

FEBRUARY 9, 2010

**BOARD OF ZONING APPEALS
CITY OF MISHAWAKA, INDIANA**

A regular meeting of the Mishawaka Board of Zoning Appeals was held Tuesday, February 9, 2010, at 6:00 p.m. in the Council Chambers, City Hall, 600 East Third Street, Mishawaka, Indiana. Board members attending: Charles Krueger, Ross Portolese, Jim Trippel, and Rosemary Klaer. Absent: Don McCampbell. In addition to members of the public, the following were also in attendance: John Gourley, Ken Prince, Greg Shearon, Peg Strantz, and Kari Myers.

The Minutes of the January 12, 2010, meeting were approved as distributed.

Jim Trippel explained the Rules of Procedure.

Conflict of Interest was not declared.

PUBLIC HEARING:

APPEAL #10-02 An appeal submitted by Taco Bell of America, Inc. requesting a Developmental Variance for **536 West McKinley Avenue**, to allow 31 off-street parking spaces, and a Sign Variance to permit three signs to extend above the roof line.

Todd Huntington, GPD Associates, 520 S. Main St., Akron OH, represented Taco Bell. He said Taco Bell is planning to demolish the existing building and build a new Taco Bell restaurant.

Mr. Huntington said the site layout will be similar to what currently exists. He said due to the size of the building, 44 parking spaces are required. However, based on an access drive that is shared with an adjacent property, we're able to provide only 31 spaces.

Jim Trippel asked how many parking spaces the restaurant has now. Mr. Huntington said he wasn't sure, but it isn't 44. He said the biggest issue is the stormwater retention requirements, and there is quite a bit of underground retention they need to provide and that decreases the usable area that might have been used for parking. He further said most of their business is from drive thru.

Mr. Huntington said regarding the Sign Variance, the "Swinging Bell" logo projects above the roof line and below the arch. This is Taco Bell's corporate look and even though it is located below the arch, it does project above the parapet line.

Mr. Trippel asked how far above the roof does the sign project. Mr. Huntington said 8" or 9".

Mr. Trippel closed the Public Hearing on Appeal #10-02.

Ken Prince said even bringing part of the site up to current developmental standards is a big improvement and it also represents a large investment.

Staff Recommendation

Staff recommends approval of Appeal 10-02 to allow for 31 off-site street parking spaces and to allow the Taco Bell logo signs to extend beyond the roofline. This recommendation is based upon the following Findings of Fact:

- 1. Approval will not be injurious to the public health, safety, morals and general welfare of the community because all state and local building codes will be adhered to during construction and stormwater management measures will be implicated on site.*
- 2. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner because a site plan will be submitted and reviewed to insure proper drainage of the proposed parking that does not run-off into adjacent property; and the reduction of parking will allow for the required green space and landscape buffering between this property and adjacent properties;*
- 3. Strict application of the terms of this chapter will result in practical difficulties in the use of the property because the required pavement setback further reduced the amount of available area for parking from the existing zero-foot pavement setbacks; and there is a 40-foot sanitary sewer and driveway easement that must be left clear which greatly reduces the area on site that can be utilized for parking. In regards to the sign variance request, the proposed extension of the logos above the roofline is appropriate because the logos are apart of the overall façade design of the proposed building.*

MOTION: Rosemary Klaer moved to approve Appeal #10-02. Ross Portolese seconded; motion passed with a vote of 4-0.

APPEAL #10-03 An appeal submitted by Scott Reenders, Dennis Reenders, Shirley Woodruff, and Melissa Satterfield, requesting a Sign Variance for **820 East Cleveland Road, Granger**, to permit four (4) 30" X 60" seasonal banners to be hung on lamp posts on their property.

Jackie Zeyen, 52083 Larkspur Circle, Granger, appeared on behalf of The Village at Arborwood. She said they are requesting permission to put seasonal banners on four lamp posts on their property.

Mr. Trippel asked if the banners would have writing on them. Ms. Zeyen said they would like their name, or "Welcome", or something seasonal. They want to make the entrance to the property more visually appealing as the building is very neutral in color.

