

VALPARAISO BOARD OF ZONING APPEALS
Regular Meeting Minutes
July 21, 2020

The regular meeting of the Valparaiso Board of Zoning Appeals was held at 5:30 p.m. on Tuesday, July 21, 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:

Ryan Wright made a motion to approve the June 16, 2020 minutes as submitted. Melanie Trowbridge seconded the motion. A voice vote was taken and unanimously carried.

OLD BUSINESS:

UV20-003/VAR20-008 – A petition filed by Project Neighbors, 454 College, Valparaiso, Indiana for the property located at 908 Franklin Street, in the Commercial Neighborhood (CN) Zoning District. Attorney Patrick Lyp advised the Plan Commission has received notice of lawsuit regarding the 4-0 vote for the property located at 908 Franklin Street, Valparaiso, IN. An executive session was held on July 20. The proposed findings of fact were prepared and provided to Members. Upon further discussion, the executive session is proposing a condition that the project must begin within 24 months and be completed within 36 months of the approval. Attorney Bodensteiner, representing the petitioner, stated the petitioner agrees with the condition however would like the time periods to begin once the lawsuit is resolved.

Motion: Ryan Wright made a motion to approve the findings of fact on UV20-003/VAR20-008 with the condition that once the lawsuit is resolved, the petitioner will begin the project within 24 months and complete the project within 36 months. A roll call vote was taken and unanimously carried 4-0. Byron Martin abstained from voting.

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. Attorney Patrick Lyp advised this petition was heard last month and the Board voted 2-2. Therefore, the matter comes again this evening for further consideration. Attorney Bodensteiner, representing the petitioner, sent an email that was shared with the Members. Paul Schreiner advised that that the proposed plan is the desired plan, however, the petitioner can be flexible. Beth Shrader advised that the City encourages the petitioner to consider other options, and notes staff is willing to work with the petitioner on alternate plans.

There being no new motion, the original June 16, 2020 vote of 2-2 remains as is and the petition fails.

NEW BUSINESS:

VAR20-002 – A petition filed by ICU Outdoor Advertising, LLC, 555 Eastport Centre Drive, Suite D, Valparaiso, IN. The petitioner requests a variance from Article 5, Section 5.202 (A)(8) of the Valparaiso Unified Development Ordinance, to allow for off-premise signage. A variance from Article 5, Section 5.202 (18) to allow for a sign to be installed within the right-of-way. A variance from Article 11, Section 11.306 (C), to vary the maximum height of six (6) feet to allow for a sign height of eight (8) feet. The property is located at 2002 LaPorte Avenue, in the Commercial General (CG) Zoning District. Mr. Larry Yurko presented. The Dairy Queen located at 2002 LaPorte Avenue is proposing to remove the existing signage and install a new sign. The existing Dairy Queen sign is 30 feet high but would be replaced by one sign that

would advertise both the petitioner's businesses; Dairy Queen and County Inn and Suites and also leaving space for a future third business that may come to a lot that is for sale. The overall height will be 8 feet including a brick base and the proposed sign will be internally illuminated. The petitioner is committed to maintaining the signage area even though it is located in the right-of-way.

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, 705 Willow Street, Valparaiso, asked how many other circumstances exist that also have these types of variances?

Beth Shrader noted receiving correspondence from Steven R. Jackson, owner of 2105 and 2109 LaPorte Avenue, and he opposes the petition.

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

Beth Shrader advised that historically the City does not approve off premise signage or allow it to be located in the right-of-way. Even if approved at this level, the proposal will still be required to go before the Board of Works for their approval. The proposed height of this sign also exceeds the limits for a signature corridor and is not something the city encourages. These are the city's concerns.

Q: Would a different location on the same property work?

A: The sign is off premise for the County Inn and Suites and the potential third business.

Although additional locations are available, however, the off premise and height issues would still exist. The round-a-about was completed after the business was established so there is only a certain amount of room to work with. The existing sign is in the right-of-way and we do nothing the existing sign stays as is.

Q: Are there any sight line issues?

A: No, the existing sign is safely located.

Q: What is the practical difficulty?

A: Strict application of the code does not allow for effective advertising of the business, and it's a hard property to work with.

Attorney Patrick Lyp advised that the petitioner needs the variances but ultimately, they won't help if the Board of Works won't approve the sign as well. Any decision made this evening will be made contingent upon Board of Works approval.

Motion: Diane Worstell made a motion to continue VAR20-002 until the end of 2020 to allow the petitioner to seek appropriate Board of Works approval and agreements and then return to the Board of Zoning Appeals with the condition that if the petitioner does not return to the BZA by December 31, 2020 the variance is deemed denied. Ryan Wright seconded the motion. A roll call vote was taken and unanimously carried 5-0.

VAR20-012 – A petition filed by Steve DeBold (Chester, Inc.), 555 Eastport Centre Drive, Valparaiso, IN. The petitioner requests a variance from Article 10, Section 10.301, Table 10.201 of the Valparaiso Unified Development Ordinance, to vary the required on-lot landscaping, 4 large trees per acre, 8 small trees per acre and 25 shrubs, perennials or grasses per acre. A variance from Article 10, Section 10.304, Table 10.304 to vary the required parking lot landscaping, 1 large tree per 4 space, and 1 shrubs, perennials or grasses per 2 spaces. A variance from Article 10, Section 10.402, Table 10.402, to vary the required Class D Bufferyard to allow for a bufferyard width of 0 feet, no berm and to vary the required 3 large trees per 100 linear feet, 6 small trees per 100 linear feet and 50 shrubs per 100 linear feet. A variance from Article 9, Section 9.501, to vary the required maximum overspill of lighting onto adjacent properties of three-tenths foot-candle to allow for a maximum overspill of four (4) foot-candles. The property is located at 1260 Transport Drive, in the Heavy Industrial (INH) Zoning District. Mr. Steve DeBold presented. Adam McKay was also present. The property is located at 1260 Transport

