



To: Members of the Board of Zoning Appeals

From: Tom Vander Woude, Planning Director

Date: November 7, 2019

Re: PUBLIC HEARING

BZA Docket No. 19-007 Rogelio and Almira Torres requesting a developmental standards variance from Sec. 26-517 of the Munster Zoning Ordinance to permit the storage of a camper in a side yard at 8796 Jefferson Avenue.

Applicant: Rogelio and Almira Torres

Property Address: 8796 Jefferson Avenue

Current Zoning: R-2 Dwelling House District

Adjacent Zoning: North: R-2
South: R-2
East: R-2
West: R-2

Action Requested: Approval of variance

Additional Actions Required: Findings of Fact

Attachments: Application cover sheet
Plat of survey prepared by Kendra Engineering Co. dated 06.09.1997 with location of proposed driveway drawn in
Hand drawn site plan
Developmental variance conditions of approval sheet
Photos of subject property and surrounding properties
Neighborhood petition

Background

Property owners Rogelio and Almira Torres have requested a developmental standards variance from Sec. 26-517 of the Munster Zoning Ordinance to permit the storage of a camper in a side yard at 8796 Jefferson Avenue. They are proposing to construct a concrete driveway and pad for the storage of their camper and would like to ensure that they can do so legally.

The subject property is located in an R-2 Dwelling House District. The standards regarding outdoor storage are as follows:

Sec. 26-517. - Outdoor storage of personal property.

- (a) Generally. No personal property other than lawn furniture shall be stored, maintained or permitted outside an enclosed building, garage or carport in R-1 dwelling house districts, except as provided in this section.
- (b) No more than a total of two recreational vehicles, motor homes, campers, trailers, boats or boat trailers, or similar item of personal property may be located in the rear yard. Said personal property must be placed on a hard surface (concrete or bituminous) and screened from neighboring properties by an opaque fence and/or landscaping to a height of six feet above the average grade of the ground upon which the personal property is resting. Said personal property must be owned by the persons who reside on the lot on which they are stored.
- (c) Prohibited areas. Such personal property shall not be stored, maintained or permitted on or within the area of the lot reserved for front yards as applied to the actual dwelling thereon, and for these purposes a side yard facing a public street shall be considered as a front yard for a depth of 30 feet.
- (d) Occupation of property. Such personal property which may be stored, maintained and permitted on a lot under the provisions set forth in this section shall not be inhabited at any time.
- (e) No more than one recreational vehicle, motor home, camper, trailer, boat, or similar item of personal property may be temporarily parked in the front or side yard, outside of a totally enclosed structure and unscreened, for a maximum of three days in any consecutive 30-day period, for the purpose of loading, unloading, or servicing. Said temporary parking is permitted only if said property is located on the driveway.

(Code 1985, § 29-42; Ord. No. 1168, 9-10-2001)

The BZA discussed the petition at a preliminary hearing held on October 16, 2019. The plans attached here are unchanged from those presented at the preliminary hearing.

Discussion

The subject property is a corner lot, with a single-family home that is oriented south toward Fisher Place. The proposed location of the camper storage pad is located to the west of the residence, which is considered the property's side yard. There is no statement in the Munster zoning ordinance that directly addresses outdoor storage in a side yard. Subsection (c) prohibits storage of a camper in a front yard and subsection (b) above permits outdoor storage in a rear yard, if located on a concrete pad and screened by a six-foot fence.

As shown in the attached photos, the petitioner has already constructed a six-foot fence for screening. If approved for the variance, the petitioner plans to construct a concrete pad, which is shown on the attached plans.

Staff notes that if the house faced Jefferson Avenue rather than Fisher Street, the proposed location of the camper would be considered to be in the rear yard and therefore permissible without a variance, so long as the camper was stored 30 feet from the street right of way.

Sec. 26-456 of the Munster Municipal Code states that the BZA may hear and rule upon petitions for developmental standards variances after holding a public hearing. The BZA may then consider one of the following actions: approve the requested variances; approve the requested variances with conditions; or deny the requested variances.

Variance Standards

The variance process is established to provide relief to a property owner, but 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.

