MUNSTER BOARD OF ZONING APPEALS
MINUTES OF REGULAR BUSINESS MEETING
Meeting Date: November 9, 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:
Stuart Friedman (via Zoom)
Sharon Mayer (via Zoom)
Jonathan Petersen (via Zoom)
Roland Raffin (via Zoom)
Daniel Buksa

Staff Present:
Tom Vander Woude, Planning Director
Dave Wickland, Attorney

Approval of Minutes:

Motion: Ms. Mayer moved to approve the minutes of the October 12, 2021 meeting.
Second: Mr. Peterson
Vote: Yes – 4 No – 0 Abstain – 0. Absent Mr. Raffin. 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. Mr. Vander Woude said at previous meetings, the applicant has requested that the application be tabled until he has identified a tenant that may require that variance. Mr. Friedman asked Mr. Wickland if this needs a motion. Mr. Wickland answered yes.

Motion: Mr. Petersen moved to table BZA 21-006.
Second: Mr. Buksa
Vote: Yes – 5 No – 0 Abstain – 0. Motion carries.

Findings of Fact

a. **None**

Additional Business/Items for Discussion

a. 1100 Fran Lin Parkway

Mr. Vander Woude said the Board requested an update on the status of the property at 1100 Fran Lin Parkway. He said that over a year ago the resident had requested a variance for additional garage spaces. That variance was not approved. The applicant later applied for a building permit to construct a detached garage. At the time that the building permit was approved, it was noted both in the permit itself and in the application that the job would include the closure of the existing attached garage spaces. It was noticed after the garage was completed that no progress had been made in closing the attached garage. When contacted, the owner stated that they were still waiting on a gate so that they could access the garage when it was done. It was pointed out by some members of the BZA that he was, in fact, using that garage in violation of the zoning ordinance. Vander Woude said that a notice of violation of the zoning ordinance was sent to Michael Dust. Mr. Dust responded by pulling another building permit to re-side the single-family house and at the same time close up the garage. That permit was approved. He said that, according to the contractor, they are waiting for the siding to be delivered. The claim is that because of supply chain issues, they are not able to get the siding they have ordered. There is another notice of violation was issued to him for exceeding the maximum lot coverage for accessory structures. The maximum lot coverage is 900 feet for all accessory structures. He said that combined the detached garage and the pre-existing shed exceed the accessory structure maximum by 45 square feet. Mr. Dust has been instructed that he needs to either reduce the size of the shed or reduce the size of the garage. Mr. Vander Woude thinks he will probably choose to reduce the size of the shed rather than the garage that he just built. Mr. Raffin asked if we are fining him now. Mr. Vander Woude said legal counsel has informed them that we are not able to fine him for a zoning violation. Mr. Vander Woude said the best they can do is to take him to court and ask the court to require that the project brought into compliance or permit the Town to do it themselves. Mr. Buksa asked if a motion is needed to authorize that. Mr. Vander Woude said that it would be done at the staff level. He would have the opportunity to appeal but no action is needed by the Board. Mr. Raffin asked if it were a state law that does not allow the Town of Munster to fine for zoning violations. Mr. Wickland said that it is his understanding that the Town of Munster is working on correcting these problems and there is no state law that prohibits Munster code enforcement from enforcing its ordinances. Nicole Bennet and Nicole Mazur in Code Enforcement are working on it. Mr. Raffin said he can understand that there are some supply chain issues. He thinks that he and Ms. Mayer can agree that things are catching up now. But it probably doesn't stop him from having the garage door taken out of the structure and having the opening framed up and ready to go so when the siding comes, he could put it up. Ms. Mayer said there is nothing preventing him, in fact, you wouldn't wait. He's going to have to chip out the concrete there where the door opening is. You wouldn't want to wait until January to be doing that. If he doesn't get started on this right way, and at least close the opening, he is not going to be able to get going until March. Mr. Raffin said that closing off the opening will also alleviate the problem of his using the garage there as well. Ms. Mayer asked if we had had gotten any feedback from him or is he saying he is not doing anything until the siding comes in. Mr. Vander Woude said that was the response from the contractor. Ms. Mayer asked if the permit has a time limit on it. Mr. Vander Woude said yes it does, the work must commence within thirty days, or the permit expires. Mr. Friedman asked whether the board or staff should deny the renewal of the permit. Mr. Vander Woude said if the permit expires and they haven't done any work, the Town has grounds to enforce the zoning ordinance. He said that until the permit expires, he is making progress. Ms. Mayer asked how it came about with the lot coverage. Mr. Vander Woude said that has been a known issue and was one of the variances that Mr. Dust requested. Ms. Mayer asked if he was supposed to take the shed down during the construction of the garage. Mr. Vander Woude said that was not in the scope of work but he was aware of that. Mr. Friedman said it sounds like a very frustrating experience- so the staff is going to monitor the situation and report back

to us as to what is going on. Mr. Friedman said they would stay informal and wait to hear what Mr. Vander Woude will have to tell the Board.

