

FEBRUARY 14, 2017

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

A regular meeting of the Mishawaka Board of Zoning Appeals was held Tuesday, February 14, 2017, at 6:00 p.m. in the Council Chambers, City Hall, 600 East Third Street, Mishawaka, Indiana. Board members attending: Charles Krueger, Charles Trippel, Don McCampbell, and Marcia Wells. In addition to members of the public, the following were also in attendance: David Bent, Ken Prince, Derek Spier, Christa Hill, and Kari Myers.

Mr. McCampbell explained the Rules of Procedure.

The Minutes of the January 10, 2017, meeting, were approved as distributed.

Conflict of Interest was not declared.

PUBLIC HEARING:

APPEAL #17-04 An appeal submitted by Dennis R. Beavo requesting a Developmental Variance for **2716 North Main Street** to allow for the construction of a handicap accessible ramp with a 11' front yard setback.

Dennis Beavo, 2716 North Main Street, said he needs the ramp for his wife who suffered a stroke and is confined to a wheelchair.

Mr. McCampbell closed the Public Hearing on Appeal #17-04.

Staff Recommendation

*Staff recommends **approval** of Appeal 17-04 to allow an enclosed front porch and handicap access ramp to be constructed with an 11' front yard setback. 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 were adhered to during construction;*
- 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 ramp is modest in size and will still allow a small front yard; and*
- 3. Strict application of the terms of this chapter will result in practical difficulties in the use of the property because the ordinance has no provision to accommodate a situation such as the Appellant's where special access to an individual's home is needed.*

MOTION: Charles Krueger moved to approve Appeal #17-04. Marcia Wells seconded; motion carried with a vote of 4-0.

APPEAL #17-05 An appeal submitted by Habitat for Humanity of St. Joseph County requesting a Developmental Variance for **850 East Fourth Street** to allow the construction of a new single-family home with a 20' front yard setback.

Michael Rozycki, Abonmarche Consultants, 750 Lincolnway East, South Bend, appeared on behalf of Habitat for Humanity. He said they are asking for the variance to allow construction of a new home this coming season. Mr. Rozycki said existing homes nearby are closer to the street. He also said they may create 3 lots from this lot and the one to the east for Habitat homes.

Mr. McCampbell closed the Public Hearing on Appeal #17-05.

Staff Recommendation

Staff recommends approval of Appeal 17-05 requesting a developmental variance from the required 25' front yard building setback to a 20' front yard building setback to allow the construction of a new house at 850 E. 4th Street. 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.*
- 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 majority of the adjacent properties are also occupied with single family residences. The front yard setback of the proposed house will be consistent with the existing front setbacks of the adjacent homes. Furthermore, the value of the proposed improvements will be similar to or greater than the adjacent homes.*
- 3. Strict application of the terms of this chapter will result in practical difficulties in the use of the property because the required 25' front building setback would push the home further back into the lot, thus reducing the amount of usable rear yard area. The required 25' front yard building setback would also not be consistent with adjacent residential front yard building setbacks.*

MOTION: Charles Trippel moved to approve Appeal #17-05. Charles Krueger seconded; motion carried with a vote of 4-0.

APPEAL #17-06 An appeal submitted by Habitat for Humanity of St. Joseph County requesting a Developmental Variance for two (2) vacant parcels **east of 1612 Lincolnway East** to allow the construction of two (2) single family homes with 15' front yard setbacks.

Michael Rozycki, Abonmarche Consultants, 750 Lincolnway East, South Bend, appeared on behalf of Habitat for Humanity. He said they are asking for a 15' setback variance for these two properties. He said the houses on either side are closer to Lincolnway and these houses will line up with them.

Mr. McCampbell closed the Public Hearing on Appeal #17-06.

Staff Recommendation

Staff recommends approval of Appeal 17-06 to allow the construction of two new single family homes each with a 15' front-yard setback. 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.*
- 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 proposed homes will be consistent with the existing front-yard building setbacks of the adjacent homes.*
- 3. Strict application of the terms of this chapter will result in practical difficulties in the use of the property because the required 25' building setback would push the homes further back into the lot, thus reducing that amount of usable yard area; furthermore, the required 25' front-yard building setback would not be consistent with adjacent residential front-yard building setbacks.*

MOTION: Marcia Wells moved to approve Appeal #17-06. Charles Krueger seconded; motion carried with a vote of 4-0.

ADJOURNMENT: 6:09 p.m.

Kenneth B. Prince, City Planner

Kari Myers, Administrative Planner