Sec. 26-456 of the Munster Municipal Code states that the basis for a variance is as follows:

Where by reason of exceptional narrowness, shallowness or shape of a specific piece of property, or by reason of exceptional topographic conditions or by reason of any other extraordinary and exceptional situation or condition of such piece of property, the strict application of any regulations enacted under this article would result in peculiar and exceptional practical difficulties to or exceptional and undue hardship upon the owners of such property...

Sec. 26-456 also states:

No relief may be granted or action taken under the terms of this section unless such relief can be granted without substantial detriment to the public good and will not substantially impair the intent and purpose of the master plan and this article.

When considering a request for a variance, the BZA should consider the following:

1. The specific provisions and requirements of [Sec. 26-456 – discussed above] pertaining to the specific subject matter of the application, petition or appeal.
2. The general provisions and requirements, intent and purpose of [Sec. 26-456 – discussed above].
3. The provisions, requirements, intents and purposes of other ordinances of the town which may be applicable thereto.
4. The effect on the public health, safety and welfare of the citizens of the town, specifically including, but not limited to, fire and traffic safety, considering the requirements, regulations and standards of any town, county or state health, fire, traffic or safety agency or commission.
5. The effect upon the sound economic development of the community.
6. The effect upon adjoining or other property in the community, recognizing the right of adjoining or other affected property owners to the peaceful and quiet enjoyment of their property, and including the effect upon the desirability or use of adjoining or nearby residential property, and bearing in mind whether or not such proposed action will be consistent with the development and growth of the town as a restricted residential community.
7. The existence, nature and degree of any hazards, odor, dust, gas, noise, smoke, fumes, light, glare or vibrations which may be attendant thereto.
8. The existence and degree, if any, of burdens which may be imposed upon police, fire, school or other facilities of the community.

Indiana Code 36-7-4-918.5 identifies the legal criteria for a developmental standards variance:

- (1) The approval will not be injurious to the public health, safety, morals, and general welfare of the community
- (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
- (3) The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property

Recommendation

Motion to approve BZA Docket No. 19-007 granting a developmental standards variance from Sec. 26-517 of the Munster Zoning Ordinance to Rogelio and Almira Torres to permit the storage of a camper in a side yard at 8796 Jefferson Avenue, in accordance with the attached plans.



Petition BZA 19-007

Date: 09-09-19

Application Fee: \$ 300

Sign Fee: \$ 25

Town of Munster Board of Zoning Appeals Petition Application

OWNER INFORMATION:

Rogelio & Almira Torres

Name of Owner

219-680-8999

Phone Number

8796 Jefferson Ave Munster IN 46321

Street address, City, ST, ZIP Code

Almira.torres@att.net

Email address

latsllc@gmail.com

APPLICANT OR PETITIONER INFORMATION (if different than above):

Name of Applicant/Petitioner

Phone Number

Street address, City, ST, ZIP Code

Email address

PROPERTY INFORMATION:

Business or Development Name (if applicable)

8796 Jefferson St Munster IN 46321

Address of Property or Legal Description

Current Zoning

APPLICATION INFORMATION:

Please select what this Application is for:

☒ **Variance**

If yes, select one of the following:

☐ **Use**

☐ **Developmental Standards**

☐ **Special Use or Special Exception**

☐ **Administrative Appeal**

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

Will like to put a Driveway on side yard
From fence to street to store camper trailer.

