

The MUNSTER BOARD OF ZONING APPEALS
MINUTES OF REGULAR BUSINESS MEETING
Meeting Date: April 11, 2023

The announced meeting location was Munster Town Hall and could be accessed remotely via Zoom, a video conference application.

Call to Order: 6:45 pm

Pledge of Allegiance

Members in Attendance:

Daniel Buksa
Sharon Mayer
Brad Hemingway
Brian Specht
Roland Raffin (Arrived 5 minutes late)

Members Absent:

Staff Present:

Tom Vander Woude, Planning Director
Dave Wickland, Attorney

Approval of Minutes:

Motion: Mr. Specht moved to approve the March 14, 2023, regular meeting minutes.

Second: Mr. Hemingway

Vote: Yes – 4 No – 0 Abstain – 0. Motion carries

Preliminary Hearings:

- a. **BZA 23-003 Saundarya and Srikanth Ravindran requesting approval of a variance from TABLE 26-6.405.A-2 to permit the construction of a garage addition which will increase the total number of garage spaces to four at 1621 Day Lily Lane.**

NOTE: The staff report and agendas reference this Docket No. as BZA23-004. The correct Docket No. for this petition is BZA23-003.

Mr. Vander Woude said this is a preliminary hearing for a developmental standards variance from the zoning standard that limits the total number of garage spaces to three for a single family home which is less than 5000 square feet. The address is 1621 Day Lily Lane. The house currently has three garage spaces attached, which are accessed via the driveway on the east side of the property. The applicant is proposing to construct an additional one car garage, detached. As noted in the report, there is a plat of survey provided by the applicant that includes a sketch that shows the location of that garage. There are also plans that show the design of the garage. On the GIS site, cars are parked on a concrete pad. The project commenced in August 2021. The Town issued a permit for the construction of a carport. The concrete pad was poured and inspected. As the construction on the structure was beginning, the Town put a verbal stop work order on it because it was determined that a garage was being constructed rather than a carport. Per the definition of a garage in the Town zoning ordinance, it is an enclosed structure for the storage of vehicles. After the stop work order, the Town staff met with the applicants. They were not able to come to an acceptable agreement on how to move forward. After some legal interaction, they all agreed that the applicants would apply for a developmental standards variance and/or an administrative appeal about the definition of a garage. They have applied for both. They agreed that the Town would

process the variance petition first. Depending on the outcome of this hearing and this case, they will determine whether or not that administrative appeal would be necessary. We have a standard in our Munster zoning code, Table 26-6. 405. A-2, which says that for residents with less than 5000 square feet of living space, there is a maximum of three garage spaces which can be attached, detached, or a combination of both. The petition tonight is to request a variance to allow four garage spaces on a house that is less than 5000 square feet.

