

MEETING AGENDA

Valparaiso Board of Zoning Appeals
Tuesday, August 21st, 2018 7:00 PM
City Hall, 166 W. Lincolnway

1. Roll Call
2. Adoption of July 17th, 2018 Meeting Minutes
3. Old Business

VAR18-014 A petition filed by David and Pamela Gring, 155 Carrington Circle, Valparaiso, IN. The petitioner requests a variance from Article 3, Section 3.501, of the Valparaiso Unified Development Ordinance, to vary the maximum building height of 35 feet, to allow for a maximum building height of 40 feet. The property is located at 1006 Center Street, in the Neighborhood Conservation (NC-60) Zoning District.

4. New Business

NONE

5. Adjournment
Michael Micka, President – Board of Zoning Appeals
Tyler Kent, Planning Director
Next Meeting: September 18th, 2018

VALPARAISO BOARD OF ZONING APPEALS
Regular Meeting Minutes
July 17, 2018

The regular meeting of the Valparaiso Board of Zoning Appeals was held at 7:00 p.m. on Tuesday, July 17, 2018 in the Valparaiso City Hall Council Chambers. Mike Micka presided.

Members present were: Melanie Trowbridge, Ryan Wright, Diane Worstell, and Mike Micka. Also present were Tyler Kent, Attorney Ethan Lowe, citizens, and representatives of the press.

MINUTES:

Melanie Trowbridge made a motion to approve the June 19, 2018 minutes as submitted. Diane Worstell seconded the motion. A voice vote was taken and unanimously carried 4-0.

OLD BUSINESS:

None.

NEW BUSINESS:

VAR18-012 – A petition filed by Stephen J. Eddy, 23600 Roosevelt Road, South Bend, IN. The petitioner requests a variance from Article 2, Section 2.302, of the Valparaiso Unified Development Ordinance, to vary the permitted materials for residential fencing. The property is located at 1701 Eisenhower, in the Suburban Residential (SR) Zoning District. Mr. Stephen Eddy presented. The request is to vary the allowed fencing materials. They would like to have three sides of the fence wood with welded wire. This will look better and allow more light to come through. The front fence has already been approved and is installed.

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 question/comments were heard from the Members.

Q: What is the durability of this type of fence compared to a chain link?

A: Chain link is a heavier metal, but I personally have had a fence like this for 30 years without issue.

Q: (Directed at Tyler Kent) What is the City view on this?

A: Tyler Kent advised that at the time of the UDO, chicken wire on a rural application was an issue. We wanted a more urban feel. If the Board approves this, it is requested that the approval be conditioned upon the property owner maintaining the fence but once the life expectancy expires any new fence will have to meet code or a new variance will need to be received. Attorney Ethan Lowe noted that, if approved, any conditions will need to be recorded against the title of the property.

Motion: Melanie Trowbridge made a motion to approve VAR18-0012 to vary the permitted materials for residential fencing with the condition that the property owner maintains the fence but once the life expectancy expires any new fence will have to meet code or a new variance will need to be received and this condition needs to be recorded against the title of the property. Such approval will not be injurious to the health, safety, morals, and general welfare of the community; will affect the use and value of the area adjacent to the property included in the variance in a substantially adverse manner; does not arise from practical difficulties in the use of the property in conformity with the Zoning Ordinance, and the petitioner will comply with all parking requirements. Diane Worstell seconded the motion. A roll call vote was taken and unanimously carried 4-0.

VAR18-013 – Petition filed by Jason C. Gilliana, 4501 Airport Drive, Unit 101, Valparaiso, IN. The petitioner requests a variance from Article 11, Section 11.305, of the Valparaiso Unified Development Ordinance, to vary the required front yard of sixty-five feet, to allow for a front yard setback of 25 feet. The property is located at 4601 Airport Drive, 4602 and 4702 Murvihill Road, in the Heavy Industrial (INH) Zoning District. Mr. David Tiemens presented. We went before the Plan Commission last week to request a replat of lot 6 to be split into three lots. The replat was granted contingent upon variance approval. All other buildings in this area are built to a 25-foot front setback and we would like to do the same for the addresses in this case.

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.

Q: Are the lots for sale?

A: They are available for sale. There is no immediate building plan.

Q: Is the variance for each lot?

A: Yes.

C: Tyler Kent advised, the City supports this project.

