

**MUNSTER BOARD OF ZONING APPEALS**  
**MINUTES OF REGULAR BUSINESS MEETING**  
Meeting Date: September 14, 2021

The announced meeting location was Munster Town Hall. In accordance with the Governor's Executive Orders 20-09 and subsequent orders related to the COVID-19 pandemic placing restrictions on the number of people allowed to gather in one location, some members attended the meeting remotely via Zoom, a video conferencing application.

**Call to Order:** 6:45 pm

**Pledge of Allegiance**

**Members in Attendance:**

Daniel Buksa  
Stuart Friedman (via Zoom)  
Sharon Mayer (via Zoom)  
Jonathan Petersen (via Zoom)  
Roland Raffin  
Lee Ann Mellon (Town Council  
Liaison)

**Members Absent:**

**Staff Present:**

Tom Vander Woude, Planning  
Director  
Dave Wickland, Attorney

**Approval of Minutes:**

**Motion:** Mr. Buksa moved to approve the minutes of the August 10, 2021 meeting.

**Second:** Ms. Mayer.

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

**Preliminary Hearings**

- a. None.

**Public Hearings**

- a. **BZA 21-006 Parth Patel requesting variances from the minimum parking ratio to develop a Smoothie King at 8130-8138 Calumet Avenue.**

Mr. Vander Woude reported that Mr. Patel has requested a continuance.

**Motion:** Mr. Petersen moved to continue the public hearing for BZA 21-006 to the October 12, 2021 meeting.

**Second:** Mr. Buksa.

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

- b. **BZA Docket No. 21-009 Legacy Sign Group on behalf of MARVL LLC requesting approval of multiple variances from TABLE 26-6.701.B MONUMENT SIGN SPECIFIC STANDARDS and SECTION 26-6.701.B.5.t for a monument sign at 1750 45th Street.**

Mr. Vander Woude reported that the petition was heard at a public hearing last month and was tabled to allow the applicant time to revise their plans and reduce number and scale of the variances. He said they had been asking for variances for area, height, setback, and type of sign. He said the new proposal requires variances for minimum setback, two different standards of sign type and for the size of letters and symbols. He said they're still proposing a cabinet, but it's encased in brick, the sign face is plastic which is not permitted, and the logo is 1'-9" which exceeds the standard of 1' in height. He said that the municipal code requires a 25' sight triangle at intersections. The standard is outside the zoning code, so the Board does not have the authority to grant a variance from that.

Mr. Shaun Ensign of Legacy Sign Group of Westville Indiana presented the petition. He said that they will comply with the visibility triangle so they will not be asking for a setback variance. He said that the cabinet is required for the price changer, LED components, wiring, and other components. He said the majority of signs are cabinet signs, which are required to comply with electrical codes. He said they're encasing it in brick to reduce the visibility of the cabinet. Mr. Friedman asked Mr. Ensign to describe the hardship that justifies the variance. Mr. Ensign said that everything in the sign must be contained in a cabinet – they cannot be installed in a brick monument or on the monument; they have to be protected from the elements. Mr. Raffin asked if the sign would have a concrete foundation. Mr. Ensign said that it would. He said it would be full set brick over cmu block. Mr. Petersen asked Mr. Raffin if this type of sign is similar to the types he sees in the western suburbs. Mr. Raffin said that the signs often don't have LED signs for gas stations. He said that you often see externally illuminated logos and letters. Mr. Vander Woude said the Town permits channel letters and push through letters. He said they have permitted the LED price changers to be installed in a cabinet. Mr. Ensign said that they would remove the plastic face and replace with a routed metal face, so only the copy would be illuminated. Mr. Ensign said that would still require a cabinet. Mr. Ensign said they can install a routed face for everything but the individual LED letters. Mr. Vander Woude said that if a pan face was substituted for the cabinet, it could comply with the code. Mr. Ensign said that a metal shoebox lid style face would work.

Mr. Raffin said that the only variance that would be required would be for the size of the logo, which exceeds the 1' maximum. He said that he doesn't have an issue with the proposed size of the logo. Mr. Vander Woude said that the proposed sign is in character with the area.

Mr. Friedman opened the public hearing.

Michael Goepfert 10380 Oxford Place said that he likes the code requirements in the Town and the businesses that have complied with them look great. He said he supports the requirements and looks forward to seeing more businesses come into compliance. He said they don't need billboard signs anymore since anyone can find where they're going with their phone.

Mr. Friedman closed the public hearing.

Mr. Friedman said that in the years that he's been on the BZA he's seen gas station signs. He said that a large sign is not necessary in this location. He said the proposed sign is an improvement, but they need to determine whether there is justification for a variance.

**Motion:** Mr. Raffin moved to grant a variance permitting a 1'-9" logo on the proposed monument sign at the Citgo station at 1750 45th Street.