Randall Parr introduced himself. He is representing husband and wife, Saundarya and Srikanth Ravindran, who are the homeowners at 1621 Day Lily Lane. He said they are the persons who have met with the members of the Planning Commission and are also the plaintiffs in the case which has since been dismissed, at least for the time being. They agree largely with everything that Mr. Vander Woude said on the history of the case. The application which was filed with the Planning Commission for the issuance of a building permit clearly said this would be an entirely enclosed structure. It was not mentioned on the application for a building permit whether or not it would contain or be used for the storage of cars. The issue of the interpretation was part of the matter that had been filed for the judicial proceeding. He said they have since determined that it would be a better course of action, for the time being, to proceed with a variance on this matter. After the building permit was issued, the Ravindrans began construction. They had a concrete pad poured on the property. Subsequently, they had materials delivered. Those materials are basically steel, the dimensions are approximately 27 by 27. One of the inspectors drove by one day and saw some roll up type garage doors, similar to what you would see on many storage type places and issued a verbal stop work order. Mr. Vander Woude's account of the sequence of events is pretty accurate. They are aware of the 5000 square footage requirement. They have a three car attached garage. This structure that they obtained a permit for would technically have had the capacity for more than one vehicle but what they mainly want the structure for is to store anything and everything. There would be storage in this for anything including lawn equipment, whatever. It could be used potentially, and probably would be, for storage of a motor vehicle and ideally, they would probably have to store more than one motor vehicle knowing well that the code permits for a 5000 square foot home up to four. Their house square footage is about 4747 square feet. They are pretty close to 5000. They are intending, if necessary, to have an engineer recalculate the square footage. They are within 4% of the 5000 square feet. The dimensions of this fully enclosed structure are no different from what a two sided structure would be, which is basically the definition of a carport. This was designed to be fully enclosed and was so designated on the application. The width, the length, and the height would be the same. The footprint on the property would be exactly the same. In fact, they have already put the metal studs in the concrete pad for the erection of this steel structure. What they would like to do, at the very least, would be to get a variance of the code for the number of garage spaces to include another garage space taking it up to four. Should the Board, because of the circumstances of the case, determine that the structure could be used, potentially, for storage of another vehicle, that would make them very happy. They also understand that it is a significant deviation from the code. It would be an accessory structure that would have multiple purposes. They are asking the Board to approve their petition for a variance to accommodate at least one more garage space and that would be appreciated. There are pictures that they attached to their petition to show the configuration of the house. The setback lines were approved at the time of the pre-pour inspection which happened before the concrete was poured. The setback line from the adjoining property is good, there are no complaints about it that he is aware of. They've done a lot of legwork on this case on both sides. Nothing really changes except for whether or not more than one car perhaps would be placed in this structure.

He asked what alternative would be. If there is a carport, the question would be would you rather live next to somebody who has multiple cars in a carport, which is by its nature a car storage facility and where you can see these vehicles in whatever state of condition they may be in, or would you rather see an enclosed garage. In terms of curb appeal, aesthetic appeal, they would submit that it would actually benefit the neighborhood to have an enclosed storage space for vehicles rather than a storage facility of some sort where you can actually see the vehicles. This is a pretty nice neighborhood; they hope the neighbors would agree with them that a closed garage would be something they would not object to. The whole definition of garage and carport has been a big issue in this case for six months or more. That is the sum of what they were asking for. They appreciate Mr. Vander Woude's factual representation of the history of this and what they'd like to have. He said he'd be happy to answer any questions the Board or Mr. Vander Woude might have. Ms. Mayer asked what the outer covering of this structure is. Mr. Parr answered that it is steel. Ms. Mayer said it is a metal siding, metal roofing. Mr. Parr said it is a specialty company called Midwest Steel, these are buildings that they put up. This is not a homegrown thing, it is special. Ms. Mayer asked what the material is that's cladding the building, is it like a siding. Mr. Raffin asked if it is a metal panel around the perimeter or brick. Mr. Parr said it is not brick, it doesn't have any sort of decorative siding, it is steel. He said the structure itself was fully described in the materials that were submitted with the application. There was no objection at all by the Planning Commission to have that material used on that footprint next to that house until somebody figured out that this was going to be fully enclosed. Ms. Mayer said typically carports are considered open air structures. Mr. Parr said by code definition, they are. Ms. Mayer said that this being enclosed, it is not a carport. Mr. Parr said some of the differing interpretations of this occur because on the application for the building permit, the specs were attached to the application that was submitted. Upon that, the Planning Commission issued the building permit. Ms. Mayer said that the Building Commissioner issued the permit based on the fact that he thought it was the carport. Mr. Parr said yes, on the top of the Midwest Steel specification list, it has the word carport. Underneath that, and this is all part of their submission, there are different boxes that checked which pretty unequivocally showed that this was to be a fully enclosed structure. They have this difference- do you look at the title of somebody's letterhead or do you look at the substance of what is on this thing. Ms. Mayer said that if the Building Commissioner had realized that this was a closed structure, they would have needed a variance in order to do the project to begin with. Mr. Parr said he doesn't know if that is necessarily true. Ms. Mayer said they currently have only 4700 square feet. Mr. Parr said this is another potential difference of opinion on this. It was not necessarily represented at that time that it would be a garage. That was the interpretation given by the Planning Commission after the facts, after they were issued the building permit. Before they were issued the building permit, they, for whatever reason, thought it would be a carport, then it goes to the next level of consideration. Mr. Vander Woude said the references to the Planning Commission should be more directed at the building department. Mr. Raffin said the Plan Commission is a different government entity. Mr. Parr said the next level up was just an accessory structure of some sort, a shed. The rules for a shed are not necessarily the rules for a garage but it is something more than a carport. An accessory structure or a shed is something that can store things. At some point, somewhere, it is mentioned that cars might be stored; how many, how often, for how long he doesn't believe was ever mentioned. It was not a designation as a garage that was ever given by the participants. Mr. Raffin asked if the intention was always for it to be a garage and was not represented to the building department that it was going to be a garage; what was the representation by the petitioner. Mr. Parr said, according to their petition, it was going to be a structure and that is in the application materials. Mr. Raffin asked when they filled out the application, did they