Motion: Diane Worstell made a motion to approve VAR18-013 to vary the required front yard of sixty-five feet, to allow for a front yard setback of 25 feet. Such approval will not be injurious to the health, safety, morals, and general welfare of the community; will affect the use and value of the area adjacent to the property included in the variance in a substantially adverse manner; does not arise from practical difficulties in the use of the property in conformity with the Zoning Ordinance, and the petitioner will comply with all parking requirements. Ryan Wright seconded the motion. A roll call vote was taken and unanimously carried 4-0.

VAR18-014 – Petition filed by David and Pamela Gring, 155 Carrington Circle, Valparaiso, IN. The petitioner requests a variance from Article 3, Section 3.501, of the Valparaiso Unified Development Ordinance, to vary the maximum building height of 35 feet, to allow for a maximum building height of 40 feet. The property is located at 1006 Center Street, in the Neighborhood Conservation (NC-60) Zoning District. Mr. David Gring presented. He would like to build a new construction home on the lot located at 1006 Center Street. The proposed home is 2,800 square feet. The lot is 50 feet wide and 132 feet deep with a 17-foot rise in grade to the back of the lot. The foundation of the garage has to be set at 12 feet due to the grade. The home will be over the garage, therefore, putting the height at five feet over the building code. They are requesting a variance to allow a 40-foot height versus the allowed 35-foot height due to the grade of the property and the size of the lot.

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. Deann Locklin, 304 Chicago Street, states she has a concern with the height. This is a very old neighborhood and we don't want to set a precedence. 35 feet is very tall. A three-story home is out of character for this historic neighborhood. She is opposed to the petition.

Mr. Fred Grady, 709 Elmhurst Street, states this is a very nice neighborhood and there are not "grand" homes. There is a lot of character. A two-story house on top of a garage is out of character and violates the neighborhood. This will cause a distinct change to the area. The petitioner purchased the property knowing what kind of neighborhood he was purchasing in. He is opposed to the petition.

Ms. Linda Florie, 1011 Elmhurst Street, states she enjoys living in her older neighborhood and the home as proposed will be out of character. She is opposed to the petition.

Rocka Kingsland, 1007 Elmhurst Street, states they enjoy all the trees, etc. and this is a flood zone, and questions if this is one home or one home for each lot? He is opposed to the petition.

Mr. Andrew Bray, 1713 Elmhurst Street, states this area was declared a flood zone and the City spent thousand on rain gardens so why would they now allow buildings on it? To build will mean to extend Center Street which will cause more run off. We already get water in our homes. The area where they want to build is a beautiful place full of trees that blocks the train noise. He is opposed to the petition.

Ms. Bonnie Tolliver, 956 Hope Street, states that her neighbor's yard already floods every year and this will cause more flooding. There are a lot of deer in this tree area that will displaced as well. This large of a home does not belong in this historic area. She is opposed to this petition.

Ms. Jessica Vargas, 1003 Center Street, states she owns the 10-lot area and has sold one lot. The City did a huge sewer and storm system renovation a year ago to address drainage issues. This project would include extending Center Street and additional storm water work. The proposed home does fit the downtown area. The plans are for a very nice home that is consistent with downtown progress. There was a lot of garbage on the property with the lots being vacant. The development would be a better use of the lots. She is in favor of the petition.

Ms. Linda Florie, 1011 Elmhurst Street, stated that her opposition is to the height of the proposed building and setting a precedent. We are not located in downtown, and are not anti-development, we just ask that people stay within the character of the area. We don't want all the new homes being built to 40 feet high. She is opposed to the petition.

Mr. David Gring's rebuttal:

- He thanks everyone for their feedback.
- He has been a realtor for 13 years with his niche being new construction.
- He understands the neighbor's concerns.
- There are 10 city lots available. 9 are vacant and there are 3 homes on lots already. He is specifically building on lot 11 and only building one home.
- The design fits the area as he is planning an arts and crafts design.
- He will keep as many trees as possible.

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

Q: Will this be your personal home?

A: Possibly, but I am not totally sure just yet.

Q: Will it raise the value of other homes?

A: I believe it will. The proposed home is valued in the \$375,000-\$400,000 price range.

C: Tyler Kent advised that in the past when looking at zones staff looks at the area for the type of area it is, the lots splits, etc. NC-60 allows for flexibility in the Planning Office with regards to porches, decks, etc. Averages can be taken to keep things consistent. NC-60 allows for 60-foot lot widths. These lots are 50 feet wide because the NC-60 zone allows for development on the site. A few years ago, the Engineering department worked on this area's flooding issues. There are two large basins. The developers will have to submit drainage plans for each lot and will have to meet all the current requirements. The downtown area continues to grow, and we are seeing a lot of interest in these areas for new development. Staff gets calls every day. Being close to downtown is in high demand. Trees are important. Does it make sense to remove more or less and allow to build up? Each case is reviewed independently of any other development so no precedents are set. Lot size, grades, width are all considered.

