

**Valparaiso Board of Zoning Appeals
Regular Meeting Minutes
May 20, 2025**

The regular meeting of the Valparaiso Board of Zoning Appeals was held at 5:30 p.m. on Tuesday, May 20, 2025, at Valparaiso City Hall, 166 Lincolnway, Valparaiso, Indiana. Kyle Yelton presided. The Pledge of Allegiance was said. Members present were Sarah Litke, Hannah Trueblood, James Bilder, Paul Reed, and Kyle Yelton. Also present were Attorney Patrick Lyp, Jessica Gage, Seyi Aletan, and Petitioners. Bob Thompson was absent.

MINUTES

Adoption of Meeting Minutes – April 15, 2025

Motion: Paul Reed moved to approve the minutes from the April 15, 2025 meeting. Jim Bilder seconded the motion and so approved with a 5-0 voice vote.

Old Business and Matters Tabled

VAR25-005 (Public Hearing)

A petition filed by S & L Properties Thornapple LLC (Owner) c/o McCON Building Corporation and SAM. This variance request pertains to the development proposal of a Culver's Restaurant at 852 Thornapple Way. The zoning classification is CG General Commercial. The petitioner requests the following variances from the Valparaiso Unified Development Ordinance (UDO):

- From 11.502 to reduce the required maximum horizontal dimension and offsets to that shown per plan; and
- From 11.506 to reduce the required fenestration to that shown per plan.

Chris McGuire with McCon building Corporation presented. They are a general contractor based in Dodgeville WI. Variances for window coverage and the building footprint configuration are requested. The newer restaurants have an urban design type of styling. The building is to be pulled up to the street. They are trying to get some distance from the residential neighbors to the south. They have all of the water detention to the south. The detention basin will be clear of water two hours after a rain. This is going through a study and engineering review. The traffic study came back showing one additional car in the queue going to the exit on the stoplight. It also mentioned they may need to talk about the timing of the lights. The drive through is a horseshoe shape and is on the westerly side of the property. From the north side of the building on the west side there is an area that leads to the drive through bump out. The drive through bump out is being measured as part of the north façade. They have a lot of monitors and other equipment in that area and are asking for a variance for window coverage. There will be landscaping to screen the drive through bump out. Window coverage relief is also requested for the south side (rear) of the building. They put in lighter bricks with the darker color accent to give the appearance of windows. Landscaping is proposed to screen that side of the building. The east side with all of the awnings is main entrance side of the building. They are supposed to

have a 6' bump out on the east side of the building and they only have 2.5'. They have a longer dimension change than required along that side. He understands the 6' bump out in a large structure such as a Walmart or Home Depot, but this building is much smaller. On the westerly side, they added artwork along the drive through order waiting area. This is where the mechanical room is in the kitchen.

Public Hearing

Darrell Chenault – 2351 White Water Court. He is against Culvers being in this location. The gentleman presenting did not mention a drive through. He would like to know what time of year they did the traffic study. There is a lot of traffic that goes from Highway 2 to US 30. There are a lot of accidents. This is a safety risk. There was a bank there but it was limited traffic. We all know how busy Culver's in Valpo is. If it goes in if there is some sort of design or engineering where the traffic is suitable that would be nice. His main concern is safety and a lot of traffic. A few years ago there was a fatality accident at that intersection.

Sam Governale – 2352 White Water Court. The subdivision has curvy roads, no sidewalks, little lighting and people walk their dogs all the time in the street. He would like to know what happened to CR 100. It looks to him like it is going into the parking lot. This would be Thornapple.

Jessica Gage – She showed him where Thornapple is on the map. This will be the only in and out for the facility.

Sam Governali – He is worried about how he will get to his house. He is going to have to go through the day care center. It is a hassle to get out to US 30 right now. There is a lot of empty land on Highway 2. What happens to the people in the condos? He drives by there every day. It looks like they are in Culvers parking lot.

Jessica Gage – Millpond and Thornapple remain the same. Those are unchanged with the project. There will be a detention retention area with landscaping that is shown.

Ken Martinek – 2064 Maumee Drive. He likes Culvers. He does not like this design. Thornapple Drive is a single lane on either side of that median. Drivers make it a double lane and squeeze by each other because there is so much traffic and you would never make the light at US 30. On the east side of Thornapple, there is a bank, frontage road, and parking lot for a retail strip mall that empties onto Thornapple. It is not unusual to sit through two cycles of the light at the intersection. Adding this restaurant will be gridlock. There is no provision to handle the additional traffic of a fast food restaurant. There are no sidewalks. The County striped a bike lane. The plan is inadequate to handle the amount of traffic that is going to be there. He opposes the Culvers restaurant in this spot.