write on the application whether it is a garage or a shed or a carport. Mr. Parr said they did not say garage. Mr. Raffin said if they had said garage, it would have brought it to the BZA for a variance right off the bat. Mr. Parr said they listed it as a carport. Mr. Raffin said a carport is a roof with no sides to pull your car into. Mr. Parr said it is, except. Mr. Raffin said there are no except. He said he has been an engineer and a builder all his life. A garage is an enclosed structure, a carport is an open air structure to store stuff underneath it. Mr. Parr said okay, then what does the Board make of the Midwest Steel specification sheet that specifically says it is going to be fully enclosed. Mr. Specht said they cannot speak for the building department; they can only speak for what is in front of them now and right now they are asking for a zoning ordinance or change. He said, personally, if it is an enclosed structure, he would want a garage that is going to look similar to what their house is, not a steel building. As the petitioners said, it is a beautiful neighborhood. If he is that next door neighbor, he doesn't want to see a steel building sitting next to his home. It should be built of similar standards to the home that is on the lot. Ms. Mellon said she is a liaison, not a voting member, but she had a thought that may save time overall. She said Mr. Parr said this is a detached structure. She asked if they had checked with the covenants of this neighborhood. In her neighborhood, they are not allowed to have detached accessory buildings, not even in the back yard. If that is not allowed in their covenants, the Building Department will issue building permits for what is legal based on the town code but a homeowner is responsible for looking into the covenants of their neighborhood. This may stop it right now if that is the case. Mr. Buksa said this is a fair point. He said they are asking for a public hearing which requires providing notice that has some costs attached to it. He asked Mr. Parr if his clients wanted to hold off on that while they check to see if there were any covenants that would allow or would not allow this project. After conferring with his clients, Mr. Parr said instead of the hearing being a month from now, perhaps two months from now. Mr. Parr said this is an excellent suggestion and that would give them time to check that. Mr. Buksa said he might also provide the Board with a copy of the application that his clients initially supplied to the building department. Mr. Vander Woude said that is in the staff report. Ms. Mayer said she'd like to see pictures of what the completed structure would look like. Mr. Vander Woude said that there had been a lot of discussion about whether it is a carport or a garage. For the purpose of this variance application, they are requesting permission for a garage. Irrespective of what was previously characterized as a carport or a garage, they are asking for a garage now. Mr. Raffin asked if it meets the square footage requirements and the height restrictions for a garage. Mr. Vander Woude said yes. Ms. Mayer asked if there were any issues with the lot coverage. Mr. Vander Woude said no. He added that there is nothing in the zoning ordinance that would require that the garage would be in keeping with the style of the home. Ms. Mayer said then an industrial type building would be allowed in a residential area. Mr. Vander Woude said it would be because there are no material standards outside of the covenants. Ms. Mayer asked if the Town holds and keeps track of those covenants. Mr. Vander Woude said typically they are recorded with the plat. Generally, we don't enforce them because some communities have a formal HOA that honors those things and makes sure that those standards are being met and others don't. Since they are private covenants, the Town doesn't usually get involved in enforcing them.

