



BOARD OF ZONING APPEALS STAFF REPORT

To: Members of the Board of Zoning Appeals

From: Jennifer Barclay, HWC Engineering

Meeting Date: August 13, 2024

Agenda Item: BZA 24-007

Hearing: Public Hearing

Application Type: Use Variance

Summary: Applicant is requesting a Use Variance from Table 26-6.405. A-7, to permit future warehouse/warehousing facility use within a proposed 11,476-sf addition on to an existing 4,918-sf office building.

Owner: 620 Progress LLC

Applicant: Region Contractors, LLC

Property Address: 620 Progress Ave.

Current Zoning: CD-4.B General Urban B Character District B

Adjacent Zoning:
North: CD-4.B - *General Urban B Character District B*
South: CD-4.B - *General Urban B Character District B*
East: CD-4.B - *General Urban B Character District B*
West: CD-4.B - *General Urban B Character District B*

Action Requested: Findings of Fact

Actions Required:
Review of Zoning Code
Review of Conditions of Approval

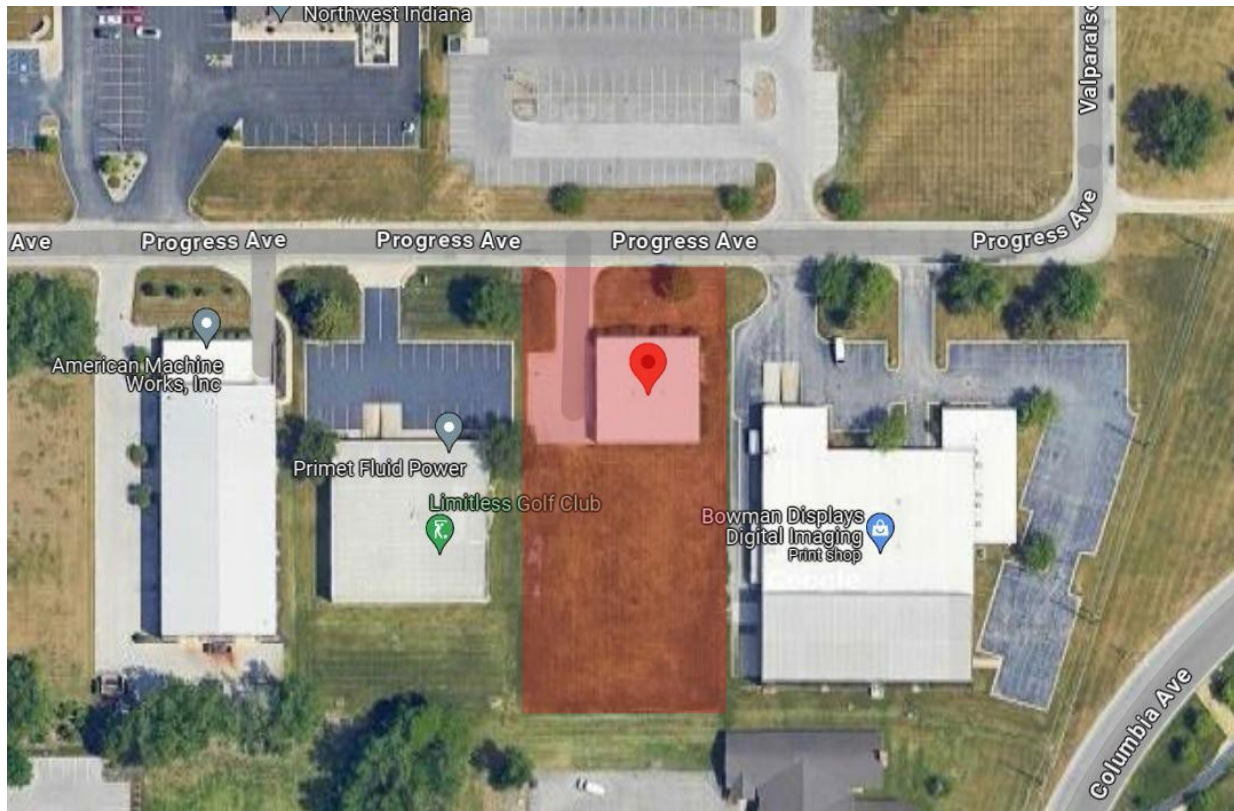
Staff Recommendation: Approval

Attachments:

