

A G E N D A
CITY OF FORT WAYNE ZONING HEARING OFFICER

The Zoning Hearing Officer will conduct a public hearing in Room #30, Garden Level, Citizens Square
200 East Berry Street, Fort Wayne, Indiana on Wednesday, July 11, 2012 at 8:30 a.m.

OLD BUSINESS

1. Case No.: VAR 2539/02
Applicant: Kevin Gwozdz
Location: 5721 Covington Road
Appeal: An appeal for a use variance to allow an insurance office in an R1 zoning district. (Ten Year Status Report).

2. Case No.: UVAR-2011-0071
Applicant: Jay S. & C. Patrice Kumaran
Location: 3030 North Clinton Street
Appeal: An appeal for a use variance to allow outdoor retail sales of local produce, food, and local craft items in a CM2 zoning district. (One Year Status Report)

3. Case No.: SU-2011-0079
Applicant: SCI Indiana Funeral Services, Inc.
Location: 6600 Covington Road
Appeal: A request for a special use to allow a funeral home in an AR zoning district. (One Year Status Report)

NEW BUSINESS

1. Case No.: DSV-2012-0082
Applicant: Harold Wiggins
Location: 2036 Riedmiller Avenue
Appeal: An appeal for variance of development standards to reduce the side yard setback from 7 feet to 5 feet for an addition in an R2 zoning district.

City of Fort Wayne Board of Zoning Appeals

Staff Report

(One Year Status Report)

Case Number: UVAR-2011-0071

July 11, 2012

Request: An appeal for a use variance to allow outdoor retail sales of local produce, food, and local craft items in a CM2 zoning district. (One Year Status Report)

Location: 3030 North Clinton Street



Applicant: Jay S. & C. Patrice Kumaran

Property Owner: Jay S. & C. Patrice Kumaran

Legal Description: See File

Size of Property: 0.47 acre

Township & Section:

- Washington 26

Applicable Ordinance Section(s):

- §157.040 (C)

Neighborhood Association(s) notified:

- 18 Property Owner's Notified
- Irvington Park
- Brookview Civic

Adjacent Zoning & Land Uses:

- North – CM3/Commercial
- South – CM2/Commercial
- East – R1/Single Family Residential
- West – CM2/Commercial

BZA History:

Case Number 13-1974. A request for a contingent use for a parking lot within 300 feet of a business (lot 51 J.H. Vesey Addition). Granted.

Comprehensive Plan:

The Economic Development Goal of the Comprehensive Plan is “A vibrant and diverse economy that balances existing business growth and new business attraction in a manner that produces secure, well-paying jobs, provides infrastructure improvements needed for economic development, and promotes downtown revitalization. Objective ED1 is to “Plan, invest and develop competitive locations and sites for existing business expansion, new business attraction and entrepreneurial development.”

The Comprehensive Plan would support granting a variance to allow outdoor retail sales of local produce, food and craft items at this location. The proposal is keeping with the area’s existing character as there is CM3 zoning in the area which would permit the proposed use. The parcel’s corner status allows for enhanced vehicle access.

July 2011 Staff Discussion:

The applicant is requesting approval for outdoor retail sales of local produce, food and craft items in a CM2 Zoning District. This request can be approved by the Board as a use variance.

The property consists of a 5,040 square foot building with, according to the property tax record, 10,156 square feet of paved parking area with parking on three parcels. At the time of the site visit the property was currently vacant, but there were signs located on the building that stated “Clinton Street Market”. This property was once used for an animal clinic. The applicant was the owner and operator of the animal clinic, but has not operated at the site for the last couple of years. During a meeting with Staff, the applicant stated that they have tried to sell the building but have not been able to do so and decided to use the building and its paved area for an outdoor market during the summer months and an indoor market in the winter months.

The applicant is proposing to have 2 part-time employees at the site, however, there will be numerous booths and vendors located both inside the building and outside in the paved parking area. Days of operation proposed are Monday through Saturday but the applicant did not list specific hours of operation. The applicant would like to change out the panels on the existing free standing sign as well as use a 16 square foot sign that is located on a pole at the northwest corner of the property. The applicants state in the application that they would like to utilize the indoor space as well for a coffee house in the future. The existing building lights will be used for the business. According to the applicant there will be no need for a waste receptacle as the vendors will be taking any waste generated with them when they leave the site. The vendors would be “providing local fresh produce, locally made food items and locally made craft items.