Motion: Mr. Specht moved to postpone until May 9, 2023, BZA Docket No. BZA23-004 until the petitioners can research their local covenants and plan accordingly.

Second: Mr. Raffin

Vote: Yes – 5 No – 0 Abstain – 0. Motion carries.

Mr. Vander Woude clarified that they are not scheduling a public hearing at this time. Mr. Buksa said they are continuing the preliminary hearing. Mr. Buksa asked Mr. Parr to advise his clients to provide the

necessary documents. Mr. Parr clarified that the Board wants a copy of the covenants and a picture of the completed structure.

Public Hearings:

- a. BZA 23-002 HP Munster Investment LLC seeking multiple variances from TABLE 26-6.701.B WALL SIGN SPECIFIC STANDARDS to permit three nonconforming signs on a Hyatt Place Hotel at 9420 Calumet Avenue.**

Mr. Vander Woude said Munster Investment LLC is seeking multiple variances from the sign standard of the Munster zoning ordinance to permit three nonconforming signs at the Hyatt Place Hotel which is under construction currently at 9420 Calumet Avenue at the Maple Leaf Crossing development. The Maple Leaf Crossing is governed by developmental standards for the Maple Leaf Crossing PUD however, in this case, there are no unique sign standards. Therefore, all signs at Maple Leaf Crossing are to be compliant with the current sign standards in our zoning ordinance. The applicant requests 8 variances. This was presented at a preliminary hearing two months ago. It was scheduled for a public hearing last month but the applicant was not able to notify the public in time so it was bumped to this month. The first variance request is from the overall quantity of signs. We permit one sign per facade on the first floor business frontage in a multi-tenant building. That means that a single wall sign would be permitted on the first floor of the north elevation which faces Maple Leaf Boulevard and a single wall sign would be permitted on the first floor of the south elevation which faces the public way. The variance here is that the applicant also is proposing to install a wall sign on the east elevation facing Calumet Avenue. The second variance is from the additional standards section which states that signs be applied to the first story. They are proposing a wall sign on the north, south, and east sides side to be installed on the 4th floor. We permit 1 1/2 square feet per facade of frontage. The sign on the east elevation, if that were to be permitted, would also be restricted to 116.78 square feet. They are proposing 129.91 square foot sign. The next variation is for size. For a lot with a setback of less than 100 feet, the maximum height for a channel letter sign is 24 inches. The applicant is proposing a wall sign on the north side elevation of 33.75 inch tall letters and logo. The north side faces Maple Leaf Boulevard. Similarly on the south side, they are restricted to 24 inches. They are proposing 40 inch tall logo on this side. Finally, the overall height of a channel letter sign is 36 inches. They are proposing an overall height of 76.625 inches. Mr. Vander Woude provided pictures that he had found of other Hyatt Place signs that appeared to be compliant with our standards. He provided those in the staff report packet. He said there are other sign types that are available to buildings in Munster which aren't wall signs but that can be installed above the first floor and can be taller and illuminated. He is providing this as a point of reference. The staff's perspective is that there are sign types that are available for this building that are compliant with our standards. He understands that they have a template they've been given by Hyatt, so they are seeking to apply that template here. Based on what they've seen in other places, he thinks that there are ways to meet our standards. He listed the bullet points from the staff report that talk about what needs to be done to completely comply. Mr. Vander Woude said the staff's perspective is that they will always comply with the standards. They recommend not approving these variances.

Amit Shah representing HP Munster at 9420 Calumet Avenue said he has nothing more to add to Mr. Vander Woude's presentation. Mr. Buksa asked Mr. Wickland if the proper notice had been given. Mr. Wickland said yes. Mr. Buksa opened the public hearing. Mr. Vander Woude noted there was someone

online. That person appeared to be muted and not raising their hand. Mr. Buksa closed the public hearing.

