

**VALPARAISO BOARD OF ZONING APPEALS**  
**Regular Meeting Minutes**  
**January 20, 2021**

The regular meeting of the Valparaiso Board of Zoning Appeals was held at 5:30 p.m. on Wednesday, January 20, 2021 at Valparaiso City Hall, 166 Lincolnway, Valparaiso, Indiana. Remote access was available via livestream on the Valparaiso Now Facebook Page. Mike Micka presided virtually. Beth Shrader acted in person.

Members present were Diane Worstell, Byron Martin, Paul Reed, Kyle Yelton, and Mike Micka. Also present were Beth Shrader, Carley Lemmon, Attorney Patrick Lyp, and petitioners.

**MINUTES:**

Kyle Yelton made a motion to approve the November 18, 2020 minutes as presented. Diane Worstell seconded the motion. A voice vote was taken and unanimously carried 5-0.

**ELECTION OF OFFICERS:**

President: Paul Reed nominated Mike Micka. Kyle Yelton seconded the nomination. A voice vote was taken and unanimously carried 5-0.

Vice-President: Paul Reed nominated Kyle Yelton. Diane Worstell seconded the nomination. A voice vote was taken and unanimously carried 5-0.

Secretary: Mike Micka nominated Helene Pierce. Byron Martin seconded the motion. A voice vote was taken and unanimously carried 5-0.

Legal Counsel: Beth Shrader advised Attorney Patrick Lyp is on staff and will be acting Counsel for the Board of Zoning Appeals.

**OLD BUSINESS:**

**VAR20-019** – A petition filed by Eastgate Investments I, LLC & Eastgate Investments II, LLC c/o Todd A. Leeth, Hoepfner Wagner & Evans LLP. The property is located at 1301 LaPorte Avenue and 1308 Lincolnway in the Commercial General (CG) and Urban Residential (UR) Zoning District. The petitioner requests the following variance(s):

- Article 9, Section 9.205 - Vary Parking Requirements to allow for 265 Parking Spaces.

Attorney Todd Leeth presented. This matter regards the Uptown East Apartments located at the corner of Roosevelt Road and LaPorte Avenue. There are four buildings, but we are discussing building 2. There is a reduced demand for student housing with the closing of Valparaiso University's Law School. Eastgate proposes to remodel units in building 2 to allow for low income workforce housing. Buildings 1, 3, and 4 will stay the same. Building 2 will have 44 units converted to 95 units with 91% of those being only 1-bedroom units. In 2007 a parking reduction was granted based on the need at the time. The changes require a parking variance now. There are 171 on-site parking spaces. 59 of those 171 on-site are restricted for commercial businesses. This will now change to 23 restricted spaces therefore increasing resident parking by 36 spaces. Horizon Bank has entered into an Amended Parking Agreement with Eastgate allowing 13 overnight spaces. The City is going to establish up to 77 parallel parking spaces along LaPorte Avenue. These changes make the deficiency of spaces small. We are prepared to enter into an agreement for written commitments that include commitments such as: 119 units maximum in buildings 1 and 2, 319 parking spaces consisting of 171 on-site, 13 Horizon Bank and 135 permit parking, continue to work with the City Engineer, convert all but 23 spaces for resident parking, Larry Gough and John Walsh (principles of the ownership team) will remain involved in the project, we will agree to purchase 135 parking permits on LaPorte Avenue, and will enforce parking allocations between tenants. A signed version of these commitments has been submitted to staff.

Public Hearing: Beth Shrader advised the Board would reopen the public hearing due to changes being made since the last proposal. If any of the public would like to speak in favor of or in opposition of this petition, they are asked to address their questions to the Board Members while at the same time the petitioner will take notes and respond at one time.

Mayor Matt Murphy stated City staff and Leadership has been working on this project for many months. It was made clear that unless something was done the Uptown Apartments would face foreclosure and closing its doors altogether. Valparaiso University was involved in the discussions. Workhouse housing is needed, and this will be a good fit. Local management will remain. An investment will be made. A management team will work with the petitioner to make sure all requirements are met. As Mayor of Valparaiso, he is in favor of this petition and requests approval of the same.