1. Exhibit A: Application (pg. 6)
2. Exhibit B: Use Variance Conditions of Approval (pg. 7)
3. Exhibit C: Conceptual Site Plan (pg. 9)
4. Exhibit D: Building Elevations (pg. 10)
5. Exhibit Warehouse Use Defined (pg. 11)

CURRENT CONDITIONS:

620 Progress Ave. is currently being used for offices and is surrounded by like uses including light industrial. The building was first constructed in 1998 and is 5,184-sf plus 4,020-sf of paving. The current owner purchased the building in 2019. The property's current value is \$527,400.



PROJECT BRIEFING:

The applicant wishes to expand the building footprint to the south to add four more office/warehouse spaces totaling just under 2,900-sf each and associated parking spaces. Since the building was first constructed in 1998 the zoning classification has changed. Prior to 2019 the Zoning Classification was M (Manufacturing). In 2019 the zoning classification changed as part of a Zoning Code and Zoning Map update and the property became legal non-conforming. The proposed expansion are not permitted for legal nonconforming use and the applicant is now requesting a Use Variance as follows:

Table 26-6.405.A-7 District Standards

- Principal Uses
Proposed: Office with Warehouse / Warehousing Facility

Current Permitted Office Uses:

- Business / Governmental / Non-Profit / Professional Office
- Counseling Service
- Crisis Counseling Center
- Medical Lab / Dental Lab / Research Lab
- Medical or Dental Office / Medical or Dental Clinic / Outpatient Clinic
- Photography Lab
- Radio / Television / Recording Studio or Station without Communications Tower
- Other Office Use Not Listed Under any Use Category

Currently Not Permitted: Warehouse / Warehousing Facility Definitions(pg. 455):

Warehousing: the indoor storage of goods. *Warehouse/Facility:* premises used for Warehousing, excluding Self-Storage Facilities.

VARIANCE STANDARDS

The variance process is established to provide relief to a property owner when, due to unique circumstances, compliance with the zoning code imposes a hardship or practical difficulty on a property owner. The BZA is under no obligation to grant a variance. It is the petitioner's responsibility to prove a hardship or practical difficulty. The BZA should ask the petition to address the criteria listed below.

Section 26-6.804. I. Deviation from Standards & Requirements (pg 392 and 393) of the Munster Zoning Code states that the basis for a variance is as follows:

g. General Standards.

A variance may be granted only if the Decision-Making Authority has made the following determinations for such variance:

- i. The practical difficulties or unnecessary hardships that would be incurred by strict application of the Use or Development standard, as applicable, are unique and not shared by all properties in the vicinity and are not self-imposed;
- ii. Such Variance is the minimum Variance that will relieve such practical difficulties or unnecessary hardships, as applicable;
- iii. Such Variance is in the spirit of the general purposes and intent of this Article as stated in Division 1; and
- iv. Such Variance is so designed as to provide reasonable consideration to, among other things, the character of the neighborhood, District, or Civic Zone, the conservation of property values in the vicinity, and the guidance of Development in accordance with the Comprehensive Plan.

i. Specific to Use Variances.

- i. The Decision-Making Authority may impose reasonable conditions as a part of its approval of a Use Variance.
- ii. A Use Variance may be approved or approved with conditions only upon a determination by the Decision- Maker in writing that:
 - I. it will not be injurious to the public health, safety, morals, and general welfare of the community;
 - II. the use and value of the area Adjacent to the property included in the Variance will not be affected in a substantially adverse manner;
 - III. the need for the Variance arises from some condition peculiar to the property involved;
 - IV. the strict application of the terms of this Article will constitute an unnecessary hardship if applied to the property for which the Variance is sought; and
 - V. it will not interfere substantially with the Comprehensive Plan.

