:

Menards originally platted this area for residential development. The development has not happened as quickly as planned, and the land has been leased to a farmer to make use of the land

while it sits undeveloped. The City does not allow commercial farming. This is because the City does not annex farmland unless there is a plan for development. There is no other reason, and farmland is not inherently negative to the City's interests.

This area has been farmed in the past, and therefore will not have a substantial effect on surrounding properties.

This situation is unique because there is a demand for a productive intermediate use while the owner searches for a developer.

The approval will allow the property to be used for a productive purpose while it is on the market for development.

The property remains ready for residential development, following the recommendation of the Comprehensive Plan.

Recommendation:

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;
5. The approval does 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 allow cover crop in an R-1 zoning district located at the above referenced property.

Attachments:

- 3) Findings of Fact
- 4) Aerial photo

Allen opened the meeting for any person to speak in favor or against the use variance.

Richard Shock was present to explain the request and answer any questions.

The meeting was closed to the public, as there was no one else to speak in favor or against the petition.

Discussion followed between Board members. There were no questions of Mr. Shock. The stipulation was presented, based on MS4 recommendation, for a buffer on the northern and southern property lines requiring maintenance of a 50 foot buffer for water run-off.

Dalton made a motion to approve *Item 2014 – 06 - 03 – Use Variance-vacant lots east of Mariners Drive-Shock Farms*. Wilhite seconded the motion. The motion passed unanimously.

Item-2014-06-02- Use Variance-1355 Mariners Drive-Parkview Health System:

Director's Comments:

The petitioner is interested in developing a healthcare facility on the Parkview Warsaw YMCA campus. The current proposal (requiring Plan Commission approval) would see the property subdivided with a new street accessing the facility on the North East side of the YMCA. Currently hospitals are permitted in the Medical district with no conditions, and in the R-2 and R-3 zone districts provided that: "Such uses shall be located on sites having a minimum of five acres in area. Buildings and structures, including heating and air conditioning equipment and laundry and kitchen facilities, shall be located a minimum of 100 feet from adjacent residential districts."

The approval will not be injurious to the public health, safety, morals, and general welfare of the community;

There is no danger to public interests. With the reconstruction of Husky Trail, increased traffic is more than accounted for.

The use and value of the area adjacent to the property will not be affected in a substantially adverse manner;

The surrounding uses are protected. A remedy for the accepted impact of a hospital is already described by the special exception guidelines (written above.) A significant landscaped buffer is being constructed as approved as part of the YMCA's development plan, and the separation and screening is much greater than that which the City currently requires if this same use were to be built in a neighborhood.

The need for the variance arises from some condition peculiar to the property involved;

This variance is needed because of the context of this property. It has significant frontage on a highway which increases its value. It also abuts residential properties. The Y already takes advantage of the frontage on US 30, and a permitted use for the remainder of the property such as an automobile repair service or department store would not be appropriate in the context, so the property has a limited market.

The strict application for the terms of the Zoning Ordinance will constitute an unnecessary hardship if applied to the property;

The hardship in this case is created by the zoning map and ordinance which do not have adequate allowance for medical uses, both in land area and use categories. This compounds the limits on the property stated above.

The approval does not interfere substantially with the comprehensive plan;

The Comprehensive Plan identifies this area for medical and commercial development.

Recommendation: Based on the information provided and the Findings of Fact Dombrosky recommended the Board approve the Use Variance to allow medical offices and a hospital in a C-3 zoning district located at 1355 Mariners Drive.

Attachments:

- 5) Findings of Fact
- 6) Aerial photo

Allen opened the meeting to any person wishing to speak in favor or against the petition.

Peter Mallers, legal representative of Parkview Health System, Inc., was present to speak in favor of the variance and explain tentative plans, Mr. Mallers addressed the points of a Use Variance with visual aids.

Patricia Coy, a resident of the adjacent property, asked to see a landscape proposal. She was not speaking for or against the petition.

Matt Stine, not speaking for or against, asked if an ER, helipad, and fully functional hospital was going to be constructed. He asked if Parkview was considered "not for profit". He began asking about property taxes when he was asked by President Tom Allen and City Attorney Valentine to stop the line of questioning, as it was not relevant to the BZA. The questions would be able to be covered at a City Council meeting in the future.

Diane Quance requested information on the helipad. Dick Moake, of Parkview, compared the number of helicopter landings for this proposed facility to Whitley and Noble County Parkview facilities. The number of landings per month, on average, are under ten.

Patricia Coy, neighbor, asked about the responsibility of maintaining the privacy fence. Dick Moake, of Parkview, explained Parkview would be in charge of maintenance.

Niedra Dobbins expressed concern about shrubs. Chad Zaucha, of the YMCA, explained Parkview and the YMCA would work it out between themselves.

With no other person to speak in favor or against, the public portion of the meeting was closed.

The Board discussed the petition. Discussion concerning ingress and egress was brought up. As the area develops, changes will be made to Mariners Drive and the possibility of other changes will be discussed and researched with INDOT and MACOG.

Shoemaker made a motion to approve *Item-2014-06-02-Use Variance-1355 Mariners Drive-Parkview Health System, Inc.*-Dalton seconded the motion. The motion carried unanimously.

OTHER MATTERS THAT MAY COME BEFORE THE BOARD

- Next meeting will be Monday, July 28, 2014

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

Tom Allen, President

Kim Arnold, Recording Secretary