

**VALPARAISO BOARD OF ZONING APPEALS**  
**Regular Meeting Minutes**  
**June 16, 2020**

The regular meeting of the Valparaiso Board of Zoning Appeals was held at 5:30 p.m. on Tuesday, June 16, 2020 in the Butterfield Family Pavilion located at Old Fairgrounds Park, 704 McCord Road, Valparaiso, Indiana. Mike Micka presided.

Members present were Diane Worstell, Byron Martin, Melanie Trowbridge, Ryan Wright and President Mike Micka. Also present were Beth Shrader, Carley Lemmon, Attorney Patrick Lyp, citizens, and representatives of the press.

**MINUTES:**

Melanie Trowbridge made a motion to approve the April 21, 2020 minutes as submitted. Ryan Wright seconded the motion. A voice vote was taken and unanimously carried.

**OLD BUSINESS:**

**SE20-001/VAR20-004** - A petition filed by Neighbors Corp, 454 College, Valparaiso, IN. The petitioner requests a special exception from Article 2, Section 2.50(C), of the Valparaiso Unified Development Ordinance, to allow for a multifamily building with five (5) units on a property. The petitioner requests a variance from Article 2, Section 2.507(C)(2), of the Valparaiso Unified Development Ordinance, to allow for a multifamily building with five (5) units on a property that is not a corner lot. A variance from Article 9, Section 9.201, Table 9.201, to vary the required 15 parking spaces, to allow for a total of 7 parking spaces. A variance from Article 3, Section 3.301 Table 3.301(A), to vary the minimum area of parcel proposed for development from 2.5 acres for allow for a minimum area of .2 acres. The property is located at 206 Monroe, in the Residential Transition (RT) Zoning District. Member Byron Martin advised he will be recusing himself from this petition due to his being a Member of the Board for Project Neighbors. Attorney Ivan Bodensteiner presented. The property is located at 206 Monroe. Project Neighbors is proposing a five-unit building with seven parking spaces. The lot is within a half-block of a public city parking lot, if needed, and the average Project Neighbors tenant has 1.5 vehicles so seven will be sufficient. Mr. Jeff Lewis, Project Neighbors architect, stated he started working on this project under the guides of City Planner Tyler Kent before Mr. Kent left his position. The concept presented this evening is based on Mr. Kent's recommendations. The proposed plan is consistent with the neighborhood. It is essentially a four-plex building with a walk-out garden unit that makes it five units with 3 bedrooms, 2 full baths, living and dining space, and laundry and storage areas for each tenant.

Public Hearing: Mike Micka asked if any of the public would like to speak in favor of or in opposition of this petition. Mr. Micka also asked that the public address their questions to the Board Members while at the same time the petitioner will take notes and respond at one time.

Attorney Scott Wagenblast, owner of 202 Monroe Street, Valparaiso, noted numerous concerns with this project such as, lot size, already a highly dense area, limited street parking, size of development on such a small lot, proposed parking is not sufficient, nowhere to place snow removal and sanitation, and number of variances being requested. He is opposed.

Mr. Jan Dick 2505 Camilla, owner of 108 Monroe, Street, Valparaiso, states he is concerned for his existing tenants. Parking and size of development are both issues. He is opposed.

Councilwoman Diana Reed, 706 Monroe, Valparaiso, is in favor of affordable housing, however, wants to maintain adequate housing standards. This proposal does not meet special use requirements. The lot is too small for their proposal and parking is insufficient. She is opposed.

Pastor Erica Gibson-Even, representing area Faith Leaders stated Project Neighbors is a good neighbor and provides necessary and good housing to our community. She and those she represents are in favor.

Mr. Don Evans, 208 Chicago Street, Valparaiso, states our community is in need of affordable housing and he is in favor of this project

Pastor Rich Schmidt, 208 Michigan Avenue, Valparaiso, states this is a good investment and very much needed in the community. He is in favor.

Mr. Paul Schreiner, Executive Director of Project Neighbors, states he is very much in favor of this project and works with people every day with a need for affordable housing. As proposed, the project is in keeping with the neighborhood. He is in favor.

Ms. Liz Rivers, states there is a definite need for this. She is in favor.

Mr. Luke Bohm, states Project Neighbors is a great organization fulfilling a great need. He is in favor.

