

MUNSTER BOARD OF ZONING APPEALS
MINUTES OF REGULAR BUSINESS MEETING
Meeting Date: December 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: 6:49 pm

Pledge of Allegiance

Members in Attendance:

Stuart Friedman (via Zoom)
Daniel Buksa
Jonathan Petersen (via Zoom)

Members Absent:

Sharon Mayer
Roland Raffin

Staff Present:

Tom Vander Woude, Planning Director
Dave Wickland, Attorney

Town Council Liaison Lee Ann Mellon (via Zoom)

Approval of Minutes:

Motion: Mr. Buksa moved to approve the minutes of the November 9, 2021 meeting.

Second: Mr. Petersen

Vote: Yes – 3 No – 0 Abstain – 0. Motion carries.

Preliminary Hearings

- a. **BZA 21-011 Kimley-Horn and Associates on behalf of Target Corporation requesting approval of multiple variances from Section 26-6.405Q Private Lighting Standards to install nonconforming parking lot lighting at 8005 Calumet Avenue.**

Mr. Vander Woude reported that this is a preliminary hearing for a series of variances requested by Kimley-Horn and Associates on behalf of the Target Corporation. They are asking for these variances to install nonconforming parking lot lights at the Target store at 8005 Calumet Avenue. The variances are from Section 26-6.405Q which is the private lighting standards of the Munster Zoning ordinance. As part of the remodel that they have been working on for the past year or so, and which was approved by the Plan Commission and by the Board of Zoning Appeals a couple of years ago, they are installing an enhanced pickup area. They have a section of the parking that has been designated for vehicles to park while customers are delivered their online orders by Target staff which bring out the order and load it directly into customer vehicles. This area of the parking lot will be modified with a curb ramp, stop signs, crosswalk, and signs that designate the area as a pickup area. The parking spaces will be reconfigured with a walkway and spaces between vehicles. To ensure the safety of their staff and customers, they are requesting additional lighting in this area. That consists of adding two additional lighting fixtures to two existing poles. Each pole will have 4 fixtures in total. The fixtures they are proposing match the existing fixtures which were installed prior to 2019 when our zoning ordinance changed and enacted more detailed lighting standards. They are nonconforming in three, and perhaps in four ways, as follows: First

the maximum height of the fixture. In our code, it is now 20 feet, the existing poles are 39 feet tall. Second, the color temperature of the fixtures. Our maximum temperature is 3000K, a very warm light. They are proposing 4000K fixtures. Third, the fixture head or luminaire. Our code requires that ornamental fixtures be used. They are proposing a regular standard shoe box type parking lot light fixture. Fourth, the overall illumination of the parking lot. Our standard is to provide an average of 1 to 2 ½ foot candles throughout the entire parking lot with a minimum of 0.4 candles so there is no area where the parking lot is completely dark. The photometric plan that has been provided made compliance unclear because it had the parking lot broken up into separate areas. The plan shows an average for the drive aisle, an average for the customer pedestrian area, and an average for the parking. They need to recalculate that. Mr. Vander Woude said he has been speaking with the Kimley-Horn planners and expects them to provide the new report prior to a public hearing. It can then be determined for certain if a fourth variance will be required.

Mr. Vander Woude said that there have been a few other variances that had been granted to Target related to this project. Those were for signage which the Board granted to modify existing signs and to have a larger than permitted wall sign. One reason the variances were granted was because there was a recognition that the store was originally constructed under a different set of standards, so it was difficult for Target to comply with current standard. The second variance was for landscaping and was granted for similar reasons: the parking lot, for example, had already been constructed and it would have been impossible to have a 7' wide perimeter landscape area when it had been built as a 5' wide perimeter landscape area. They did not have room on the site to widen those without eliminating a significant number of parking spaces. The Board determined this to be an acceptable practical difficulty.