Staff believes that approval will not be injurious to the public health, safety, morals, and general welfare of the community with this approval. The proposed business will be conducted mostly inside the existing structure for most of the year with outdoor vendors only during months that are appropriate for outdoor sales. The use and value of the area adjacent to the property will not be affected in an adverse manner given the proposed operation and Board conditions of approval. The surrounding properties are a mix of commercial and residential uses. The strict application of the Zoning Ordinance will cause some hardship to the property. The proposed new use for the property does not conflict substantially with the Comprehensive Plan goals as they relate to the area.

July 2011 Board Action:

The Board granted conditional approval based on the recommended findings for the reasons set forth in the findings. Conditions of concern at this time include:

1. Approval is limited to allow outdoor retail sales of local produce, food, and craft items only. Any other uses not permitted in the zoning district shall require prior Board approval.
4. Approval shall be terminated and of no further effect in the event the proposed use is discontinued for a period of 12 months. Upon such termination, no reestablishment of the use in any form shall occur without favorable action (including new findings of fact/law and conditions of approval) by the Board/ZHO or any successor agency.
8. Overnight exterior storage is not permitted.

11. Signage shall be limited to two 100 square foot free standing signs, one located on North Clinton Street and one located on Dalgren Avenue. The sign on Dalgren Avenue shall not include any electronic changeable copy features.
14. The applicant shall obtain appropriate permits for any new pavement, signage, fencing, and/or building alterations.

July 2012 Staff Update:

The site has been the subject of several complaints the Department of Planning Services as well as Neighborhood Code Enforcement and the Board of Health over the past year. While the farmers market was established, the site was also used for used car sales display. Signs were posted for the farmer's market, but no permits were applied for or issued. Small signs were posted along the right-of-way that would not meet standards. Presently there appears to be a pawn shop preparing to open. Several signs have been installed indicating a pawn shop business. No permits have been issued for these signs or any remodeling of the building. A re-roof permit was issued in May of this year. Staff notes that this property does not have the appropriate zoning for a pawn shop use.

Notes:

City of Fort Wayne Board of Zoning Appeals

Staff Report

(One Year Status Report)

Case Number: UVAR-2011-0079

July 11, 2012

Request: A request for a special use to allow a funeral home in an AR zoning district. (One Year Status Report)

Location: 6600 Covington Road



Applicant: SCI Indiana Funeral Services, Inc.

Property Owner: SCI Indiana Funeral Services, Inc.

Legal Description: See File

Size of Property: 3.165 acres

Township & Section:

- Aboite 12

Adjacent Zoning & Land Uses:

- North – AR/Undeveloped
- South – AR/Residential
- East – AR/Cemetery
- West – AR/Residential

Applicable Ordinance Section(s):

- §157.103 (G)

Neighborhood Association(s) notified:

- 10 Property Owners Notified
- Covington Bluffs

B.Z.A. History:

Special Exception 1999/98 (Allen County). A request to construct a funeral home and mortuary, and to vary the development standards to allow a 56 square foot institutional sign instead of the maximum permitted size of 32 square feet. Granted with conditions, but not built in 10 month time period required.

Comprehensive Plan:

Guiding Principle No. 6 in the Comprehensive Plan states that “Development contiguous to urban areas should be encouraged and organized as commercial centers and neighborhoods, integrated *with the existing pattern*. Land Use Objective LU10.E is to “Encourage infill development and redevelopment *which is compatible with the character of existing development*.” The Economic Development Goal of the Comprehensive Plan is “A vibrant and diverse economy that balances existing business growth and new business attraction in a manner that produces secure, well-paying jobs, provides infrastructure improvements needed for economic development, promotes downtown revitalization, fosters operational efficiencies and increases utilization of the airports. Objective ED1 is to “Plan, invest and develop competitive locations and sites for existing business expansion, new business attraction and entrepreneurial development.” As the continuation and expansion of services of the existing cemetery, the request may be consistent with the economic development goals and objectives of the Comprehensive Plan.

