

**MINUTES
BOARD OF ZONING APPEALS
NOVEMBER 28, 2016**

The Warsaw Board of Zoning Appeals met for regular session on Monday, November 28, 2016 at 7:00 p.m. in the City Council Chambers, 102 S. Buffalo Street, Warsaw, Indiana. The following members were present or excused:

Present: Rick Keeven, Tammy Dalton, Dan Smith, Jeff Johnson, Jeremy Skinner (City Planner), Justin Taylor (Assistant City Planner), Kim Arnold (Recording Secretary), Mike Valentine (City Attorney)

Absent: Tom Allen

CALL TO ORDER

Keeven called the meeting to order.

The October 24, 2016 meeting minutes were reviewed and presented for approval. Johnson made a motion to approve the October 24, 2016 meeting minutes as presented; Smith seconded the motion. The motion carried unanimously.

ORAL OR WRITTEN COMMENTS OR REPORTS

None

OLD BUSINESS

None

NEW BUSINESS

Item 2016-11 -01 –Withdrawn

Item 2016-11-02 – 1100 N. Park Avenue- Ben Thomson – Special Exception

Assistant Planner Taylor gave a brief explanation of the request. The petitioner has requested a Special Exception to permit a home occupation in an R-2 zoning district. The occupation entails the occasional use (4 or 5 times annually) of the property to assemble wooden pallets. No materials are stored long term on site and the work is being performed during normal business hours.

The guidelines for a home occupation are below;

p. Home occupations shall be permitted in any principal residential building or structure located in R-2 and R-3 zone districts, provided that:

1. No persons other than members of the family residing on the premises shall be engaged or employed in such occupation.
2. The use of a dwelling unit or private garage for a home occupation shall be clearly incidental to its principal use for residential purposes.
3. There shall be no change in the outside appearance of the building or premises or other evidence of such occupation other than one sign, not exceeding one square foot in area, nonilluminated and mounted flat against the wall of the principal building.
4. There shall be no outside storage.
5. No equipment or process shall be used which creates noise, vibration, glare, fumes, odors or electrical interference outside the dwelling unit in amounts greater than present under normal circumstances.
6. No commodity shall be sold on the premises.
7. No mechanical equipment shall be installed except that which is customarily used for purely domestic or household purposes.

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 Taylor recommended the Board approve the special exemption to permit a home occupation in a R-2 zoning district located at 1100 N Park Ave.

Keeven opened the meeting to any person wishing to speak in favor or against the petition. Ben Thomson, the petitioner, was present to explain the request and answer any questions. No other person was present to speak in favor or against the petition. Keeven closed the meeting to the public.

Motion was made by Dalton to approve **2016-11-02**. Smith seconded the motion. The motion passed unanimously.

2016-11-03- 222 N McKinley St.-Brad Settle-Special Exception-

Assistant Planner Taylor gave a brief explanation of the request. The petitioner has requested a Variance to permit the construction of a duplex in a C-2 zoning district. This request is in line with the comprehensive plan (Urban Residential) and complements the adjacent land uses.

Developments of this kind should be encouraged to promote the desired density in this neighborhood.

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.

Recommendation:

Based on the information provided and the Findings of Fact Taylor recommended the Board approve the Use Variance to permit the construction of a duplex in a C-2 zoning district located at 222 N. McKinley.

Keeven opened the meeting to any person wishing to speak in favor or against the petition. Brad Settle, the petitioner, was present to explain the request and answer any questions. No other person was present to speak in favor or against the petition. Keeven closed the meeting to the public.

Smith made a motion to approve **2016-11-03**. Dalton seconded the motion. The motion carried unanimously.

2016-11-04 – 1404 E Center St. – Rich & Lisa Timmerman-Special Exception-

Assistant Planner Taylor gave a brief explanation of the request. The petitioner has requested a Special Exception to permit a home occupation. This request is in line with the comprehensive plan (Urban Residential) and complements the adjacent land uses. There are several other home occupations located within the immediate vicinity and nature of this occupation conforms to the home occupation guidelines outlined in the city ordinance (see below).

The guidelines for a home occupation are below;

p. Home occupations shall be permitted in any principal residential building or structure located in R-2 and R-3 zone districts, provided that:

1. No persons other than members of the family residing on the premises shall be engaged or employed in such occupation.
2. The use of a dwelling unit or private garage for a home occupation shall be clearly incidental to its principal use for residential purposes.
3. There shall be no change in the outside appearance of the building or premises or other evidence of such occupation other than one sign, not exceeding one square foot in area, non-illuminated and mounted flat against the wall of the principal building.
4. There shall be no outside storage.
5. No equipment or process shall be used which creates noise, vibration, glare, fumes, odors or electrical interference outside the dwelling unit in amounts greater than present under normal circumstances.

6. No commodity shall be sold on the premises.
7. No mechanical equipment shall be installed except that which is customarily used for purely domestic or household purposes.

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 Taylor recommended the Board approve the special exemption to permit a home-based business in a R-2 zoning district located at 1404 E Center St.

Keeven opened the meeting to any person wishing to speak in favor or against the petition. Rich and Lisa Timmerman, the petitioners, were present to explain the request and answer any questions. No other person was present to speak in favor or against the petition. Keeven closed the meeting to the public.

Discussion followed concerning future development of the site. Lance Grubbs, a neighbor, expressed concern of the location of the driveway on the lot.