Mr. Trippel said he would have no objection to "Happy Holidays" or "Welcome". He said if you put advertising on them then you are circumventing the Sign Ordinance. Ms. Zeyen said they would be fine with that. They just want to make the entrance more appealing.

Ross Portolese asked if there were only four lamp posts. Ms. Zeyen said yes.

Mr. Trippel closed the Public Hearing on Appeal #10-03.

Mr. Prince said any approval needs to be content neutral and not controlling any wording that would go on the banners. He said either the signs are appropriate or they aren't. Mr. Prince said something similar was done at Heritage Square although their signs were more internal on the property. He said he also understands this area is very bland and Cleveland Road between Fir and State Road 23 is almost more of a residential collector street and not a commercial area. It really doesn't have any sign value.

Staff Recommendation

The Staff recommends approval of Appeal #10-03 to allow four (4) 30" by 60" seasonal vinyl banners to be secured at the top and bottom to the lamp posts fronting on Cleveland Road based on the following Findings of Fact:

- 1. The approval will not be injurious to the public health, safety, morals, and general welfare of the community because the banners will be secured placed on the lamp posts with supports;*
- 2. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner because the low profile banners will not be seen at all from State Road 23 and will be barely noticeable from adjacent properties; and*
- 3. Strict application of the terms of the On-Premise Sign Standards Ordinance will result in practical difficulties in the use of the property because the residential community would not be permitted to express the desired first impression for their entry.*

MOTION: Ross Portolese moved to approve Appeal #10-03. Rosemary Klaer seconded; motion passed with a vote of 4-0.

APPEAL #10-04 An appeal submitted by Capital Automotive Real Estate Services, Inc. requesting a Sign Variance for **4004 Grape Road**, to permit an additional or fourth freestanding sign on the property.

Charley Schalliol, Site Enhancement Services, 6001 Nimitz Parkway, South Bend represented Gurley Leep. He said they are requesting a fourth freestanding sign for a yet to be named dealership.

Mr. Schalliol said sometime in the future, the Saturn freestanding sign will be removed and a new sign will be requested at that time. That sign will match the design of the proposed sign.

Mr. Schalliol also said they will be utilizing less square footage in these signs than what is allowed by code. The additional sign is required to identify services and products offered on the property.

Charles Krueger asked what will happen to the Saturn sign. Mr. Schalliol said that at some time in the future, the sign will be removed and will be replaced with a sign similar to what is being proposed in this request. He said they have worked with staff and they have recommended adding some landscaping along Grape Road and Gurley Leep agrees to that.

Mr. Trippel closed the Public Hearing on Appeal #10-04.

Mr. Trippel asked Mr. Prince if the additional sign would be a burden on the Sign Ordinance. Mr. Prince said it's actually tight because there is less than 500' of frontage and you have four freestanding signs and if you think about it Grape Road lots are typically larger than 100' and these signs will be on top of each other. But because they have a consistent appearance it will look like one enlarged dealership.

Staff Recommendation

The Staff recommends in favor of Appeal 10-04 to allow for the installation of a fourth auto dealership sign at 4004 Grape Road. The recommendation is based upon the following Finding of Facts:

1. *The approval will not be injurious to the public health, safety, morals, and general welfare of the community because all construction will be completed in accordance with all applicable state and local building codes;*
2. *The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner because the total square footage and copy area of the signs is substantially less than what would be permitted by ordinance. With 495 feet of frontage on Grape Road, the Appellant could potentially build one large sign with 50+ square feet more of copy area than the four smaller signs.*
3. *The strict application of the terms of this chapter will result in practical difficulties in the use of the property because the fourth dealership would not be permitted to publicize its existence on the property with a freestanding sign that is required by the vehicle manufacturer.*

MOTION: Charles Krueger moved to approve Appeal #10-04. Rosemary Klaer seconded; motion passed with a vote of 4-0.

APPEAL #10-05 An appeal submitted by Jimi Enterprises/Jimi Partnership requesting various Developmental and Sign Variances for **3820 Grape Road**, for parking setback, reduction in required parking ratio, landscaping, signage and fencing.

Brett Konarski, Wightman Petrie, 412 S. Lafayette Blvd., South Bend, appeared on behalf of Basney Honda. He said Basney is planning to demolish the two buildings on the property and build a larger facility and will expand parking east on their adjacent property and in doing so they are seeking approval of four variances.