Mary Sandberg – Condos across the street. She can sit at her window and see Thornapple. There are numerous fire trucks and ambulances that go down that street. There are no

provisions to pull over for the emergency vehicles. The other morning she pulled onto Thornapple at 9:30 a.m. There were nine cars ahead of her. It is going to be gridlock. They pay for their own street. That is going to cost the condos more money to have to repair it more often.

Jean Stoelb – 1179 Vanderburgh. There are times in the morning when you will wait at least two cycles of the light to get out onto US 30. The entrance on Thornapple going out onto US 30 needs to be widened for this project. Culvers is her favorite. She thinks something smaller would be easier to handle for the people that live here. She is also concerned about the kids in the neighborhood who use the bike path to walk, walk the dogs, ride their bikes. This is not the right area. Vanderburgh Street and Wells Street also pay for their own street repairs. This is going to be a financial disaster for the residents. She thinks the housing values are going to take a dip.

Darrell Chenault – He is surprised the HOA is not here. The residents pay pretty good money for that area. He thinks it is ironic the bank was knocked down today on the same day as this meeting.

Councilman Robert Cotton – When he goes through McDonalds and gets coupons they always ask him his favorite restaurant. He always tells them Culvers. This is a residentially oriented area. He is wondering how this project got this far. Going from a bank that is pretty much 9-5 now to Culvers which is dramatic as it relates to the impact on this neighborhood. It does not seem appropriate for this area.

Sam Governale – He wanted to mention there are a lot of school buses. He discussed the back up on US 30 and Thornapple. They could have put it across from Harley Davidson, but now that is going to be a hotel. There was a sign he wanted to read on the property, but had to park and walk back to it. He is not in favor of this location.

Ken Martinek – 2064 Maumee Drive. What is “fenestration”?

Sarah Litke – Windows and doors.

Seeing no one else wishing to address the Board, Kyle Yelton closed the Public Hearing.

Rebuttal from Petitioner

Chris McGuire – There will no longer be driveway access onto Millpond like the bank had. They only have access to Thornapple. The intention is to only capture traffic off of US 30. Chase Bank was the seller of the property. Chase had a very short due diligence period. Most of the comments related to morning traffic. Culvers opens at 10:00 a.m. A few are in earlier starting at 6:00 a.m. to start prepping. They are planning heavy landscaping to separate from the neighboring properties on the south. The existing trees along Millpond that are there will remain there. He understands morning traffic. Culvers will have peak hours for lunch and

dinner. School bus drop off in the evening is between 3:00 and 5:00. Culvers is usually busy from 5:00 until 7:00. They are open later, but that would be for people after games, etc.

Questions/Comments from the Board

Attorney Patrick Lyp – For those of you who may not know, this Board is called a Board of Zoning Appeals. The City has what is called a Unified Development Ordinance. It is basically a zoning code that tells you two things. One is what you can do on the property and, secondly, there is a list of rules as to if you are building something on your property, what you can do and what you can't do -- how big the building can be, how close you can be to a property line, things of this nature. This property is zoned Commercial. As a starting point, Culvers has the absolute right to build a restaurant on this property, so even if the City, Mayor, Council, everybody sitting here said they do not want this on this location, legally they cannot say that. He wants to make sure everyone understands the Board is not making a decision if the restaurant is a good idea or a bad idea. Under the zoning code, the type of use is allowable. What this body is looking at is the fenestration percentage and some deviation to the way the building is laid out. The Board can certainly take into its decision the comments made here, but this is not a referendum on the use.

Jim Bilder – Since ingress and egress is going to be limited to Thornapple, what did the traffic study show?

Chris McGuire – A summary is they may want to look at the signals from a timing perspective, but it did not warrant any modifications to the intersection as far as signals, lanes or anything else.

Jim Bilder – Was this basically traffic patterns back and forth on US 30 with a market study estimation as to how many people would be apt to turn off of us 30 onto Thornapple to visit the restaurant versus the traffic that is on there now?

Chris McGuire – They examined the traffic that is on there now. Culver's perceives itself as being quick serve, quick casual as compared to McDonalds. It gets lumped in with fast food as far as traffic studies are concerned.

Jessica Gage – The representative referred to a traffic study that was requested by the City Engineer when the concerns first started coming in about traffic. The City Engineer has reviewed the study and it checked out. If we could switch over to the architecture conversation. Starting with the north side, the side that faces US 30, there is a small percentage of less window coverage on that side. The drive through projection does not have windows. That is 43' back from the front façade on us 30, but it was counted as part of the front façade for the calculation. The south side, the back side, has zero windows instead of the 30%. Millpond is a private street. There is a small strip of land still owned by the HOA. The bank had previously had an easement agreement with the HOA. Because nothing could be built in that small strip there, for review purposes staff required the same fenestration requirements as if it were a street.