July 2011 Staff Discussion:

The applicant, SCI Indiana Funeral Services, Inc., is seeking a special use for a funeral home. Funeral homes may be allowed by the Board as special uses in AR zoning districts.

The site requested is a 3 acre portion of the acreage owned and operated by the applicant. The majority of the adjacent property is used as the Greenlawn Memorial Park. The applicant would like to build an 8,000 square foot funeral home to provide services on the site. The use would include funeral services. Though not detailed in the application, funeral homes typically include sales offices and showrooms and facilities to process the deceased. The application does anticipate two funeral services per week.

While the building would share the existing entrance with the memorial park, it will be developed on a separate parcel. The submitted site plan shows ample paved parking and a large stormwater detention area. The Allen County Board of Zoning Appeals a similar proposal in 1998. This approval has expired as it was limited to 10 months. Since that time the property has been annexed into the City of Fort Wayne

The applicant states in the application that there would be 8 full-time and 6 part time employees operating seven days per week. There would specifically not be crematory services available on site. Ten 15 foot high poles lights would be used to illuminate the parking lot.

Staff believes that approval of the proposed special use for funeral home will serve the public convenience and welfare by providing services to this part of Fort Wayne in a manner that blends into the surrounding area. Staff believes that the proposed use will not be unduly detrimental to the surrounding area. The use will be closely related to the existing memorial park and use the existing entrance. The nature, location, size, and site layout of the use will be compatible with the immediate area. The funeral home is being design to appear as part of the memorial park and will be buffered by a detention pond to the west. The applicant anticipates only an average of two funerals per week. This will be less disruptive to traffic in the area as the participants will arrive individually rather than as part of a procession. There is no conflict with the Comprehensive Plan as it supports the diverse and balanced entrepreneurial business locations and this proposed operation will be operated in a manner that blends with the neighborhood.

July 2011 Board Action:

The Board granted conditional approval based on the recommended findings for the reasons set forth in the findings.

July 2011 Staff Update:

The project is currently under construction with the appropriate permits. Operations have not begun, but are likely to in the coming months. Unless there are unexpected concerns raised at the public hearing, staff does not recommend an additional staff report at this time.

Notes:

**City of Fort Wayne Hearing Officer
Staff Report**

Case Number: DSV-2012-0082

July 11, 2012

Request: An appeal for variance of development standards to reduce the side yard setback from 7 feet to 5 feet for an addition in an R2 zoning district.

Location: 2036 Riedmiller Avenue



Applicant: Harold Wiggins

Property Owner: Harold Wiggins

Legal Description: Lot 6 & 7 of Interurban Addition

Size of Property: 0.33 acre

Applicable Ordinance Section(s):

- §157.208 (F,7,c,1)

Township & Section:

Wayne 10

Neighborhood Association(s) notified:

- 16 Neighboring Property Owners
- Michigan Avenue

Zoning & Adjacent Land Uses:

- North – R2/Residential
- South – R2/Residential
- East – R2/Residential
- West – R2/Residential

Staff Discussion:

The applicant, Harold Wiggins, is seeking a reduction in the permitted side yard setback for a residential addition. The required side yard setback for this lot is 7 feet. The applicant is proposing a 5 foot setback.

The property is located on the west side of Riedmiller Avenue. It includes a well-maintained 750 square foot single family home on a basement. The proposed addition is approximately 360 square feet which would include a laundry room, kitchen and family room. This addition, according to the applicant, will alleviate the need to use the basement stairs to use the washer and dryer as well as enlarge the kitchen area for the residents living in the home. The applicant will maintain a 5 foot setback from the southern property line.

Five foot side yards are common in this area. It is unusual that the applicant has the ability to add an addition to the side of his house at any size. The addition should serve to enhance the practicality of the house and its long-term viability without adverse effect on the adjoining property to the south. Given the existing floor plan of the house, particularly in terms of the location of plumbing and supports, the plan proposed by the applicant appears reasonable. There is available space to construct the addition on the north side or rear, but neither option is practical in terms of the location of the garage and existing floor plan.