Name of Registered Engineer, Architect or Land Surveyor

Phone Number

Street address, City, ST, ZIP Code

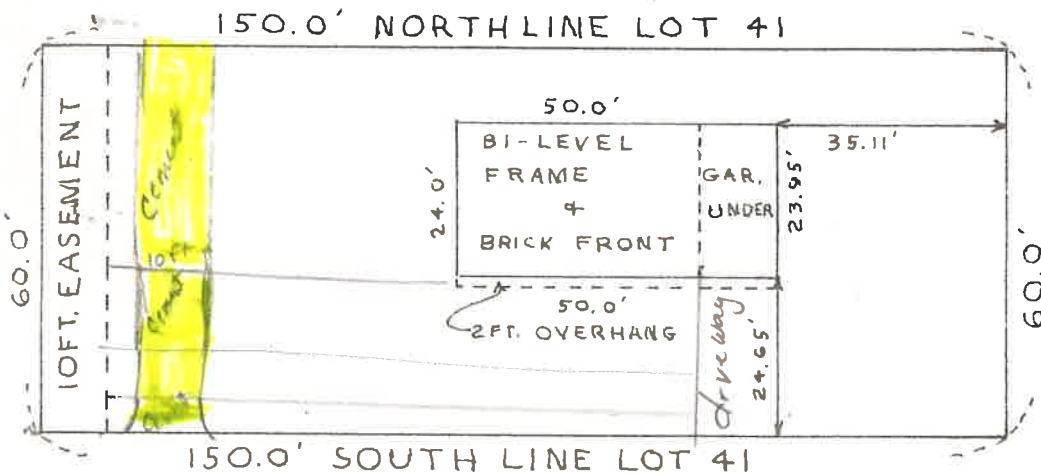
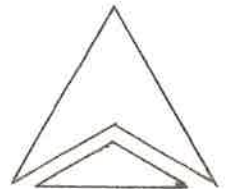
Email address

PLAT OF SURVEY

Lot Forty-one (41), Monaldi's Parkview Addition to the Town of Munster, as shown in Plat Book 36, page 79, in the Office of the Recorder of Lake County, Indiana.

8796 Jefferson Ave.
Munster, Indiana

JEFFERSON AVENUE



FISHER PLACE



THIS SURVEY IS TO BE USED FOR
MORTGAGE PURPOSES ONLY.

Top of Map indicates North.

All dimensions given in feet and decimal parts thereof.

Shading indicates basement.

STATE OF INDIANA
County of Lake

S S:

This is to certify that I have surveyed the hereinabove described premises and located the improvements thereon; that the plat appearing hereon is a true representation of said survey, and that all improvements described hereon are within the boundary lines of said property, and that no improvements on adjoining property encroach on the property hereinabove described.

2825 Jawett Street
Highland, Indiana

KENDRA ENGINEERING CO.
Registered Professional Engineers
and Land Surveyors

Scale: 1 inch =

feet

Date 6-9-67

Easement to Pole Electric Upsco

Fence

Neighbor House

Fence

8796 Jefferson St

Storage
House

Driveway

House

Side Garage

Fence

front yard

Yard

drive way

Side Walk

Fire hydrant

Side Walk

New

Side Walk

New

Manhole in street side

fisher st

10ft

10ft

DEVELOPMENTAL VARIANCE CONDITIONS OF APPROVAL

The Munster Board of Zoning Appeals is authorized to hear petitions for developmental standards variances and to approve or deny. The Board of Zoning Appeals may also impose reasonable conditions and restrictions. Indiana Code 36-7-4-918.5 lists the legal criteria for a developmental standards 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:

I will be able to park it behind the fence in side yard which is 100% better than being block in street that block half of street our street is two way. And out of view of neighbor. No gas or electric will be connected to camper.

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:

True because it improve that trailer will put in driveway behind the 6^{ft} fence safe away from children and drive will be new and clean.

3. The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property. Explain why this statement is true in this case:

Yes because I have lot of room in my side yard I Have no back yard So I believe it will be an look much better my camper is clean and will keep and will not be use a house but just storage and it Come out every ease because street is large and. Our neighbor are very helpful and agreement of the plan because the say that it doesn't affect them at all.

Attach additional pages if necessary

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:

it true because I am not changing much of property or bother and causing any problem to neighbor it a way from public view.

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

yes because the drive way in place in back of fence so the camper is behind back fence it 6' tall and way of neighbor house.