Attorney Darrin Farha, representing Valparaiso University, states the university's stance all along has been that there is a parking deficiency. The university was in a master lease with Uptown East and this benefitted the petitioner as we considered it on-campus housing. Over the years, a decrease in enrollment and the university constructed their own student housing and have a master lease with University Promenade so the need for housing at Uptown East was much smaller. The university disagrees that the petition can only look at buildings 1 and 2. Even with the additional parking discussed tonight, there is still going to be a deficiency overall. There are 239 total units between all four buildings. We are estimating a 70-parking spot deficiency remains. They are opposed.

Mr. Luke Aeschliman, Valparaiso University property management, states Valparaiso University makes a great contribution to the City of Valparaiso. We request a full traffic study, safety, parking enforcement and funding plan for any proposed alterations to LaPorte Avenue. We are opposed to any impairments to LaPorte Avenue that ultimately only benefit one user. Will LaPorte Avenue be converted to one-way traffic? If so, where and what direction will traffic travel? How will any alterations to LaPorte Avenue be funded? How will having only 23 commercial spaces be handled in the future?

Father Chris Stanish, St. Teresa Avila, stated currently there is no parking allowed on LaPorte Avenue Monday through Friday but does allow for parking on the weekends. Does the proposed variance affect this? Will more lighting be added along LaPorte Avenue? Will any changes to LaPorte affect their currently lots and pedestrian ways?

Facebook Live comments were shared by City Planner Beth Shrader and discussed by the Board.

Attorney Todd Leeth rebuttal:

- The City required that we look at the entire project and all the buildings. The credit given 13 years ago are still in place with regards to buildings 3 and 4. We have worked very hard with the City to come up with a realistic plan and approximation of the need for both the residents and the businesses.
- A parking study is not necessary. We have been working with the engineering department and city planning department. City Engineer, Mike Jabo's expertise is traffic. Nothing is a done deal, but safety is at the forefront of any plan the City will agree to.
- We have agreed to purchase the permits annually. Those permits will pay for the cost of the work. We are not building a parking lot or requiring additional right-of-way but overall, it's paint. We are not adversely affecting anything.
- We respect Valparaiso University and are open to working with them in the future.

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

City Planner Beth Shrader advised a staff report was given to all the Members. The number of spaces accommodated in this proposal are more than what is required by the UDO. There is additional opportunity for more parking along LaPorte Avenue. The City will consider all the users along LaPorte Avenue and better utilizing the space and not negatively affecting any other businesses. This is the best solution to allow Uptown to continue.

Attorney Patrick Lyp advised a significant amount of work has transpired over the last year. Issues were addressed in a collaborative manner. The Written Commitments are significant and will ensure the project is handled properly. With approval, this project will offer more and needed affordable housing in Valparaiso. The City hoped that Valparaiso University would be a

part of the solution. They were not. The City respects Valparaiso University and continues to welcome their collaboration.

Byron Martin questioned if there will be requirement for Uptown East to return to the BZA if the housing was no longer workforce housing? In terms of parking density, how does this compare to other proposals over time for this area? Beth Shrader answered. This is not dependent on it being workforce housing, it is just because it is no longer student housing. Parking requirements are based on the use being mixed-use. They more than meet the parking standards by way of the spaces presented. Attorney Leeth added that the variances granted 13 years ago were before the UDO so we are essentially seeking a new variance based on the use and will not have to return if no longer workforce if still multi-family.

Paul Reed stated, for shared parking of a mixed-use there needs to be a balance of percentages between the uses. Is the agreement with Horizon a limited lease or forever? 46% of the parking for this development is off-site and that is concerning. The proposed parking along LaPorte Avenue extends almost a half-mile. Is someone going to walk that distance to get to their apartment? Are the parking permits forever? Do we really want to make LaPorte Avenue private permit parking? LaPorte Avenue as a one-way road is also concerning. Financing involvement from the City with Bonds; what does that mean? Attorney Todd Leeth answered. The Ordinance allows for shared parking and the calculation of attributed parking to be counted even if off-site as long as within 180 feet of the project. It also allows for overflow parking to be counted within 600 feet of the project. The agreement with the City dictates that certain number of spaces are reserved for different areas. The more traditional tenants will have the closer spaces. The students in buildings 3 and 4 will have the more remote spaces. This is by design. With regard to one-way traffic on LaPorte Avenue is a decision the City Engineer will make but we believe it will remain as two-way traffic. The agreement with Horizon has no expiration. Attorney Patrick Lyp stated the financing will be facilitated by the City Council and the Indiana Housing Development Commission. Permit Parking Ordinance was created in 2009. These buildings need parking and the City cannot create that out of nowhere. Permit parking is allowed; however, the City can take away the permit parking in the future and this would become a legal non-conforming use. The City will work with all the property owners to ensure concerns are addressed and the parking benefits all the property owners.