Q: What is the average square footage of the area homes? Could you build a smaller home?

A: The height is necessary to achieve this size, but it could be built smaller.

Q: Is it two stories or two and a half stories?

A: Two stories due to the drop in elevation. The foundation will be set at 12 feet above the street level. Topography is hard on this site. We can't speak for all the lots but this one is one of the steepest.

Q: What height is the back of the house at?

A: Approximately 28 feet.

Motion: Melanie Trowbridge made a motion to deny VAR18-014 noting a lack of hardship in that a smaller home could be built and the neighbors challenges.

Ryan Wright stated that he does not want to stop growth, but would like to see if we can achieve growth while staying within the height requirement. Mr. Wright suggests tabling this case one month to allow staff and the petitioner an opportunity to review and resolve the issues.

Melanie Trowbridge withdrew her motion to deny.

Motion: Melanie Trowbridge made a motion to table VAR18-014 to next month to allow staff and the petitioner an opportunity to resolve the issues. Ryan Wright seconded the motion. A roll call vote was taken and carried 3-0. Mike Micka abstained from voting.

UV18-002 – Petition filed by Prisoner & Community Together, Inc. (PACT, Inc.), 2056 S. State Road 2, Valparaiso, IN. The petitioner requests a Use Variance from Article 2, Section 2.201, of the Valparaiso Unified Development Ordinance, to allow for an Office Use to be permitted within the Urban Residential (UR) Zoning District. The property is located at 505 Don Hovey Drive, in the Urban Residential (UR) Zoning District. Attorney Ivan Bodensteiner, on behalf of PACT, Inc. presented. 505 Don Hovey Drive is zoned Urban Residential which is the highest density in terms of residential in the City. Currently there is a church building and paved parking lot on the parcel now. This particular piece of property has been many things, including a church, music observatory, FOP Lodge, and business, but has not been used residentially. The last business has been gone for several months. PACT has been operating in Porter County and Valparaiso for many years with the current location begin at 254 S. Morgan Boulevard. Due to space limitations, they would like to move their current use and office space at 254 S. Morgan Boulevard to 505 Don Hovey Drive. There will be no structural change to the building. The parcel has a number of non-residential uses around it including Valparaiso University and the City of Valparaiso. A variance is required, but it is not a significant change in the use as the parcel has never been used as a residence. We are simply asking for a different business. It will not be injurious to the health, safety, morals, and general welfare of the community as this business has been operating a few blocks away at 254 S. Morgan for quite some time without issue. Hours are 9:00 a.m. to 8:00 p.m. Use and values will not be affected. The property will be maintained and actually will look for attractive then how it sits now. Improvements will be made to the parking lot and the parcel will serve a useful purpose. The business will not bring a large number of vehicles and all will be in the parking lot. No on street parking will be necessary. We do not anticipate that it will add any traffic to Cyrus or Courtney Streets. There are adequate drives on the parcel and the use is not that different from previous uses. There is no hardship to the neighbors, as there are already non-residential uses in the area. We do not anticipate any increase in noise or traffic. Ms. Sharon Mortensen, Executive Director, Recovery Connection Program, presented. She began working for this program in 2014. Addiction is a problem in this community and this program helps people maintain sobriety. We offer support groups, trained staff, volunteers and interns to help with the program. We also have a lot of donors and sponsors to keep the program going. Typically, we offer about seven meetings per week with anywhere from 6 to 20 participants. Some of the participants are court ordered, but the majority are there voluntarily because they want to be well.

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.

Diane and Bill Birky, 179 Shorewood Drive, state they own the property next door at 507 Don Hovey Drive and they intend to rent to students. They are doing a full rehab and investing in their property. Allowing this will be injurious to the neighborhood. Having twenty participants at one time will change the neighborhood. It is dark at 8:00 p.m. in the Fall and Winter months and there are students all around this area. It is not good for them. They are opposed to this petition.

Mr. Paul Schreiner, states Project Neighbors owns the property adjacent to the current building on Morgan Boulevard and PACT is a good neighbor. They are quiet, there is not a lot of traffic, and the property is extremely well maintained. He has seen the transition of the proposed building over the years and the number of businesses that have been located there. There has not been any spill over, no congestion, and no over-population. The proposed use will be unnoticed. He is in favor of this petition.