Mr. Konarski said the first variance is for parking. He said according to code, they would need to provide 190 spaces for customer parking and it's clear they have more than that amount, but only 42 spaces are going to be dedicated to customer parking. The remaining spaces will be for used and new car display and that ratio has to be pretty high to meet the standards of Honda Corporation.

Also, Mr. Konarski said the ordinance allows 25% of parking spaces to be used for small car parking and they would like to use the small car parking spaces for all of the car storage, and increase to 89% of the total on-site parking. This will help meet Honda's requirements.

He said the second variance they are seeking is for parking setback. On the east side of the property they are looking to encroach into the 5' setback and reduce it to 2'. Mr. Konarski said that will allow them to triple stack the parking on that side of the site to maximize parking. He said they are still providing green space in between the proposed curb and the adjacent curb.

Mr. Konarski said the third variance is for site signage. He said the Honda sign located on Grape road would remain and they would like to add an additional sign on the Edison Road frontage to advertise the sale of certified used cars. It would be located approximately 226' from the existing Honda sign on Grape Road and be far enough away from the intersection not to cause any visual disturbance. He said they are also requesting a directional sign to be located internally on the site that will exceed the allowed height and square footage.

And finally, Mr. Konarski said the fourth variance they are requesting is a reduction of landscape requirements. He said interior landscaping would dramatically reduce the amount of

on-site parking. He said he has received comments from the Planning staff seeking additional landscaping and are more than happy to meet those requirements.

Mr. Trippel asked where the directional sign would be located. Mr. Konarski said it will be located at the southeast corner of the building.

Mr. Portolese asked Ken Prince if he was ok with the landscaping. Mr. Prince said it is similar to what was requested from Gurley Leep. The property will look more in compliance as part of the request and that's what we were looking for. He said the business has been there a very long time and they are subject to dealer requirements and we're trying to work with them and what we've asked the applicant to do is spend money on the frontage so the green area is in the front and when you get behind the building and we said if you need to maximize the parking and stack cars three deep, so be it.

Mr. Trippel asked if they plan to maintain the business during construction. Mr. Konarski said yes, it will be done in phases.

Mr. Krueger said staff has made a number of recommendations. Does the applicant agree to them? Mr. Konarski said yes.

Mr. Prince wanted Mr. Konarski to confirm that car haulers will be unloaded on site and not in the street. Mr. Konarski said that is correct.

Mr. Trippel closed the Public Hearing on Appeal #10-05.

Staff Recommendation

Provided the above staff amendments are agreed upon by the appellant, Staff recommends approval of Appeal 10-05 for several variances for the development of a car dealership. This recommendation is based upon the following Findings of Fact:

- 1. Approval will not be injurious to the public health, safety, morals and general welfare of the community because all state and local building codes will be adhered to during construction and stormwater management measures will be implicated on site.*
- 2. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner because a site plan will be submitted and reviewed to insure proper drainage of the proposed parking that does not run-off into adjacent property;*
- 3. Strict application of the terms of this chapter will result in practical difficulties in the use of the property. Although the site is large enough to meet the parking requirements and developmental requirements of the City, the existing Basney Honda site is not appropriate to meet the demands of the Honda business. The Honda Corporation has very specific requirements for the development of car dealership sites. Local car dealerships need to supply a certain amount parking space for vehicle display to comply with these requirements. In order to maintain on the existing site, Basney Honda needs the aforementioned variances to comply with the Honda Corp. standards. The reduction in pavement setback, reduction in interior landscaping, and the increase in small car parking spaces help in meeting the dealership needs. In regards to the sign variance, the property is located on a corner lot, and additional free-standing sign is needed in order to appropriately identify services along Edison Rd. Furthermore, the success of car dealership is dependent upon exposure of the car products. The required screening (berm, shrub planting requirements) limits this exposure.*

MOTION: Rosemary Klaer moved to approve Appeal #10-05. Ross Portolese seconded; motion passed with a vote of 4-0.

ADJOURNMENT: 6:30 p.m.

Kenneth B. Prince, City Planner

Kari Myers, Administrative Planner