Drive in the INH zoning district. All of the surrounding parcels are also zoned INH with the exception of one that is zoned Business Park. There is an existing 6,600 square-foot building on the property with plans to build another building to the west. Lighting: There are parking lot lights on the south and east sides of the parcels with pole lights on the perimeter. Lighting is crucial to this area. The proposed lighting is LED that will shine out and will not be shining into the driver's eyes or their view. Bufferyard: As stated, the parcel is surrounded by INH with the exception of one parcel that is Business Park and has a 122-foot strip along the detention pond that serves this area. There is also a 5-foot berm there that will make it difficult to drain straight to the stormwater detention pond. The detention pond parcel is also not a buildable parcel. There are plans to develop the west side, so they do not wish to have plantings in that area. The parking lot plantings have easements, swales, and overhead lines to contend with so the plantings cannot be everywhere. The proposed landscape plan is comparable to surrounding properties and allow for good products.

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 advised we are confident the other half of the parcel will be developed so staff does suggest requiring half of the requirements. What is proposed is less than half. The petitioner has demonstrated through previous plans and developments that the parking lot landscaping can be met. There are challenges but the landscaping will fit. The bufferyard was discussed at length and staff is okay with eliminating that. With regards to lighting, this is an industrial zone and we want to be reasonable, however, 4-foot candles are excessive and not in line with the rest of the City. If leniency is granted, staff asks that the light is capped at .4 and .75.

Mr. DeBold noted that those requirements are impossible. Even with a shield on the back of the lights, it's impossible. The only option would be to leave a dark parking lot. Allowing spill over into a right-of-way helps travelers in a dark corridor.

Q: How many light poles are being proposed?

A: Two.

Q: Will there be wall lights also?

A: Yes.

Motion: Ryan Wright made a motion to approve VAR20-012 to vary the required maximum overspill of lighting onto adjacent properties of three-tenths foot-candle to allow for a maximum overspill of two (2) foot-candles. Byron Martin seconded the motion. A roll call vote was taken and unanimously carried 5-0.

Motion: Melanie Trowbridge made a motion to approve VAR20-012 with the conditions that 100% of the parking lot landscaping is met; 50% of the on-lot landscaping is met; and to approve eliminating the bufferyard requirement. Ryan Wright seconded the motion. A roll call vote was taken and unanimously carried 5-0.

VAR20-013 – A petition filed by Richard Fleming, 257 Jefferson Street, Valparaiso, Indiana. The petitioner requests a variance from Article 3, Section 3.501, Table 3.501 of the Valparaiso Unified Development Ordinance, to vary the maximum lot coverage of 50% to allow for a lot coverage of 65%. The property is located at 257 Jefferson Street, in the Neighborhood Conservation-60 (NC-60) Zoning District. Richard and Heidi Fleming presented. They would like to add a pool to their property that will increase their existing lot coverage of 61% to 65%.

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.

Beth Shrader advised correspondence was received from Sally Nala at 355 Jefferson Street, noting no objection to this project.

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

Q: What is the size of the proposed pool?

A: 54" round.

Q: Are all other codes met? Fence around the pool, etc.?

A: Yes. The backyard has a four-foot fence now, but it is being changed to six feet.

Motion: Byron Martin made a motion to approve VAR20-013, to allow for a lot coverage of 65%. 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. Diane Worstell seconded the motion. A roll call vote was taken and unanimously carried 5-0.

VAR20-014 – A petition filed by Christian A. Schwerd, 204 Beech Street, Valparaiso, Indiana. The petitioner requests a variance from Article 3, Section 3.501, Table 3.501 of the Valparaiso Unified Development Ordinance, to vary the required minimum lot width from 60 feet to allow for two (2) lots with a minimum lot width of 50 feet. The property is located at 457 Bond Avenue, in the Neighborhood Conservation-60 (NC-60) Zoning District. Attorney Bob Schwerd presented. Christian Schwerd has owned the home located at 457 Bond Avenue for 15 years. Most of the homes in this area have 50-foot lot widths. Christian's lot width is 100 feet. He would like to reduce the lot width in order to make two (2) 50-foot lots and put a residence on the second lot via the minor subdivision process.

Beth Shrader advised correspondence was received from Christine Keys, 453 Bond Avenue and Sharon and Craig Schwan, 556 Bond Avenue. Both are opposed noting drainage and sewer issues in the area, density, and the condition of current rental property.

Mr. Harley Wayne Casper, 459 Bond Avenue, states he is opposed and notes the same reasons as neighbors Keys and Schwan.

Mr. Ed Swart, 901 Campbell Street, states he does not have any water issues and the lots in this area are very small. This area offers a lot of affordable rentals as well as some mixed use. He is in support of this project.

Attorney Schwerd's rebuttal:

- He is shocked to hear some of the comments.
- The property is very well cared for.
- The same tenants have lived in the existing home for 12 years.
- The goal of the parcel split is to build a second home that is available for purchase. This will be an affordable home.

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

Q: Will your son be building the new home?

A: No. The plan is to sell the lot once divided and allow someone else to build on it.

Motion: Byron Martin made a motion to approve VAR20-014 to vary the required minimum lot width from 60 feet to allow for two (2) lots with a minimum lot width of 50 feet as requested. Ryan Wright seconded the motion. A roll call vote was taken and unanimously carried.

STAFF ITEMS:

None.

ADJOURNMENT:

There being no further business, the July 21, 2020 Board of Zoning Appeals meeting was adjourned at 7:10 p.m.

Mike Micka, President

Beth Shrader, Executive Secretary