Attach additional pages if necessary

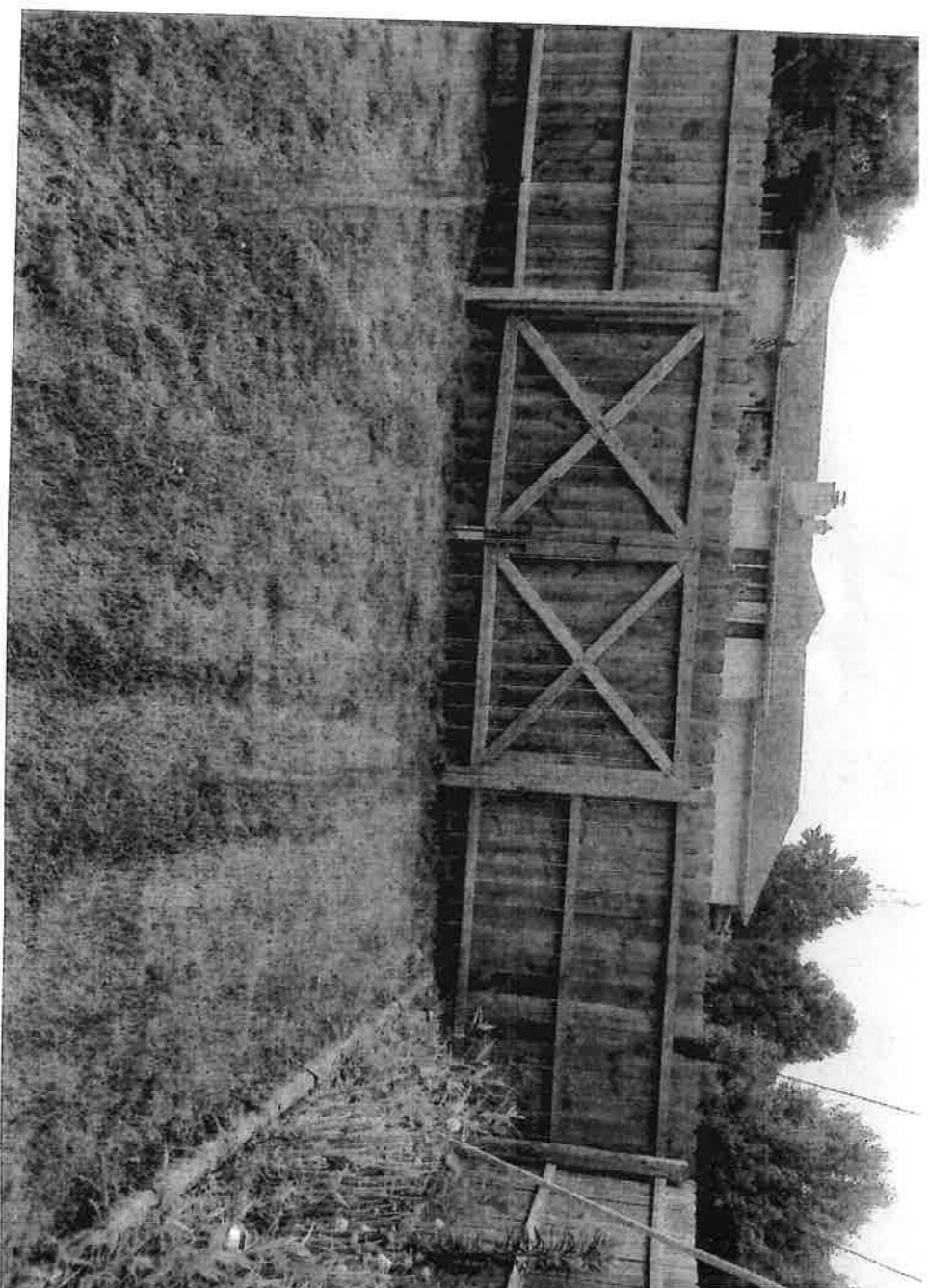
8796 Jefferson

Our front



our Neighbor on fishers +





Our yard inside

10ft with

It's our yard




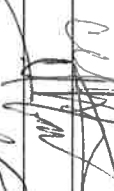



Residents of 8796 Jefferson Ave
Munster IN, 46324

Petition for Drive Way

Number	Date	Name	Signature	Address	Telephone Number
1	8/8/19	PATRICIA THOMPSON	Patricia Thompson	8784 Jefferson Ave	7036478
2	8/8/19	Michelle Carpenter	Michelle Carpenter	8778 Jefferson Ave	689-7548
3	8/8/19	Randy Joczak	Randy Joczak	8766 Jefferson Ave	750-0805
4	8/8/19	LISA SAWYERS	LISA SAWYERS	8754 Jefferson Ave	836-3175
5	8/8/19	DAVE SZAKACS	DAVE SZAKACS	8748 Jefferson Ave	219-413
6	8/8/19	JAMES CARPENTER	JAMES CARPENTER	8742 Jefferson Ave	218-4132
7	8/8/2019	CHRISTINE PISTONE	CHRISTINE PISTONE	8712 Jefferson Ave	773-9330319
8	8/8/2019	KEITH BARNER	KEITH BARNER	8706 Jefferson Ave	219-836-5387
9	8/8/2019	CHRISTINE PISTONE	CHRISTINE PISTONE	8713 Jefferson Ave	705-985885
10	8/8/2019	RANDY CARPENTER	RANDY CARPENTER	8719 Jefferson Ave	773-371-5781
11	8/8/2019	KEITH BARNER	KEITH BARNER	8731 Jefferson Ave	219-836-8122
12	8/8/19	DEBORAH DUBOIS	DEBORAH DUBOIS	8737 Jefferson Ave	806-422-0768
13	8/8/19	BRIAN WILLIAMS	BRIAN WILLIAMS	8761 Jefferson Ave	219-808-3845
14	8/8/19	KRISTEN ALLEN	KRISTEN ALLEN	8750 Cabernet Ave	219-787-4044
15	8/8/19	KRISTEN ALLEN	KRISTEN ALLEN	8832 Jefferson Ct	219-972-0755
16	8/8/19	KRISTEN ALLEN	KRISTEN ALLEN	8826 Jefferson Ct	815-474-5719
17	8/8/19	KRISTEN ALLEN	KRISTEN ALLEN	8820 Jefferson Ct	219-801-2862
18	8/8/19	MARIA FLORES	MARIA FLORES	6501 Fisher Place	219-836-4321
19	8/8/19	MARIA FLORES	MARIA FLORES	8741 Madison Ave	219-455-3567
20	8/8/19	MARIA FLORES	MARIA FLORES	8741 Madison Ave	219-455-3567