The applicant has addressed these criteria (Conditions of Approval Questions Form) in Exhibits B.

STAFF FINDINGS AND RECOMMENDATION

Staff has concerns regarding the vagueness of the use request. Depending on the intensity of use parking may be an issue in the future. Staff wants to reiterate that only uses outline in this staff report and use chart in Table 26-6.405.A-7 District Standards permitted Principal Use. Please note, new tenants must receive approval of their business registration prior to occupying the space.

MOTION

The Board of Zoning Appeals may consider the following motions:

Motion to approve request as submitted.

EXHIBIT A

Petition BZA 24_007

Date: _____

Application Fee: \$ _____

Sign Fee: \$ _____

Town of Munster Board of Zoning Appeals Petition Application**OWNER INFORMATION:**

620 PROGRESS LLC (219) 369-4000
 Name of Owner Phone Number
711 MAIN ST., SCHERERVILLE, IN joshua@albertsjewelers.com
 Street address, City, ST, ZIP Code Email address

APPLICANT OR PETITIONER INFORMATION (if different than above):

REGION CONTRACTORS, LLC (219) 365-3508
 Name of Applicant/Petitioner Phone Number
912 W. AVENUE H, STE 2, GRIFFITH, IN carlos@regioncontractors.com
 Street address, City, ST, ZIP Code Email address

PROPERTY INFORMATION:

620 PROGRESS BUILDING
 Business or Development Name (if applicable)
LOT 6 - MIDWEST CENTRAL BUSINESS PARK - CD-4.B
 Address of Property or Legal Description Current Zoning
UNIT 2

APPLICATION INFORMATION:

Please select what this Application is for:

- ☒ **Variance** If yes, select one of the following: ☒ **Use** ☐ **Developmental Standards**
☐ **Conditional Use**
☐ **Administrative Appeal**

Brief Description of Project and List of Variances or Conditional Uses Being Requested (if applicable):

PROPOSED 12,000 SF. (APPROXIMATE) ADDITION WITH MULTIPLE TENANTS
TO AN EXISTING 5,200 SF OFFICE/WAREHOUSE BUILDING & SITE
IMPROVEMENTS

USE VARIANCE REQUESTED TO ALLOW 'WAREHOUSE' WITH
ALLOWED OFFICE USE.

GEORGE W & ASSOCIATES ARCHITECTS, INC. (219) 365-9345
 Name of Registered Engineer, Architect or Land Surveyor Phone Number
912 W. AVENUE H, STE 2, GRIFFITH, IN nick@georgianarchitects.com
 Street address, City, ST, ZIP Code Email address

EXHIBIT B

USE VARIANCE CONDITIONS OF APPROVAL (PAGE 1 OF 2)

The Munster Board of Zoning Appeals is authorized to hear petitions for use variances and to forward the petition to the Munster Town Council with a recommendation to approve, a recommendation to deny, or no recommendation. The Board of Zoning Appeals may also recommend reasonable conditions and restrictions. Indiana Code 36-7-4-918.4 lists the legal criteria for a use variance:

1. The approval will not be injurious to the public health, safety, morals, and general welfare of the community. Explain why this statement is true in this case:

THE USE VARIANCE REQUEST FOR WAREHOUSE WILL NOT BE INJURIOUS TO PUBLIC HEALTH, SAFETY, MORALS, AND GENERAL WELFARE OF THE COMMUNITY. AS MULTIPLE ADJACENT BUILDINGS AND OTHERS THROUGHOUT THE BUSINESS PARK CURRENTLY HAVE WAREHOUSE, MANUFACTURING, PRODUCTION FACILITIES, AND SIMILAR USE AS BEING PETITIONED FOR.

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. Explain why this statement is true in this case:

THE USE REQUESTED FOR WAREHOUSE IS CONSISTENT WITH MULTIPLE BUILDINGS IN THE BUSINESS PARK THAT CURRENTLY HAVE WAREHOUSE COMPONENTS. SIMILAR USES AND THIS REQUESTED USE VARIANCE WILL MAINTAIN/OR INCREASE PROPERTY VALUES.