The other issue is about the building footprint. Some of the building facades are more than 40% uninterrupted and the petitioner described the recess and projection variances. Staff provided more detail in notes to the Board, but she wanted to explain to the people present at the meeting what the two variances are on the agenda.

Hannah Trueblood – she has no questions but wants to address the people who took time to come today. She wants to make sure they know it was not a waste of time to come in and talk about their concerns. They are heard. They are valid. There are people in the room that have a say in future dealings with the City. She has heard them and encouraged them to continue to be involved and to look into other meetings and come to City Council to speak with the City. This is how we have a successful City is with that communication between citizens and us. It is not an us versus them thing. She agrees with the concerns brought by the community. Reality is the BZA does not have the ability to rule on that. The variances are architectural.

MOTION: Hannah Trueblood moved to approve VAR25-005. Sarah Litke seconded the Motion. Upon roll call vote the motion passed with a 5-0 roll call vote.

Roll Call Vote:

Paul Reed – Yes

James Bilder – Yes

Hannah Trueblood – Yes

Sarah Litke – Yes

Kyle Yelton – Yes

New Business with Public Hearing

VAR25-007 (Public Hearing)

A petition filed by Gordon Bailey (Owner). The petitioner requests the following variances from the Valparaiso Unified Development Ordinance (UDO): Table 2.302 to allow a privacy fence in the street side yard (per plan provided) at 1013 Elmhurst Avenue. The variance request incorporates three development standards variances – 6ft height, full opacity, and location. The zoning classification is NC60 Neighborhood Conservation.

Gordon Bailey presented. He is wanting to replace a chain link fence on the north side of his property. It was damaged while they had to do an ADA compliant addition to his house. They got an estimate for a 6' PVC clay color fence and tearing down the entire chain link fence so it would have a uniform look. They were made aware that it is considered a front-facing property. There is elevation going up to the fence that prevents foot traffic from going up to that side of it like it was a front yard. There are no sidewalks there. They put in a dusk-to-dawn light to light in the backyard. They are worried about security with a lower fence. Last summer they had several incidents where the house was egged, rocks thrown, and pumpkins thrown at the house. There is a door on the back of the house that is an emergency ingress and egress. Security is important. The fence does not block any line of sight or impede traffic in any way. Directly behind the house is an unimproved alley. There is an empty lot, which they expect will be built on in the near future. He is looking for the new fence to be more of a beautiful fence rather than an eyesore. They took several pictures throughout the neighborhood just to show

that 6' fences are not uncommon in the neighborhood. They have submitted a second fence plan. The alternate plan connects new fencing to the existing fence; they are hoping to not have to do that because of how it will look.

Public Hearing

Linda Flori – 1011 Elmhurst. She lives next door. She has no issue with this fence. She thinks it is a great idea.

Seeing no one else wishing to address the Board, Kyle Yelton closed the Public Hearing.

Questions/Comments from the Board

Jim Bilder – You are projecting this 5' out toward the street?

Gordon Bailey – Yes. That is where our current fence is.

Jim Bilder – You are doing the north side and the west side?

Gordon Bailey – Yes. We added the west side because we thought it would look weird having the vinyl fence and then the chain link fence. In the next year or two there will be a house there.

Jim Bilder – What about the south side?

Gordon Bailey – We are going to leave it as is, mainly a financial reason, but it is only seen by us and our neighbor. She has made no comments or concerns that it needs to be replaced or is in ill repair.

Kyle Yelton – Jessica – 6' fences are ok in rear yard and side yard, it is just the front that is required to be 4'?

Jessica Gage – Anything that extends closer to the street than the line of the home needs to be a 4' open style fence.

Gordon Bailey – The person across the street from them put up a new 6' fence and it was approved. It comes off his house quite a bit and then goes along the road. What is proposed is not quite as close to the street as his, but that's a much more approachable front yard than his is with the hill and trees.

Jim Bilder – Is there room to get a sidewalk in there? When the new house is built, it will probably be required to put in sidewalks.

Gordon Bailey – It is 15' from the road to the existing fence. With leveling the grade and the lack of lighting, he does not feel it would be conducive to put a sidewalk in.

Kyle Yelton – Patrick – We have talked about 4' and 6' for front yard. If the Board approves this, his fear is setting a precedent going forward.