b. 8313 Calumet Avenue- Jodi's Italian Ice

Mr. Buksa said that we dodged a bullet that this accident did not happen on a summer afternoon or summer evening. Mr. Buksa said that this is the second or third major accident that happened to a building on that stretch of Calumet Avenue. He was wondering if it would be appropriate for the Board to reconsider allowing outdoor dining that close to the street. Mr. Friedman said that if he remembers correctly, the Board issued a variance. He asked Mr. Vander Woude if the Board has the ability to change their minds and reconsider the situation because of this accident. Mr. Vander Woude said no, the Board issued a conditional use permit that was given to Jodi's specifically. Mr. Friedman said he did not have the wording of the variance that was passed at that time. He remembers there was a lot of discussion about the concrete blocks at the edge. He asked if Mr. Buksa could enlighten him as to what was ultimately decided in that variance. Ms. Mayer asked for details on the accident. Mr. Vander Woude said last week there was an automobile chase on Calumet Avenue and the car crashed into the Jodi's Building and destroyed it. Mr. Vander Woude said the accident took place at around 1:30 in the morning. The Munster police noticed a car speeding on Calumet Avenue southbound toward Ridge Road. The car turned onto Ridge Road. The officer put his lights on, the car turned into a parking lot on Ridge Road and cut through the parking lot at a high rate of speed to Seberger. The officer turned his lights off because he was not going to give chase. The car ended up speeding down Seberger east, apparently lost control and drove across Calumet Avenue through the Town of Munster planter in front of Jodi's Italian Ice, through the building, and ended up in the parking lot behind Jodi's Italian Ice. The driver was an intoxicated teenager. Jodi's Italian Ice was destroyed. Mr. Vander Woude said he was informed Ron Monaldi that they plan to demolish the building and to use the land for additional parking for their building to the south. Mr. Buksa asked if there was anything this Board can do to ensure the safety pedestrians on that area of Calumet Avenue. Mr. Friedman said he was never in favor of outdoor dining so close to Calumet Avenue and felt it was an accident waiting to happen. Mr. Buksa agreed. Mr. Friedman said the Board has an obligation in the future, when we consider situations like this to remember that Calumet is a high-speed road. Mr. Vander Woude said outdoor dining is a conditional use which requires a public hearing and review by the Board of Zoning Appeals and a recommendation by the Town Council so the authority to secure commitments and ensure the safety of outdoor dining is already in the hands of the Board of Zoning Appeals. He said that in the past, the Board has always reviewed the outdoor dining requests closely and had pointed questions about whether it was going to be safe. He said the approval of the outdoor dining at Johnny's Tap included a condition they install heavy duty bollards between the outdoor dining and the sidewalk. Mr. Vander Woude said the Board continues to have that power, authority, and that oversight. Mr. Petersen asked Mr. Wickland if the variance lapses when the structure that contains the variance is demolished. Mr. Wickland said it did. Mr. Petersen asked Mr. Wickland to review the law. Mr. Friedman said that Mr. Wickland should look into this because if they come back to us and want to rebuild, he wants to know if the Board has the recourse to comment and review that situation carefully again or whether the Board has to abide by the existing action that was taken previously. Mr. Vander Woude said that the building and the layout of that entire lot was legal non-conforming. It was legal at the time it was constructed but is no longer conforming so if it is 50% destroyed it couldn't have been rebuilt without getting a variance from the Board of Zoning Appeals. He said that with the complete demolition of the building, it would be a new development and would go through the entire development plan approval. If any variances were required, it would go through the Board of Zoning Appeals. Ms. Mayer asked Mr. Vander Woude if the

developer plans to rebuild. Vander Woude said that a demolition permit has been submitted to the Town and they plan to demolish the building.

Next Meeting: Mr. Freidman announced that the next regular business meeting will be December 14, 2021, at 6:45 p.m.

Adjournment:
Motion: Mr. Petersen moved to adjourn.
Second: Mr. Buksa
Vote: Yes – 5 No – 0 Abstain – 0. Motion carries.

Meeting adjourned at 7:11p.m.

_____ _____
Chairman Stuart Friedman Date of Approval
Board of Zoning Appeals

_____ _____
Executive Secretary Thomas Vander Woude Date of Approval
Board of Zoning Appeals