Mr. Jared Skeed, 105 Monroe Street, Valparaiso, is in favor.

Mr. Greg Johnson, 301 Elmhurst Avenue, Valparaiso, is in favor.

Mr. Tom Calhoun, works at 203 Monroe Street, Valparaiso, states parking is an issue and will set a precedent. He is opposed.

Mr. Terry Bostic, is in favor.

Mr. Brian Swain, 406 Oak Street, Valparaiso, is in favor.

Mr. Adam Gibson, 1310 Billings Street, Valparaiso, states parking is always an issue, however trivial. His is in favor.

Mr. Bob Phelps, Camilla Drive, Valparaiso, questioned what the monthly rent will be and questioned the units being 3-bedroom and increasing the number of tenants versus perhaps 1 and 2 bedrooms to lessen the number tenants.

Ms. Kathy Evans, 208 Chicago Street, Valparaiso, states these tenants will not have multiple vehicles so parking will be sufficient as proposed. The proposed building fits within the neighborhood. There are a lot of very large homes on small downtown lots so it can be done and done well. She is in favor.

Councilman Robert Cotton, 2<sup>nd</sup> District City Councilman, Valparaiso, stated this is a responsible project that fills a need. As a community we need to accommodate all of our residents and affordable housing is one way of doing that. He is in favor.

Mr. Spencer \_\_\_\_\_, 2409 Jonathan Drive, Valparaiso, states the project is consistent with the neighborhood and affordable housing is vital to the City's success. He is in favor.

Ms. Wendy \_\_\_\_\_, Cyrus Street, Valparaiso, is in favor.

Mr. John, \_\_\_\_\_, 905 Jefferson Street, Valparaiso, is in favor,

Ms. Jamie Carter, 102 Lafayette Street, Valparaiso, states as a single mother it is very hard to live in this community and she supports people that can use this type of housing. She is in favor.

Mr. Kenard Taylor, 306 Napoleon Street, Valparaiso, states we should not set a precedent and should look at the overall Ordinance and not grant numerous variances.

Mr. John Balentine, states we are blessed in this community to have Project Neighbors to do these human investments. He is in favor.

Ms. Andrea Butler, owner of Valparaiso Animal Hospital, states she understands the need, but not all in the same geographical area. Think outside the box. Enhance public transportation to area outside of the City.

Mr. Bill Durnell, 703 Washington Street, Valparaiso, states the downtown area has been revitalized. Former Mayor Costas was an advocate of projects, such as these. The direction of this project is good, and he is in favor.

President Mike Micka advised that many comments were received via phone calls, emails, and written communications prior to the meeting. City Planner Beth Shrader shared those various communications with the Members of the Board and the Public.

Attorney Bodensteiner's rebuttal:

- Rental amounts are expected to be approximately \$700 to \$800 per month.

The public hearing was closed, and questions/comments were heard from the Members.

Board Attorney Patrick Lyp advised notification cards were received. Attorney Lyp completed a legal analysis of this petition. Each case is heard and considered individually. Precedents are not set. There are certain legal findings of fact that much be met. It appears that the applicant has met some of the required criteria for a variance but not all. Peculiarity is not met. Unnecessary hardship is not met. Attorney Lyp's legal opinion is that there is not sufficient basis to support the variances as requested.

The Board Members discussed Attorney Lyp's legal analysis.

Motion: Melanie Trowbridge made a motion to approve SE20-001 and VAR 20-004 stating approval will not generate excessive vehicle traffic on minor residential streets; will not create vehicular paring or traffic problems; appropriate access roads, drives, utilities, drainage, facility, and other necessary facilities have been or will be installed; will have a substation contribution to the neighborhood environment and will not infringe on the rights of property in the vicinity of the expected use; will comply with the requirements of the district in which proposed use is to be located; will not be injurious to the health, safety or public welfare of the community; will not affect the use of the adjacent properties in a substantially adverse manner; arises from practical difficulties in the use of the property in conformity with the Zoning Ordinance; arises from a condition peculiar to the property; arises from unnecessary hardship if the Zoning Ordinance is strictly applied; does not interfere substantially with the Comprehensive Plan and the petitioner has requested modified parking requirements. Diane Worstell seconded the motion. A roll call vote was taken tied with a 2-2 (Wright, Micka) vote with Byron Martin recusing himself. In the event of a tie vote, the case is automatically carried over to the next regularly scheduled meeting. If a third vote in favor is not received at that meeting the petition is denied. The next meeting will not be a public hearing; however, the petitioner is welcome to be present.

