

MINUTES
BOARD OF ZONING APPEALS
October 22, 2018

The Warsaw Board of Zoning Appeals met for regular session on Monday, October 22, 2018 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, Tammy Dalton, Jeff Johnson, Justin Taylor (Assistant City Planner), Aerial Jones (Assistant City Planner), Kim Arnold (Recording Secretary)

Absent: Mike Valentine (City Attorney)

CALL TO ORDER

Allen called the meeting to order.

The September 24, 2018 meeting minutes were reviewed and presented for approval. Keeven made a motion to approve the September 24, 2018 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 2018-10-01 – Use Variance – 1202 E. Winona Ave. - Allow Auto Sales in a C-2 Zoning District – Ryan Motors - Allen turned the meeting over to Assistant Planner Jones for a brief explanation of the request. The petitioner is requesting a Use Variance to allow an auto sales shop to be located within a C-2 zoning district. The property is located at 1202 East Winona Avenue. The surrounding buildings have commercial uses. The petitioner has been operating his auto sales business at another site and is looking to expand the business at this location with no intentions to increase impervious surface area on the lot and is currently utilizing the garage within the empty building for auto detailing purposes. During the hours of operation, Ryan Motors expects approximately 1 to 6 customers, and is anticipated to have no more than 20 cars on the lot at a time.

12.1.2. - C-2 general business district.

12.1.2.1. Description of district. The C-2 general business district is intended to provide areas to be used for certain types of retailing uses and certain service uses along with wholesale and

warehousing uses that are normally associated with commercial uses. 12.1.2.2. Development standards. See Table 5 for the development standards for this [C-2] district. 12.1.2.3. Additional requirements. A development plan [for the C-2 district] shall be submitted to the plan commission for review and approval prior to issuance of any building permit according to the provisions in section 13.6 of this ordinance.

| USES | RR-1 | R-1 | R-2 | R-3 | C-2 | C-3 | C-4 | C-5 | I-1 | I-2 | I-3 | M |
|-------------------------------|------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|---|
| Automobile dealers/RV dealers | | | | | | P | | P | | | | |

The Planning Department has some concerns about maintaining clear sightlines for ingress and egress along Winona Ave as well as potential overcrowding of this lot. To mitigate these concerns, the planning department recommends that the board approve this request with the following conditions. 1) Any ingress and egress from Winona Ave must be a minimum of 100 feet from the intersection of Bronson St and Winona Ave. 2) Cars displayed along Winona Ave cannot encroach onto the right of way. 3) All other ordinances regarding auto sales must be upheld.

Allen opened the meeting to any person wishing to speak in favor or against the petition. Jerry Ryan, the business owner, was present to explain the request and answer any questions. Allen asked Mr. Ryan if he had been made aware of the stipulations of the Planning Department. He had not been advised of the stipulations but had no issue with them. No other person was present to speak for or against the petition. Allen closed the meeting to the public.

Motion was made by Keeven to approve with recommended stipulations from the City Planning Department *Item 2018-10-01 – Use Variance – 1202 E. Winona Ave. - Allow Auto Sales in a C-2 Zoning District – Ryan Motors.* Johnson seconded the motion. The motion passed unanimously.

Item 2018-10-02 - Variance from Development Standards – NE Corner Shelden & Petro Dr. - Allow 5’ Front Setback Variance from the 25’ Front Setback Requirement – Spiars Engineering - Allen turned the meeting over to Assistant Planner Jones for a brief overview of the request. The petitioner has requested a Variance from Development Standards to reduce the front yard setback to 20 feet to construct a Fairfield Inn Hotel at Shelden Street. The parcel that the petitioner wishes to build on is flanked by two public roads. The City’s ordinance considers lots with this configuration to have two front yards. The intention of this ordinance is to maintain uniformity and esthetics throughout a development.

Corner lots in residential areas are permitted to have side yard setbacks that are 10’ less than front yard setbacks. Our current ordinance does not make this provision for commercial districts.