21	8/8/19	MARIA FLORES	MARIA FLORES	8741 Madison Ave	219-455-3567
22	8/10/19	MARIA FLORES	MARIA FLORES	8741 Madison Ave	219-455-3567
23	8/10/19	MARIA FLORES	MARIA FLORES	8741 Madison Ave	219-455-3567

Residents of 8796 Jefferson Ave
Munster IN, 46324

Petition for Drive Way

Number	Date	Name	Signature	Address	Telephone Number
1	8/10	Joab Elphor	Joab Elphor	8797 Jefferson Ave	947-412-7365
2	8/10	Ray Chynoweth	Ray Chynoweth	740 Fisher Plce	836-2101
3	8/11	Kevin McBerget		8790 Jefferson Ave	
4	9/11	James M. Smolin		732 Fisher Pl	830-4208
5	9/13	Donna Meyer		549 FISHER Pl. Munster	773-849-4336
6	9/13	James Lesmer		543 Fisher Pl Munster	
7	9/13	Jose Galicia		531 Fisher Pl Munster	
8	9/13	Melissa Knack	Melissa Knack	513 Fisher Pl	
9	9-3	Sylvia Paruch	Sylvia Paruch	502 Fisher Pl	219-793-6830
10	9-3	Dianne DeCharotal	Dianne DeCharotal	501 Fisher Pl	219-680-8424
11	9-3	Charles Comanse	Charles Comanse	508 Fisher Pl	219-680-8424
12	9-3	Almael Joruny	Almael Joruny	574 Fisher Pl	
13		KATHLEEN HANSEN	KATHLEEN HANSEN	514 Fisher Pl	219-644-5889
14	9/13	Cynthia L. Rogers	Cynthia L. Rogers	500 Fisher	219-836-2369
15	9/13	JOHN HILVERA	JOHN HILVERA	8796 MADISON	
16	9/13	JOHN HILVERA	JOHN HILVERA		219-
17	9/13	Donna Valentin	Donna Valentin	8802 Jackson St	836-7819
18				Munster	
19					
20					
21					
22					
23					



View of side yard west of house from Fisher Place – proposed location of camper.



View of side yard west of house from Fisher Place – proposed location of camper.



View of side yard east of house and shallow rear yard from Jefferson Avenue.



View of front yard south of house from Fisher Place.



Photo of applicant's camper.



View of west side yard from within the fence – proposed location of camper.