Attorney Patrick Lyp – As a starting point, every petition you receive has to stand on its own merits. The fact that a prior variance may have been given, it may have been a different Board, different circumstances. If there are significant similarities, and one has been granted and then deny one, the Board should provide some basis for why it was being denied. There could be different circumstances for each case. All things being equal, more likely than not, a variance for one should be a variance for the other.

Hannah Trueblood – She would be in favor of approving it, unless there is more discussion on why they should not. It seems like a reasonable request to her with all the information that was brought forward.

Sarah Litke – Her only concern is setting a precedent. Having a 6' fence in a front yard in this particular case may not be a big deal, especially considering the one across the street. She is concerned about setting a precedent throughout the City.

Kyle Yelton – That has been his concern.

Paul Reed – He would like to see a 4' fence. They are pretty secure. Nobody gets over his neighbors' fences unless they really try.

Jim Bilder – He asked why they decided to go with 6'.

Gordon Bailey – The current fence is 5'. And 4' is too low. It does not provide any privacy. He is worried about the security. It is teenage people that are vandalizing his house. They have it on ring video. It has been documented by the Police every time it happens. It would be an easy hop for them. When you buy PVC 6' is the standard size. They never would have considered that a front yard because of the slope of the yard and the trees. Before the addition, you could not have put a sidewalk in there unless they cut all trees down and do significant grading. They were going to just replace the broken portion of the fence, then they found out chain link is not allowed. That is when they decided to go with the PVC vinyl fence.

Jim Bilder – Has your home experienced more incidents than other homes on the block?

Gordon Bailey – Yes. We are the only ones on the block.

Meagan Bailey – The last time she reported to the officer she was told there was nothing else within three miles.

Hannah Trueblood – She is concerned about the precedent too. She is supportive of this because it is hard to consider this a front yard. She thinks in the case of precedent this would be hard to compare with a standard front yard.

Jessica Gage – There was a BZA petition for a fence along Chicago Street in 2016 where the street-facing fence was wood privacy and the side and rear was chain link. In that case, the request was to replace the wood privacy fence line with white vinyl privacy fencing (for all fencing on the property to match). In that case, the proposed fence had a decorative top portion. She passed the file to the Board.

Jim Bilder – He would be less concerned about precedent if they had justification for it. He would be in favor of continuing this case and contacting the Police Department to see what the number of incidents are for the neighborhood and for the Bailey home. If three or more of his colleagues have their mind made up already there would not be much point in doing this. He leaves it up to the rest of the Board.

Hannah Trueblood – Since 5' is what is already there, would the Board consider replacing it with 5' instead of the 6'?

Gordon Bailey – He would have to check. He feels he was told 5' would be more expensive because it would be a custom cut.

Jim Bilder – He feels if they are going to approve a 5' fence they could just as well approve a 6' fence.

Jessica Gage – Any new fence would have to meet the current standard.

MOTION: Jim Bilder moved to continue this case for one month so they can get something more tangible in terms of numbers from the Police Department and if they are having a significant problem then it would be a reasonable request. Paul Reed seconded the Motion. Upon roll call vote the motion passed with a 5-0 roll call vote.

Gordon Bailey – It would depend on what is significant. To him it is significant. Their siding has been stained so they have to clean and scrub.

Jim Bilder – The other thing he is talking about is not strictly numbers. He thinks they could get a statement saying what damage has been done. That way this Board or a future Board can say in a similar situation that was approved because of this particular circumstance.

Jessica Gage – She clarified where the fence goes to. The 5' extension is perpendicular to the home and is at the new back corner.

Gordon Bailey – The fence has been down because of construction. It is all open right now.

Jessica Gage – She showed a photo and asked if this is the former home or the new addition.

Gordon Bailey – It is the new addition.

Jessica Gage – The section of the house that has been pelted with things, where on the house was that?

Meagan Bailey – It was on the back-east side and north side and then the west and then the south. They have hit all sides and the roof.

Gordon Bailey – They are just worried that now that school is out and it is getting warm that it will start happening again.

Roll Call Vote:

Paul Reed – Yes

James Bilder – Yes

Hannah Trueblood – Yes

Sarah Litke – Yes

Kyle Yelton – Yes

Hannah Trueblood excused herself from the meeting to attend her daughter's musical performance.