Motion was made by Dalton to approve **2016-11-04**. Johnson seconded the motion. The motion carried unanimously.

2016-11-05 – Withdrawn

2016-11-06-900 S Union St. – Vanadco Signs-Variance from Development Standards-

Assistant Planner Taylor gave a brief explanation of the request. The petitioner has requested a Variance to permit an internally illuminated monument sign within a R-1 zoning district. The proposed sign is comparable in size to the existing sign it would be replacing and features a 2'7" x 6'8" amber electronic messaging board (see sign elevation). This site is classified as institutional per the comprehensive plan therefore the requested variance would not be unusual for this category of land use.

Existing R-1 Sign Ordinance

RR-1, R-1, R-2 Residential Districts

A. One monument sign is permitted at each primary entrance to a subdivision, apartment complex, or other residential development.

a. The sign shall not exceed 16 square feet in area and 4 feet in height.

b. The sign may be externally lit.

c. The sign shall incorporate at least one of the following decorative features:

i. Landscaping around the base of the sign equal to ½ the area of the sign face

- ii. Decorative brick embellishments around two sides of the sign
- iii. An alternative design feature if approved by the Warsaw Planning Department

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 Taylor recommended the Board approve the variance to permit a sign in a R-1 zoning district located 900 S Union St.

Keeven opened the meeting to any person wishing to speak in favor or against the petition. Vanadco Signs represented by Lauren Overmyer, the petitioner, was present to explain the request and answer any questions. No other person was present to speak in favor or against the petition. Keeven closed the meeting to the public.

Motion was made by Johnson to approve **2016-11-06**. Dalton seconded the motion. The motion carried unanimously.

2016-11-07-201 S Detroit St.-Little Crow Lofts-Variance from Development Standards-

Assistant Planner Taylor gave a brief explanation of the request. The petitioner has requested a Variance to allow fewer than the permitted number of parking spaces for a residential development in a C-4 zoning district. The proposed parking area will provide 47 spaces including 2 accessible spaces. The project will create 42 residential units. If the petitioner was to provide 2 spaces per unit, as outlined in section 16.1. of the Zoning Ordinance, this would require 84 spaces.

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 Taylor recommended the Board approve the Variance from Development Standards for the property located at 201 S Detroit St.

Keeven opened the meeting to any person wishing to speak in favor or against the petition. Kevin McDonald, of Commonwealth, representing the petitioner, was present to explain the request and answer any questions. Suzie Light, of the Kosciusko Community Foundation, spoke in favor of the project as they are selling the building/property to Commonwealth. As there was no other person to speak in favor or against the petition, the meeting was closed to the public.

Motion was made by Smith to approve **2016-11-07**. Johnson seconded the motion. The motion carried unanimously.

2016-11-08-Mitchell’s Blvd-Biggs Indiana Properties LLC-Variance from Development

Standards- Assistant Planner Taylor gave a brief explanation of the request. The petitioner has requested a Variance to permit a 5’ side yard setback instead of the current 7’ setback. This variance will apply to all side yard setbacks in phase #1 of this development, except corner lots (1 ,7 ,16 ,17) and where lots are effected by easements (2 E Side, 3 W Side, 4 E Side, 5 W Side, 8 SE Side ,9 NW Side).

By upholding the setbacks at easements and corner lots this request will **not** be injurious to public health or safety in creating obstructions to sightlines, utilities, or drainages systems. This variance request is in line with the intention of the comprehensive plan to create a Medium Density Residential land use in this area.

12.0. - Residential districts.

Table 3. Residential Uses and Requirements - One Family Dwelling

Zoning District	RR-1	R-1	R-2	R-3
Minimum Front Yard	35’	25’ ₍₂₎	25’ ₍₂₎	20’ ₍₂₎
Minimum Side Yard	10’	7’ ₍₁₎	6’ ₍₁₎	5’ ₍₁₎
Minimum Rear Yard	25’	25’	*20’	*15’

5 - On a corner lot, the side yard facing the street shall not be less than 15 feet. (All Districts)

Comprehensive Plan – Medium Density Residential

Purpose

- To establish areas for people who desire a single-family, medium density housing lifestyle.

Intensity/Density

- Density in platted subdivisions between 3 and 5 dwelling units per acre.

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 Taylor recommended the Board approve the Use Variance to permit a 5’ side yard setback at Belle Augusta - Mitchell’s Blvd, Mandy Ct (Off Co Rd 225 East, Warsaw)

Keeven opened the meeting to any person wishing to speak in favor or against the petition. Kevin McDermit of Loughed and Associates and Kevan Biggs from Biggs Inc., the petitioner, were present to explain the request and answer any questions. Kristy Newton, resident of Indian Springs, was present to speak against the petition. She does not want houses to be too close together. Eric Manning, resident of Knollwood, worried his property would be affected. Assistant Planner Taylor explained it does not change anything except between the proposed houses in that subdivision only. It created no change to the rear of Mr. Mannings property; he has no problem with the petition. There was no other person present to speak in favor or against the petition. Keeven closed the meeting to the public. Motion was made by Johnson to approve **2016-11-08**. Smith seconded the motion. The motion carried unanimously.

OTHER MATTERS THAT MAY COME BEFORE THE BOARD

Next meeting will be Monday, December 27, 2016

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

Rick Keeven, President

Kim Arnold, Recording Secretary