**Second:** Mr. Buksa.

Discussion: Ms. Mayer asked if the applicant would have to move the sign to a different location to comply with the 25' sight triangle. Ms. Mayer said that her understanding from the last meeting is that

they were going to put the new monument on the foundation of the old pole sign. She asked if they will now be putting the sign on a new foundation. Mr. Ensign said that was correct; he said they may move the sign to the adjacent island. Mr. Raffin said that as part of his motion, he would like to see appropriate landscaping. Mr. Vander Woude said that is required in the code. Ms. Mayer said that when they demo the old sign, they should remove the old sign foundation as well. Mr. Buksa said that he supports the amendments.

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

**c. BZA Docket No. 21-010 Kyle and Jennifer Dempsey requesting approval of a variance from the fence requirement for a residential swimming pool at 9745 Laurel Court.**

Mr. Vander Woude reported that the applicant Kyle and Jennifer Dempsey have submitted a building permit application for an in-ground swimming pool to be installed in the rear yard of their single-family home at 9745 Laurel Dr. He said that the Board held a preliminary hearing last month. He said that the swimming pool ordinance is not the zoning ordinance, but it permits the Board of Zoning Appeals to review grant variances from the specific requirements of the swimming pool code provided that the applicant provides a substitute safety measure that meets the intent of the code and is at least as safe as the measure that is being waived. He said in this instance the applicants' yard is fenced on three sides and they are requesting permission to install an automatic pool safety cover as an alternative to fencing in the remaining side, which is the requirement of the ordinance. He stated that he has provided a citation from the Indiana Residential Building Code which permits a power safety pool cover as an alternative to fencing. He said that this request is in compliance with Indiana state code, but the Town's code is stricter.

Mr. Jared Tauber stated that he is representing the applicants. He said the property is a single family residence. He said the applicant is seeking to install an inground pool and the Munster code prohibits installation of a pool without a fence. He said that the lot is in a keyhole. He said there are no through streets and so the only traffic that would be on the street are the residents. He said that about 80% of the Dempsey's backyard is covered by fences on 4 adjacent properties, with four different types of fencing. He said there's a ten foot gap in fencing on the east side and his driveway is on the west side. He said the pool will not be visible from the street. He said there's a loophole in the swimming pool code which allows a reasonable alternative to the fencing requirement. Mr. Tauber played a video describing the power safety pool cover. Mr. Tauber said that the cover can only be operated by a key. He said the cover is strong enough to support the weight of a person. Mr. Friedman asked if it could support the weight of snow in the winter. Mr. Tauber said it could. He presented a petition supporting the variance signed by ten neighbors. Mr. Tauber presented photos of two properties in Munster that have pools but not fences. Mr. Petersen asked why the homeowner does not want to install a fence. Mr. Tauber said its not practical; there are four fences already and fencing the driveway would be difficult because of a basketball hoop and a playground. Mr. Petersen asked what the code requires. Mr. Vander Woude said that the entire pool would have to be fenced. The Board discussed the location of fencing on the property. Ms. Mayer pointed out that the fencing would cost less than the pool cover. Mr. Friedman said he attended University of Miami Law School and is familiar with pools as attractive nuisances. He said that the difference between a cover and a fence is that a fence closes automatically whereas a cover must be closed by a person and he is concerned that a child could walk into the back and into the pool. He said he is not in favor of the variance. Mr. Raffin told a story of a family whose child wandered through a fence and fell into their pool and drowned. He said that in his opinion a closed pool cover is safer than a fence. Mr. Buksa asked if the immediately adjacent neighbors have children. Mr. Dempsey

said that there are teenagers on one side and children on another. Mr. Buksa said that those children could easily hop the fence. Mr. Petersen asked if the immediately adjacent neighbors signed the petition. Mr. Dempsey confirmed that they had. Mr. Tauber stated that the other communities in the area permit a power safety pool cover as a substitute for a fence.

Mr. Friedman opened the public hearing. No comments. Mr. Friedman closed the public hearing.

**Motion:** Mr. Buksa moved to approve a power safety pool cover as a substitute for a fence around a residential swimming pool at 9745 Laurel Court.

**Second:** Mr. Raffin.

Mr. Petersen said that he believes a motion to table is a privileged motion and given the concerns expressed by the Board, he would move to table. Mr. Buksa said that once a motion is made and seconded, a motion to table is out of order.

**Vote:** Yes – 4 No –1 Abstain – 0. Motion carries. Mr. Friedman voting against.

**Findings of Fact**

- a. None.

**Additional Business/Items for Discussion**

- a. None.

**Next Meeting:** Mr. Freidman announced that the next regular business meeting will be October 12, 2021, at 6:45 p.m.

**Adjournment:**

**Motion:** Mr. Buksa moved to adjourn.

**Second:** Mr. Raffin.

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

Meeting adjourned at 7:44 p.m.

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Chairman Stuart Friedman  
Board of Zoning Appeals

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Date of Approval

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Executive Secretary Thomas Vander Woude  
Board of Zoning Appeals

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Date of Approval