**UV20-003/VAR20-008** – A petition filed by Project Neighbors, 454 College, Valparaiso, Indiana. The petitioner requests a use variance from Article 9, Section 2.201, Table 2.201(A) of the Valparaiso Unified Development Ordinance, to allow for multifamily within the Commercial Neighborhood (CN) Zoning District. The petitioner requests a variance from Article 9, Section 9.201, Table 9.201 of the Valparaiso Unified Development Ordinance, to vary the required 24 parking spaces, to allow for 17 parking spaces for a multifamily use. The property is located at 908 Franklin Street, in the Commercial Neighborhood (CN) Zoning District. Member Byron Martin advised he will be recusing himself from this petition due to his being a Member of the Board for Project Neighbors. Attorney Ivan Bodensteiner presented. The property at 908 Franklin Street was donated to Housing Opportunities and they are partnering with Project Neighbors to develop a 16-studio apartment building with preference to males and veterans. This is an odd shaped parcel located south of Billings street at Franklin Street and is affected by railroad tracks. Jeff Lewis, architect for the project advised the orientation fits to front Franklin Street and therefore conceals the parking area. The building will look more residential in scale. 60% of the building will be siding and 40% will be stone. Each studio apartment will have its own private bath, but the residents will share common living spaces and common laundry space, and there will be a management office.

Public Hearing: Mike Micka asked if any of the public would like to speak in favor of or in opposition of this petition. Mr. Micka also asked that the public address their questions to the Board Members while at the same time the petitioner will take notes and respond at one time.

Councilman Robert Cotton, 2<sup>nd</sup> District City Councilman, questioned if there was any stipulation that would allow Mr. Martin to vote on his petition. Attorney Patrick Lyp stated that State Law is very clear on conflict of interest and because Mr. Martin serves as a Board Member for petitioner, he is unable to vote.

Mr. Mike Turkane, 202 Billings Street, Valparaiso, states he has no issue with this project and is in favor. He does question is the Fair Housing Act allows to only house males?

Mr. John Albers, 401 Lafayette Street, states this is an appropriate development and he is in favor.

Ms. Andrea Butler, owner of Valparaiso Animal Hospital, states that when purchasing her property for her business she had issues with environmental studies and approval thereof. That is a concern for this area. Parking is an issue in this area and the public streets are already lined with on-street parking. She does not want her lot to become a pass-thru for travelers. Her business has controlled substances for animal care, and she feels that could be a concern as well as safety for her employees. She is opposed.

Mr. Bill Durnell, 703 Washington Street, Valparaiso, states this is not a homeless shelter and assumes that every tenant will pay rent. He is in favor.

Pastor Rich Schmidt, 208 Michigan Avenue, Valparaiso, states the church he serves is located next to Caroline's Place, a similar type facility, and he and his parishioners are thrilled to be there. Many of the residents do not have vehicles so parking is not an issue. He is in favor.

Pastor Erica Gibson-Even, states she and the other 24 clergy she represents submitted a letter in support of this project.

Ms. Ruth Lavery, is in favor.

Councilman George Douglas, City Councilman at Large, is in favor.

Mr. Bob Phelps, Camilla Drive, is in favor.

Ms. Liz Waureffel, 402 Institute Street, Valparaiso, is in favor.

Mr. Gilles Charrier, 1606 Carriage Drive, Valparaiso, states Attorney Lyp should not give his legal opinion prior to the vote.

Mr. Paul Schreiner, Executive Director of Project Neighbors, states this is not a homeless shelter. All units are rental units and managed by Housing Opportunities and Project Neighbors. The residents are non-violent and non-sex offenders. Those with drug issues receive services before being able to rent here. We have other like-facilities, one has 33 units and there are only 12 vehicles. We have done testing and there are no environmental issues with what we are proposing.

Mr. George Terrell, 708 Lafayette Street, Valparaiso, states this is needed. There is no need for fear. He is in favor.