Mike Mika questioned the permit parking process. Attorney Lyp advised, that since 2009 when the Permit Parking Ordinance was created. Uptown has a right to purchase permits annually and they manage the distribution to their residents. They are asked to attain vehicle information and ownership of each permit. This area has not always been enforced greatly. The City partnered with Valparaiso University's Parking enforcement which will now be enforced more by the City.

Diane Worstell stated this project is important, complex and deserving of a variance. Thank you to everyone involved.

Kyle Yelton echoed Ms. Worstell's comments.

Attorney Patrick Lyp advised the City is working with the Petitioner on a plan for on-site parking enforcement. In addition to the proposed findings of fact and written comments have a place holder that Uptown will submit an on-site parking management plan that meets with the City Planner's approval.

Motion: Kyle Yelton made a motion to approve VAR20-019 incorporating by reference the written commitments, prepared findings of fact and that the Developer Uptown submit an on-site parking management plan that meets with the City Planner's approval. Diane Worstell seconded the motion. A voice vote was taken and carried 3-2. (Reed, Martin).

#### **NEW BUSINESS:**

**VAR20-024** - A petition filed by Todd A. Albert & Michelle R. Albert c/o Todd A Leeth, Hoepfner Wagner & Evans. The property is located at 250 Elmhurst in the Neighborhood Conservation-60 (NC-60) Zoning District. The petitioner requests the following variance(s):

- Article 9, Section 9.404, Table 9.404A – Vary Maximum Access width for a Two-Car Garage to allow for an access width of 46.5 feet.
- Article 3, Section 3.501, Table 3.501 – Vary Maximum Lot Coverage to allow for a lot coverage of 64%.

Attorney Todd Leeth presented. The property is located at 205 Elmhurst Avenue. The Alberts purchased the property as a vacant lot in August 2019. A new single-family home was built in 2020. Directly behind the home is an ally and a commercial building. The lot itself predates the UDO and is 6,600 square feet in size and 50 feet wide. NC-60 has a minimum lot size of 7,000 square feet but section 1.405 allows smaller lots as “legal” when zoned NC-60. The construction of the home has raised two issues after the fact that the owners were not aware of. Maximum width of access is 22 feet, but there is an apron driveway in the rear that is 46.5 feet. Lot coverage allowed is 50% and we are at 64% noting that lot is already 400 square feet smaller than code. The UDO does not state the purpose of the width driveway requirement, but we are guessing it is for street aesthetics. We do not have a driveway in front. The driveway is in the rear of the house. There is a two-car garage with architectural features that wouldn’t allow for a standard 22-foot wide driveway. The driveway is not aesthetically unpleasing and is not seen from the street view. There is a commercial property directly adjunct to the wide driveway and they will not be affected. The lot coverage code is for aesthetics and drainage purposes. The newly constructed home has a lot of green, it does not overburden the lot, and it fits very nicely into the community. The street view shows a beautiful home and plenty of green consistent with the neighborhood. The oversized driveway in the rear was an afterthought and not originally planned and is a large contributing factor to the need for the variance. Letters of support were submitted from the neighbors as well as a petition signed by six property owners also in support. The constructed home and the driveway are both very well done and an asset to the community.

Public Hearing: Beth Shrader asked if any of the public would like to speak in favor of or in opposition of this petition. Ms. Shrader 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.

Ms. Carly Lemmon presented the letters of support from the neighbors.

Facebook Live comments were shared by City Planner Beth Shrader and discussed by the Board.

Ms. Shrader noted that the Building Permit plans met code. At that time, the driveway was shown as 20 feet and the lot coverage was under 50%. As the property was developed these items changed from what was submitted. Aesthetically, there is no issue. The concern is with possible shedding water from a larger driveway, others wanting to do the same thing, and the possibility of others submitted plans and then overbuilding the plans. That is problematic.

Q: Did the petitioner ever contact the City about the proposed changes?