While there are good reasons for this ordinance it can sometimes create unnecessary limitations on the buildable area available to developers.

Setbacks C-3

| | Minimum |
|------------|---------|
| Rear Yard | 20' |
| Side Yard | 0' |
| Front Yard | 25' |

Based on the information provided, it is the opinion of the Planning Department that this case could be viewed favorably, when measured by the criteria explained within the Findings of Fact.

Allen opened the meeting to any person wishing to speak in favor or against the petition. Rusty Spiars, of Spiars Engineering LLC was present to answer any questions and explain the request. Keeven asked if the reduction in setback would cause an issue with the landscape. Spiars presented a color photo of the proposed exterior the building for members to review. Spiars assured the members the landscape plan will not be affected. No other person was present to speak for or against the petition. Allen closed the meeting to the public. Smith made a motion to approve *Item 2018-10-02 - Variance from Development Standards – NE Corner Shelden & Petro Dr.* Dalton seconded the motion. The motion passed unanimously.

Item 2018-10-03 - Variance from Development Standards – 1015 Country Club Lane - To Allow a 2'3" Variance from Side- yard Setback /4' from Lakefront – Doug Brumfield Jr. -

Allen turned the meeting over to Assistant Planner Jones for a brief overview of the request. The petitioner is seeking a 2-foot 3 inch variance from Side Yard Setback and a 4 foot variance from Lake Front Setback. The petitioner wishes to construct a wooden deck onto the lake house for leisure purposes. The property is in the part of town characterized by lake cottages, many of which are non-conforming with existing setback regulations. The majority of the homes within the immediate area do not meet the required setbacks.

Density is desirable in this area and additions to homes should be encouraged to maintain value in a competitive market. The maximization of space should be prioritized over preservation of aesthetics. Since homes in this area generally do not meet setback requirements, uniformity is not a goal. Variance from aesthetic requirements will not have a negative effect on nearby properties.

12.0. - Residential districts.

Table 3. Residential Uses and Requirements - One Family Dwelling

Setbacks R-1

| | Minimum |
|------------|---------|
| Rear Yard | 25' |
| Side Yard | 7' |
| Front Yard | 25' |

There is some concern with fire safety when allowing residences to encroach on property lines. The Planning Department recommends that the board approve the 4-foot variance for the lake front setback and a 2-foot variance from the side yard setback instead of the requested 2-foot 3-

inches. There is a precedent for allowing 5-foot side yard setbacks in an R-1 zoning district; however, we do not think it is advisable to create a side yard that is less than 5-feet within an R-1 zoning district.

Based on the information provided and the Findings of Fact it is my recommendation that the Board could reasonably provide a positive finding of fact in order to grant approval for the requested variance from development standards.

Allen opened the meeting to any person wishing to speak in favor or against the petition. Bobbi Kosins, the property owner, was present to explain the request and answer questions. Allen asked Kosins if she was aware of the recommendation of the Planning Department. She had not been made aware of the reduction in size of the side set back. She would be willing to comply with the recommendation. No other person was present to speak for or against the petition. Allen closed the meeting to the public.

Motion was made by Dalton to approve *Item 2018-10-03 - Variance from Development Standards – 1015 Country Club Lane - To Allow a 2’3” Variance from Side- yard Setback /4’ from Lakefront.* Smith seconded the motion. The motion passed unanimously.