Attorney Mitch Peters, 112 E. Woodview Court, states Recovery Connection is an essential function needed in this community. It offers a continuum of care. The name Prisoners and Community Together was ill advised. Services are not provided to prisoners but to the members of the community. Our very own neighbors are taught life skills, physical fitness, and more as part of the continuum of care. PACT has been in this neighborhood for 30 years without issue. There is no disruption to the neighborhood, they are not hosting large meetings. The issue at hand is that kids are dying because there is not adequate treatment and recovery available. This property has never been anything but a business and this business will have no negative impact. He is in favor of this petition.

Mr. Todd Willis, Porter Starke staff member, asks that people, and the Members, not make their decision based on fear. The people this program helps are good people going through a struggle. They are not to be feared. This is not a detox facility. It plugs people into good resources. It is a positive place. He is in favor of this petition.

Mr. William Steel, 756 Cyrus Street, states the adjacent residential area has 12-15 young kids ranging in age from 2 to 13. He does not like the idea of this business being here. We don't want a bad influence in the neighborhood. He is opposed to this petition.

Ms. Megan Johnston, Coordinator for Recovery Connection, states she started as an intern and has stayed. The people in the program are not out to harm others. They are simply people trying to get better. This is not a detox or treatment facility. We are the long-term services people need to get better. She is in favor of the petition.

Mr. Barry Loftix, 751 Cyrus Drive, states he is in favor of rehabilitation and knows how helpful Recovery Connection is, but is also aware of what happens when someone defects from the program. There are two ways the access the property. Don Hovey Drive or the north side which is his backyard. He already has security cameras, and is not opposed to the program, but asks that a fence be required around the petitioner's property to keep people from walking through this backyard.

Mr. Salvador Elonzo, 2307 Yorktowne Drive, states Recovery Connection is a place of enlightenment that helps people to cope with life. It's a beacon of hope and a safe place. He is in favor of this petition.

Ms. Kara Jones, United Way of Porter County, Chairperson of the Opioids Group, states recovery is difficult, and it can be hard to access and navigate. This program makes all the difference. She has been at the current location and there have not been any issues. She is in favor of this petition.

Ms. Lita Peters, 1408 Chicago Street, Respite House Executive Director, states when the Respite House opened we heard a lot of the same concerns. She works with drug addicts and felons every day and she has great regard for them. Drug addicts do not hang out at recovery places. Those using drugs won't be there. We need these services in this community. She is in favor of this petition.

Ms. Vicki Loftis, 751 Cyrus Street, states she is a real estate agent and this type of business could affect our property values. People on foot will cut through our yard and our neighborhood and we take concern with that. Please consider a fence so patrons do not travel through our yard.

Ms. Jennifer Hippic, states she works in the social work field and children as young as 4th grade are using drugs. This is happening in our community and the people in this program are seeking help, not using. She is in favor of this petition.

Ms. Stephanie Swearington, 352 Worchester Drive, states she is a volunteer with the program and it is very much needed. She is in favor of this petition.

Attorney Bodensteiner's rebuttal:

- We appreciate everyone's attendance tonight.
- PACT, Inc. has a history of being a good neighbor.
- PACT, Inc. knows fear is real and we will work together to address and alleviate the fear.

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

C: Attorney Ethan Lowe noted that as of July 2006 prior use variances included the FOP meeting place and bar and then a music studio.

Q: Are there any statistics on changes in property values, etc. at the current location?

A: No, but we can say that it didn't deter the very impressive condominiums from being built just down the street.

Q: What is the purpose of the move?

A: Space. We have outgrown our current location and parking will be an issue with the downtown growth.

Q: What will be located here?

A: Offices and meeting spaces only. There will be no treatment and no living here.

C: Tyler Kent advised the City is in support of this project.

Motion: Melanie Trowbridge made a motion to approve UV18-002 noting such approval will not be injurious to the health, safety, morals, and general welfare of the community; will not affect the use and value of the area adjacent to the property included in the variance in a substantially adverse manner; (office space will not change the area), and arises from practical difficulties in the use of the property in conformity with the Zoning Ordinance; arises from a condition peculiar to the property; (existing building and parking area), arises from unnecessary hardship if the Zoning Ordinance is strictly applied; does not interfere substantially with the Comprehensive Plan; (the property has always been used as a commercial use), and the petitioner will comply with all Ordinance parking requirements. Diane Worstell seconded the motion. A roll call vote was taken and unanimously carried 4-0.

STAFF ITEMS:

None.

ADJOURNMENT:

There being no further business, the July 17, 2018 Board of Zoning Appeals meeting was adjourned at 8:56 p.m.

Mike Micka, President

Tyler Kent, Executive Secretary