A: No. Originally the Alberts were not going to reside in the home being constructed. Through the process they decided they would reside there and changed the plans to better meet their needs. The soils are well drained and there is no issue with water pooling or too much runoff. The City Engineer was contacted, and he relayed that without having clear elevations he could not speak to the runoff.

Motion: Mike Micka made a motion to approve VAR20-024 as presented and incorporating by reference the prepared findings of fact. Diane Worstell seconded the motion. A roll call vote was taken and carried 4-1. (Reed)

**VAR20-025** – A petition filed by Aldred Homes. The property is located at 2501 Pennington Place in the Suburban Residential (SR) Zoning District. The petitioner requests the following variance(s):

- Article 3, Section 3.501, Table 3.501 – Vary Maximum Lot Coverage to allow for a lot coverage of 42.5%

Mr. Aryl Aldred presented representing Joey and Kim Quinn. The property is located at 2501 Pennington Place. The Quinns have had a lot of issue with flooding and then the home was

destroyed by fire. Originally a two-story home, they wanted to replace with a ranch-style home on the same property. When we got the permit, we were at 36.8% lot coverage. As construction took place there were some existing conditions to be dealt with on the lot. A retaining wall and existing trees and drainage was a huge concern because of the previous flooding. A three-seasons porch was added to the rear of the home and a circular drive was placed in the front. The parking is needed for the family vehicles. Once completed we realized the as built was 2.5% over the maximum lot coverage. We are requesting a variance for this.

Public Hearing: Beth Shrader asked if any of the public would like to speak in favor of or in opposition of this petition. Ms. Shrader 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. Carly Lemmon presented the letters of support from the neighbors.

Facebook Live comments were shared by City Planner Beth Shrader and discussed by the Board.

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

City Planner Beth Shrader advised 2.5% is minimal and there are no stormwater impact concerns.

Q: Were the changes brought to the City?

A: No.

Q: Would eliminating the circular driveway bring the petitioner within the lot coverage?

A: Yes, but it would be a shame to do that.

Motion: Byron Martin made a motion to approve VAR20-025 as presented and incorporating by reference the prepared findings of fact. Kyle Yelton seconded the motion. A roll call vote was taken and carried 4-1. (Reed)

**UV20-004** – A petition filed by Simko Buildings, LLC c/o Attorney Alex Kutanovski. The property is located at 656 Washington Street in the Commercial General (CG) Zoning District. The petitioner requests the following variance(s):

- Article 2, Section 2.201, Table 2.201B – Allow for a Light Industrial (INL) Use within the Commercial General (CG) Zoning District

Attorney Alex Kutanovski presented. Mike and Rob Moreth were also present. Simko Signs has purchased 656 Washington Street for the Simko Sign business to be operated from. Simko Signs is a local sign manufacturer.

Public Hearing: Beth Shrader asked if any of the public would like to speak in favor of or in opposition of this petition. Ms. Shrader 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.

Matt Evans, the real estate buyer broker of record for Simko Sign, stated he is in support of this project.

Rob Moreth, co-owner of Simko Signs, stated they plan to make a significant investment to the overall property to have a great property inside and outside. The final purchase is contingent of the Use Variance approval.

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

Q: Will there be outside storage?

A: No.

Q: Is the Use Variance specific to this company?

A: If that is how the motion is stated then yes.

Motion: Paul Reed made a motion to approve UV20-004 for sign manufacturing as presented and incorporating by reference the prepared findings of fact. Byron Martin seconded the motion. A roll call vote was taken and carried 5-0.

**STAFF ITEMS:**

**2021 Plan Commission Application and Meeting Dates:** Beth Shrader advised Members were provided a listing of the 2021 application deadline dates and 2021 meeting dates prior to the meeting. Regular meeting dates will remain the third Wednesday of each month. Ms. Shrader also highlighted some enhancements to the meeting application.

Motion: Diane Worstell made a motion to approve the 2021 Plan Commission Application and Meeting Dates as presented. Mike Micka seconded the motion. A voice vote was taken and unanimously carried 5-0.

**ADJOURNMENT:**

There being no further business, the January 21, 2021 Board of Zoning Appeals meeting was adjourned at 8:19 p.m.

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Mike Micka, President

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Beth Shrader, Executive Secretary