Ms. Karen Balentine, is in favor.

Mr. Steve Baker, 206 Billings Street, Valparaiso, questioned if there will be a fence along the backside of the existing residents homes? He is in favor.

Mr. John Balentine, is in favor.

Adam Gibson, 1310 Billings Street, Valparaiso, is in favor.

Mr. Duane Davison, 701 Elmhurst Avenue, Valparaiso, is in favor.

Mr. Harley Schneider, owns property in the City and develops property in the City and applauds those in attendance that support this cause. He is in favor.

President Mike Micka advised that many comments were received via phone calls, emails, and written communications prior to the meeting. City Planner Beth Shrader shared those various communications with the Members of the Board and the Public.

Attorney Ivan Bodensteiner's rebuttal:

- The facility is male "preference" - giving males priority. There are facility available giving women preference as well.
- We are only asking for a reduction of 7 parking spaces. We will still have 17 spaces and typically less than half the tenants have vehicles.
- It is unfair to assume that the animal hospital will have issues with the tenants. That is speculative.
- The fence for the existing residents is a good suggestion and will certainly be considered.

Beth Shrader reviewed a staff report with the Members of the Board and the Public.

The public hearing was closed, and questions/comments were heard from the Members.

Board Attorney Patrick Lyp advised notification cards were received. Attorney Lyp completed a legal analysis of this petition. Criteria has not been met. The City does not typically support commercial property used for residential purposes. There is nothing in the petition to support why this property could not be used as a commercial property. There does not appear to be a practical difficulty that does not allow them to adhere to the parking standard.

Q: Where will the access to the property be located?

A: To come in off of Franklin Street raises issues with the proximity to the building and the private road so the petitioner is committed to working with the City for proper access points, so the property does not become landlocked. There is an existing access off the private road.

**Motion:** Ryan Wright made a motion to approve UV20-003 to allow for multifamily within the Commercial Neighborhood (CN) Zoning District noting such approval will not be injurious to the health, safety or public welfare of the community; will not affect the use of the adjacent properties in a substantially adverse manner; arises from practical difficulties in the use of the property in conformity with the Zoning Ordinance; arises from a condition peculiar to the property; arises from unnecessary hardship if the Zoning Ordinance is strictly applied; does not interfere substantially with the Comprehensive Plan and the petitioner has requested modified parking requirements. Melanie Trowbridge seconded the motion. A roll call vote was taken passed with a 4-0 vote with Byron Martin recusing himself.

**Motion:** Ryan Wright made a motion to approve VAR20-008 to vary the required 24 parking spaces, to allow for 17 parking spaces for a multifamily use noting such approval will not be injurious to the health, safety or public welfare of the community; will not affect the use of the adjacent properties in a substantially adverse manner; arises from practical difficulties in the use of the property in conformity with the Zoning Ordinance; and the petitioner has requested modified parking requirements. Diane Worstell seconded the motion. A roll call vote was taken passed with a 4-0 vote with Byron Martin recusing himself.

**NEW BUSINESS:**

**VAR20-009** – A petition filed by Sarah Albers, 703 Lafayette Street, Valparaiso, Indiana. The petitioner requests a variance from Article 2, Section 2.303 (D)(3d), of the Valparaiso Unified Development Ordinance, to vary the required rear yard setback of 20 feet for a garage with doors facing the alley to allow for a rear yard setback of four (4) feet. The property is located at 703

Lafayette Street, in the Neighborhood Conservation-60 (NC-60) Zoning District. Ms. Sarah Albers presented. She is replacing an existing garage at her residence in the same location that already has a four (4) foot setback.

Public Hearing: Mike Micka asked if any of the public would like to speak in favor of or in opposition of this petition. Mr. Micka also asked that the public address their questions to the Board Members while at the same time the petitioner will take notes and respond at one time.

Mr. Bill Durnell, 703 Washington Street, Valparaiso, is in favor.

Pastor Rich Schmidt, 208 Michigan Avenue, Valparaiso, is in favor.

Beth Shrader reviewed a staff report with the Members of the Board and the Public. Ms. Shrader also noted the residents at 801 Washington Street are in favor.

The public hearing was closed, and questions/comments were heard from the Members.