VAR25-008 (Public Hearing)

A petition filed by Luke Land, LLC (Petitioner). This variance request pertains to the development proposal of Luke convenience store and fuel canopy at 1058 South State Road 2. The zoning classification is CG General Commercial. The petitioner requests the following variances from the Valparaiso Unified Development Ordinance (UDO):

- 9.403(B) to reduce minimum adjacent connection spacing from 360' to 348' where the posted speed limit is 45mph;
- 11.502 to eliminate the maximum uninterrupted horizontal dimension and required offsets on the sides and back of the building;
- 11.503(A) to increase the maximum horizontal interval for architectural features on the primary façade from 12' to 18'8";
- Table 11.506 to reduce the required transparency along the primary facade from 60% to 57.8%; and
- 2.403(D)(2) / 2.552(B) to install fuel canopy fascia in "Luke Blue" to match the brand standard colors.

Dan Tursman – Director of Development for the Luke Family of Brands. They are redeveloping the site of the former Pepe's on South State Route 2. They are looking to demolish the existing building. They will redevelop the site with a new gas station, a convenience store, fuel pumps and canopy in front. There will be six fuel pumps and an underground storage tank. They will eliminate the existing north entrance and utilize what currently is there on the south end.

The first variance is for the minimum spacing between the adjacent parcels. The entrance to the property to the north is right at the property line. They have moved their entrance as far south as possible. Technically, it is still 348' and the ordinance calls for 360'. They have a traffic impact study that was performed for this site. It supports this location and they have some recommendations that we will be following in order to get the permitting required for INDOT which would require some striping and turn lanes. He showed the turning movement diagrams for fuel deliveries.

This property sits in a signature corridor overlay district. There are some additional requirements or design elements in the Ordinance. The other variances they are requesting are related to that. 11.502 to eliminate the maximum uninterrupted horizontal dimension and required offsets on the sides and back of the building. They have made modifications to the prototype design to try to meet the spirit of the ordinance and the design guidelines in the overlay district as best they can. They added fenestration to get as close as they can to the ordinance. Table 11.506 to reduce the required transparency along the primary facade from 60% to 57.8%. They have increased the windows to get to 57.8% of the facade. The area where there is no window is a bathroom and another one is a walk-in cooler and storage. With the building offsets, they increased the projection of the front of the building to meet the spirit of the ordinance. There is no practical way to lay out more offset without completely changing the interior flow. That is for 11.502 uninterrupted distance on the sides and back of the building. The north side of the building has a privacy fence adjacent. The back side of the building and other side both face a wooded area. The landscaping plan will be adding trees and buffer to that side of the building as well. They did do some things to address some of the variance requests. 11.503(A) to increase the maximum horizontal interval for architectural features on the primary facade from 12' to 18'8". They have signage on two sides of the building, so there is visual interest. They have wainscot, light sconces, and water table. 2.403(D)(2) / 2.552(B) to install fuel canopy fascia in "Luke Blue" to match the brand standard colors. The ordinance calls for a black or white canopy fascia. This doesn't tie into any of the other design elements of the building. They are asking for the canopy to be blue to match other design elements of the building.

Public Hearing

Seeing no one wishing to address the Board, Kyle Yelton closed the Public Hearing.

Questions/Comments from the Board

Paul Reed – He thinks they are trying to move towards what the Board wants and it is a good effort. The big question is the 360' to 348'. They own two parcels. Why can't they pick up the 12' in parcel 2?

Dan Turzman – There are two existing entrances. The one to the south goes into a vacant lot and then there is access to a billboard sign. They were eliminating the impact of the proximity

of the drive that is currently there and the traffic study supports that. As you get closer to the south, you get closer to a signal light. INDOT has requirements for that.

Jim Bilder – This all seems very reasonable. He has no questions.

Sarah Litke – She mentioned the possibility of having the canopy divided and not all blue like they have done on the front of the building.

Dan Tursman – He said he wasn't sure how to achieve that.

MOTION: Jim Bilder moved to approve the petition as presented. Sarah Litke seconded the Motion. Upon roll call vote the motion passed with a 4-0 roll call vote.

Roll Call Vote:

Paul Reed – Yes

James Bilder – Yes

Hannah Trueblood – Not present

Sarah Litke – Yes

Kyle Yelton – Yes

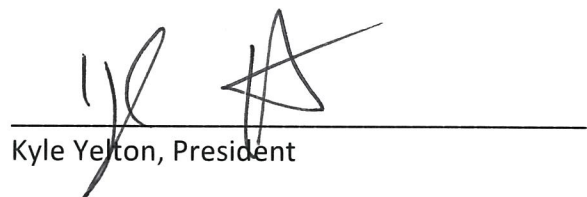
ADJOURNMENT

Motion: Paul Reed moved to adjourn the meeting. Jim Bilder seconded the motion and so approved with a 4-0 voice vote.

NEXT MEETING: Tuesday, June 17, 2025, 5:30 p.m.



Bob Thompson, Executive Secretary



Kyle Yelton, President