Staff Recommendation:

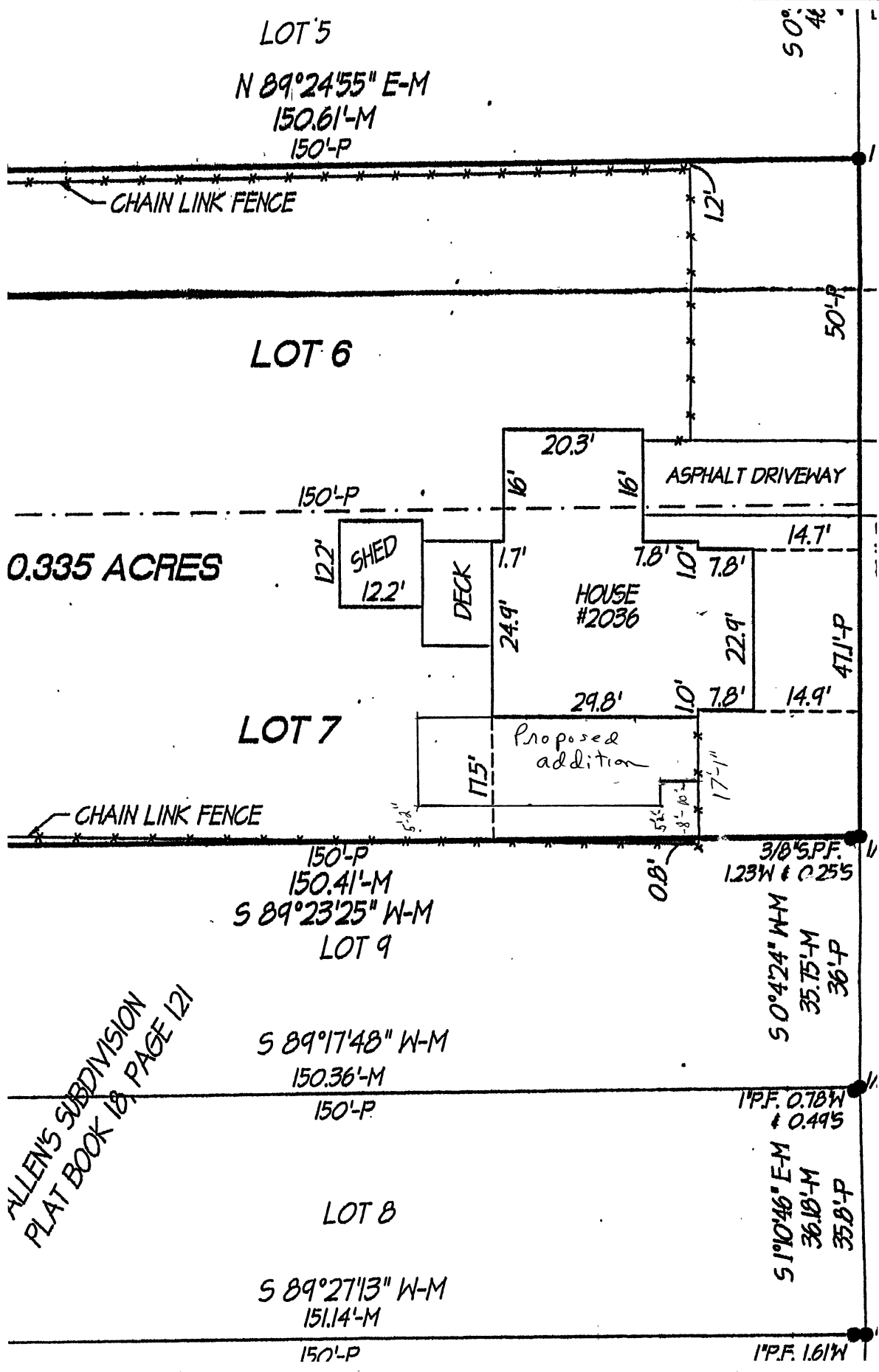
Staff is recommending approval.

Notes if Approved:

Should the Board find that the proposal meets the legal tests for approval; staff would note that construction would be subject to the following requirements:

1. Applicant shall obtain all necessary permits from the Department of Planning Services and the Allen County Building Department.
2. The side yard setback shall be no less than 5 feet from the south side property line.
3. The approved structure is an addition to an existing residential home.

Notes:



ALLEN'S SUBDIVISION
 PLAT BOOK 18, PAGE 121