Motion: Ryan Wright made a motion to approve VAR20-009 to allow for a garage with doors facing the alley with rear yard setback of four (4) feet. Such approval will not be injurious to the health, safety or public welfare of the community; will not affect the use of the adjacent properties in a substantially adverse manner; arises from practical difficulties in the use of the property in conformity with the Zoning Ordinance; and the petitioner will comply with all parking requirements. Melanie Trowbridge seconded the motion. A roll call vote was taken and unanimously carried 5-0.

**VAR20-010** – A petition filed by Zachary DeWitt, 1309 Tuckahoe Park Drive, Valparaiso, Indiana. The petitioner requests a variance from Article 2, Section 2.302 (C1), of the Valparaiso Unified Development Ordinance, to allow for a non-ornamental (chain-link) fence to face the public right-of-way. The property is located at 1309 Tuckahoe Park Drive, in the General Residential (GR) Zoning District. Mr. Zachary DeWitt presented. He would like to install a black, vinyl-coated, chain-link fence to meet up with the existing chain-link fence.

Public Hearing: Mike Micka asked if any of the public would like to speak in favor of or in opposition of this petition. Mr. Micka also asked that the public address their questions to the Board Members while at the same time the petitioner will take notes and respond at one time.

Ms. Mary\_\_\_\_, 1308 Tuckahoe Park Drive, states she has no issue with the proposed fence. She is in favor.

Ms. Karen Hitz, 1307 Tuckahoe Park Drive, states eleven homes have chain-link fences facing the road so this will fit within the neighborhood. She is in favor.

Beth Shrader reviewed a staff report with the Members of the Board and the Public. Ms. Shrader also noted the residents at 1715 Whittier Park Drive are opposed.

The public hearing was closed, and questions/comments were heard from the Members.

Motion: Melanie Trowbridge made a motion to approve VAR20-010 to allow for a non-ornamental (chain-link) fence to face the public right-of-way. Such approval will not be injurious to the health, safety or public welfare of the community; will not affect the use of the adjacent properties; arises from practical difficulties; and the petitioner will comply with all parking requirements. Ryan Wright seconded the motion. A roll call vote was taken and unanimously carried 5-0.

**VAR20-011** – A petition filed by Shane & Amy Miller, 209 Wayne Street, Valparaiso, Indiana. The petitioner requests a variance from Article 2, Section 2.303(D) (2) of the Valparaiso Unified Development Ordinance, to vary the required maximum detached accessory building size of 600 square feet to allow for a detached accessory building of 891 square feet. The property is located at 209 Wayne Street, in the Neighborhood Conservation-60 (NC-60) Zoning District. Mr. Shane

Miller presented. They would like to expand their garage to allow for a workshop and storage area.

**Public Hearing:** Mike Micka asked if any of the public would like to speak in favor of or in opposition of this petition. Mr. Micka also asked that the public address their questions to the Board Members while at the same time the petitioner will take notes and respond at one time. No one spoke; therefore, the public hearing was closed, and questions/comments were heard from the Members.

Beth Shrader reviewed a staff report with the Members of the Board and the Public.

**Motion:** Ryan Wright made a motion to approve VAR20-011, to allow to allow for a detached accessory building of 891 square feet. Such approval will not be injurious to the health, safety or public welfare of the community; will not affect the use of the adjacent properties; arises from practical difficulties; and the petitioner will comply with all parking requirements. Melanie Trowbridge seconded the motion. A roll call vote was taken and unanimously carried 5-0.

**STAFF ITEMS:**

**Notary Requirement:** Beth Shrader advised that the Members had previously relaxed the requirement that all applications be notarized. Ms. Shrader requests that the Board extend this through July 2020 and return to enforcing it in August 2020.

**Motion:** Melanie Trowbridge made a motion to extend not requiring applications to be notarized through July 2020 and return to enforcing the requirement in August 2020. Byron Martin seconded the motion. A voice vote was taken and unanimously carried 5-0.

**Discussion:** Discussion took place regarding the process and consistency within the meeting procedures.

**ADJOURNMENT:**

There being no further business, the June 16, 2020 Board of Zoning Appeals meeting was adjourned at 9:20 p.m.

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Mike Micka, President

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Beth Shrader, Executive Secretary