Item 2018-10-04 – Variance from Development Standards – 1005 Anchorage Rd. - Allow A 39.5’High /210 Sq. Ft. Sign in a C-3 – Professional Permits - Allen turned the meeting over to Assistant Planner Jones for a brief explanation of the request. The petitioner is seeking a variance from development standards to allow a 39.5’ high/210 Sq. Ft sign in a C-3. The existing steel poles will be used, and the petitioner will be installing a new sign on top of the poles. Signs are typically grandfathered in, but because the sign hasn’t been used in over a year, according to the ordinance, it requires a variance for them to use a sign that is considered existing non-conforming use such as this one. The proposed sign would not create a detrimental impact on visibility for passing motorists. The streetscape in this area features several large signs including a billboard so the impact on the existing esthetics would be minimal. The proposed sign will be 39.5’ tall. That is 5.5 feet shorter than the existing sign. The sign face will remain the same. To give some prospective the existing sign at Meijer is 35’ tall.

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|------------|---|
| C-3 | Arterial Commercial District |
| | A. One sign is permitted for every frontage on a public road. (e.g. interior lot = 1, corner lot = 2) |
| | a. 150 square feet maximum area per individual sign, 300 total. |
| | b. 24 feet maximum height. |
| | B. In addition, temporary signs are permitted, subject to section 13.4.3.1. |
| | C. In addition, wall signs are permitted up to 1.5 square feet in area per linear foot of |

| | |
|--|--|
| | road frontage, up to a maximum of 40% coverage. |
| | a. For lots with multiple businesses, wall signs are permitted up to 1.5 square feet in area per linear foot of the individual businesses' façade with a maximum of 40% façade coverage. |
| | D. In addition, window signs are permitted up to 40% coverage of all windows combined. |

Based on the information provided and the Findings of Fact it is the Planning Department recommendation that the Board could provide approval for the requested variance from development standards.

Allen opened the meeting to any person wishing to speak in favor or against the petition. Gary Potts, of Professional Permits, representing the owner was present to explain the request and answer any questions. He explained the sign will be digital and will comply with any ordinances of the City of Warsaw. Smith asked if the sign would dim at dark. Potts responded it would. Allen noted the ordinance should be specific about digital signs dimming at night and added the stipulation this sign should dim at night. No other person was present to speak in favor or against the petition. Allen closed the meeting to the public. Johnson made a motion to approve *Item 2018-10-04 – Variance from Development Standards – 1005 Anchorage Rd. - Allow A 39.5' High /210 Sq. Ft. Sign in a C-3.* Keeven seconded the motion. The motion passed unanimously.

Item 2018-10-05 – Variance from Development Standards – 106 Ramar Dr. - Allow A 2' Variance from the 7' Side Yard Set-back – Chad White - Allen turned the meeting over to Assistant Planner Jones for a brief explanation of the request. The petitioner has requested a Variance to reduce the side yard setback from 7-feet to 5-feet to construct a carport. Additions to homes in this area should be encouraged to maintain value in a competitive market. R-1 zoning districts are the most restrictive of the residential zoning districts, however, there is a precedent for allowing a 5' side yard setback in some cases throughout the City.

There are several neighboring properties that have existing non-conforming front setbacks, so this request will not be out of character with the adjacent properties. Adding a carport will not impact the right of way and will not be injurious to public health or safety of the neighborhood. This variance request is in line with the intention of the comprehensive plan to maintain medium density residential development in this area.

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.

12.0.1.2.

Development standards. See Table 3 for the development requirements of this [R-1] district. Also see general provisions for residential districts within this section (see [section] 12.0.4).

Based on the information provided, it is the opinion of the Planning Department that this case could be viewed favorably, when measured by the criteria explained within the Findings of Fact.

Allen opened the meeting to any person wishing to speak in favor or against the petition. Chad White, the property owner, was present to explain the request and answer any questions. No other person was present to speak in favor or against the petition. Allen closed the meeting to the public. Keeven made a motion to approve *Item 2018-10-05 – Variance from Development Standards – 106 Ramar Dr. - Allow A 2' Variance from the 7' Side Yard Set-back.* Dalton seconded the motion. The motion passed unanimously.

OTHER MATTERS THAT MAY COME BEFORE THE BOARD

- Next meeting will be November 26, 2018

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

Tom Allen, President

Kim Arnold, Recording Secretary