3. The need for the variance arises from some condition peculiar to the property involved. Explain why this statement is true in this case:

THE PROPERTY AND THE EXISTING BUILDING DO NOT MAXIMIZE THE ALLOWABLE BUILDING SQUARE FOOTAGE. THE USE VARIANCE REFLECTS THE NEED TO OFFER WHAT SIMILAR AND ADJACENT BUILDINGS IN THE BUSINESS PARK CURRENTLY HAVE, AND OFFER FOR THE OWNERS AND THEIR TENANTS.

EXHIBIT B**USE VARIANCE CONDITIONS OF APPROVAL (PAGE 2 OF 2)**

4. The strict application of the terms of the zoning ordinance will constitute an unnecessary hardship if applied to the property for which the variance is sought. Explain why this statement is true in this case:

THERE IS CURRENTLY LITTLE OR NO DEMAND FOR THE USES ALLOWED UNDER THE CURRENT ZONING USES AND REQUIREMENTS. CDA.P IS HEAVILY NOTED FOR COMMERCIAL, RETAIL, AND SIMILAR USES WHICH ARE INCONSISTENT THROUGHOUT THE BUSINESS PARK. THE USE SOUGHT IS CONSISTENT WITH MANY OF THE EXISTING BUILDINGS USES AND COMPATIBLE FOR USE AND DEMAND.

5. The approval does not interfere substantially with the adopted comprehensive plan. Explain why this statement is true in this case:

THIS PROJECT IS CONSISTENT WITH THE COMPREHENSIVE PLAN FOR CURRENT EXISTING & ADJACENT USES. IT IS NOT AFFECTED BY THE TARGET AREAS OF T.O.D, OPEN SPACE, TRAILS, AND ROADWAY FRAMEWORK AREAS AND TARGETED REVITALIZATION OPPORTUNITIES.

REGION

CONTRACTORS

979-980-9066

979-980-9069

979-980-9070

Georgiou & Associates

Architects

912 Avenue H

Chattanooga, TN 37419

PH: 423-264-0445

FAX: 423-264-0373

PROJECT NAME

FLEX BUILDING EXPANSION

MUNSTER, IN

DATE

12/15/2023

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ARCHITECTURAL SITE PLAN

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EXHIBIT D

| REGION CONTRACTORS 914 ARNOLD GAITHERSBURG, MD 20878 (301) 279-0505 Georgiou & Associates Architects 915 Avenue H Munster, IN 46321 (219) 836-8810 | EBL | PROJECT NAME FLEX BUILDING EXPANSION 830 PROGRESS AVENUE MUNSTER, IN | <table border="1"> <thead> <tr> <th>#</th> <th>DATE</th> <th>DESCRIPTION</th> </tr> </thead> <tbody> <tr><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td></tr> </tbody> </table> | # | DATE | DESCRIPTION | | | | | | | | | | | | | | | | | | | <table border="1"> <tr> <td>DESIGNED BY:</td> <td>DMD</td> </tr> <tr> <td>CHECKED BY:</td> <td>WJ</td> </tr> <tr> <td>SHEET TITLE</td> <td> </td> </tr> </table> | DESIGNED BY: | DMD | CHECKED BY: | WJ | SHEET TITLE | | RENDERED ELEVATIONS A202 |
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EXHIBIT E**CD-4.B****TABLE 26-6.405.A-7 DISTRICT STANDARDS:
GENERAL URBAN – B CHARACTER DISTRICT****PRINCIPAL USE****CD-
4.B**

Warehouse / Warehousing Facility

NP

| | | | | |
|--|---|---|---|--|
| LEGEND The following notations are utilized in this table. |  Permitted |  Conditional Use |  Not Permitted |  Per PUD Approval |
|--|---|---|---|--|

DIVISION 9: DEFINITIONS**SECTION 26-6.901
WORD USAGE.**

As used in this Article:

Warehousing: the indoor storage of goods.**Warehouse/Facility:** premises used for Warehousing, excluding Self-Storage Facilities.