Mr. Raffin said he agrees with Mr. Vander Woude. We should follow the sign standards and there are ways to make this work within our current ordinance. Ms. Mayer asked the petitioner if they were considering making modifications to their signs. Mr. Shah said during the preliminary hearing that he was open to suggestions. He has not made any modifications or changes to the drawings but, ideally, his wish is to have it approved as is. His first choice is approval as is, his second option would be to do a backlit sign which would be approved. Ms. Mayer asked him to address how he would reduce the number of variances. Mr. Shah said he is OK doing the backlit, which would be approved signage. Ideally, he would like to keep the size, they are only talking a matter of 10 inches. Ms. Mayer asked which sign that would be. Mr. Shah said the north, the south and the east. Ms. Mayer said as for quantity, he is not allowed a sign on the east elevation and asked Mr. Shah if he is going to back off on that one. Mr. Shah said it is a large area. Ms. Mayer asked about the north elevation sign. They are allowed one sign on the first story, not on the 4th, would they move it down. Mr. Shah said he could do a backlit sign if approved on the 4th floor. Ms. Mayer asked Mr. Vander Woude if a backlit sign could stay on the 4th floor. Mr. Vander Woude said no the only sign that could be installed above the first floor would be one of those projecting signs that are shown in the staff report. Those can be installed above the first floor. Mr. Buksa asked Mr. Shah if he would prefer to have the Board members' ruling on this application at this time. Mr. Shah said he has to get some sort of signage approval. If the Board is not going to approve what he has proposed, then he'd like to hear other options. Mr. Buksa said Mr. Vander Woude has laid out those options. Mr. Shah said he could do a solid channel letter sign that is backlit. Mr. Raffin asked if the suites signs were backlit. Mr. Vander Woude said those are internally illuminated channel letters, they are like perforated so they appear black during the day and lit at night. Mr. Buksa said it seems like the sentiment of the Board would not be to approve the initial application at which point they would need to work with Mr. Vander Woude to come up with a plan that does conform to the Town's standards. Mr. Shah said he thought channel letters were approved. Mr. Vander Woude said they are but not on the 4th floor. There are a lot of potential wall signs. Any internally illuminated sign is subject to a lesser maximum size. Mr. Shah said then the smaller size on the 4th floor would be approved. Mr. Vander Woude said no, the 4th floor is off limits. Ms. Mayer said if we vote and they are denied, he must wait a year. Mr. Wickman said they can meet the code. Mr. Shah said he doesn't want the Board to vote. Ms. Mayer said somewhere between what he is asking for and not needing a variance is a compromise but Mr. Shah needs to present it. The Board can table this, and he can come back next month with a real option. Mr. Specht said he agrees with what other people are saying. There are some other signs in town, Springhill Suites, for instance, has a sign that is much higher. He said they are going to be understanding in some respects but not for 9 variances. Mr. Shah said he is for tabling this, he doesn't want to be denied. Ideally, he wants to get approval. Ms. Mayer said he has to get his options together and come back. Mr. Shah said he is looking for 4th floor signage, but he would like to get whatever he can get approved. He asked that they verify that the 4th floor channel letters were approved. Mr. Vander Woude said he can verify that no, it is not permitted on the 4th floor unless it is a different sign type that is internally illuminated.

Motion: Mr. Specht moved to table BZA Docket No. BZA23-002 to allow the petitioner to develop an alternative sign plan that meets the Town's zoning standard.

Second: Ms. Mayer

Vote: Yes – 5 No – 0 Abstain – 0. Motion carries.

Findings of Fact: None.

Additional Business/Items for Discussion: None

Next Meeting: Mr. Buksa announced the next regular business meeting will be May 9, 2023.

Adjournment:

Motion: Mr. Specht moved to adjourn.

Second: Mr. Hemingway

Vote: Yes –5 No – 0 Abstain – 0. Motion carries.

Meeting adjourned at 7:36pm

President Daniel Buksa
Board of Zoning Appeals

Date of Approval

Town Manager Dustin Anderson

Date of Approval