Mr. Conner Strege of Kimley-Horn stated that Mr. Vander Woude had accurately described the petition. Mr. Friedman said that he is in favor of more illumination and lighting for the safety of the customers as well as for the staff of Target. In this time of COVID, there is a great, dramatic increase in the people who drive up and stay in their car while an employee brings them their merchandise. He fully understands the request of Target for greater illumination. He doesn't believe the staff has any major objection. Mr. Vander Woude said there were no concerns of negative consequences from approving this variance. He said the Plan Commission requires the ornamental types of fixtures and fixture heads for aesthetic reasons. He said if they were removing a pole or making more substantial modifications to the site, it would be reasonable to comply with the new standards. In this instance, though, it is a minor modification, just adding fixtures that match the existing fixtures on the poles. Mr. Friedman asked the Kimley-Horn representative if there were any way to add extra illumination while making an existing fixture any more attractive. His response was that the design team had looked at strict adherence to the code regarding the fixture types. The difference in the fixture and the height would require an impractical number of additional light poles to generate the desired amount of light that the project would no longer be practical. Mr. Petersen asked if these are the same fixtures as when Montgomery Ward was operating in that site. Mr. Vander Woude said that he was not certain, but that they don't appear that old. The Target store was constructed in the early 2000s, almost 20 years ago. He thought Target would have updated and installed new poles and fixtures when they took over. Mr. Friedman recalls being on the Board of Zoning Appeals when it was Montgomery Ward. He thinks the fixtures are very similar to those on the Montgomery Ward site. Mr. Petersen asked Board members to recall a variance request from Arby's. The management team from Arby's brought to the Board a plan based on a drive thru device that had failed. He said that had it been a normal franchise, they would have been

required to do a complete remodel and fix the configuration and bring the store from the current 1980s design to the 21st century. He said that the management team stated they did not want to spend the money. Mr. Petersen said that there have been other petitioners, for example, the Marathon on the corner of 45th and Calumet Avenue that came before the Board and wanted a variance to reopen the car wash. It was pointed out to them that the Board felt that they were just trying to put a band aid on the existing problem so they could continue to milk the station and bring no real benefit to the community. Mr. Petersen said he is concerned that this type of request is being presented to the Board in this Target petition. He said the Target representative should understand that the Board has spent a tremendous number of hours crafting our updated zoning ordinances and building standards. This was not done as an exercise so petitioners to come in and determine that they do not want to spend the money and just try to band aid what is existing. Mr. Petersen said that the light fixtures were the same style as those in existence when Montgomery Ward operated out of that site. He said he will likely oppose this variance because he thinks it is time for a petitioner like Target to step up, be a good corporate citizen and construct the improvements consistent with the well-crafted and designed building codes and zoning codes that we have in place. Mr. Petersen said the tradeoff for the benefits of doing business in Munster is for a corporate petitioner to comply with the codes. Mr. Petersen asked that the petitioner go back to Target and tell them that it is time to start doing the improvements consistent with the ordinances that are in place. He asked the petitioner to come back to the Board with a proposal that is consistent with the desires of the community for improvements with the community. Mr. Friedman asked if the petitioner would like to respond. Mr. Strege said that he heard exactly what Mr. Petersen is saying and the intent behind it. He could communicate this information to Target prior to the January hearing if this moves forward. He also understands the desire to improve the parking lot to what the Town of Munster is expecting with their new code. He would also offer that it goes beyond a financial decision but also an aesthetic decision in terms of consistency within the parking lot. The thoughts of the Board have been noted and he will communicate internally. Mr. Friedman suggested that he carry those thoughts back to Target. Mr. Friedman said Target should speak to the staff and see if they can come up with a proposal that will comply with code and yet accomplish the Target goal of providing illumination for the safety of their customers and staff. Mr. Petersen asked that the representative go back to Target and come back with a comprehensive update of the parking lot lighting plan by removing all old fixtures and replacing with compliant lighting. He said Target came before the Board within the past two years offering to do a complete upgrade to the façade of the facility, they were relating how great it was going to be. He thinks the proposal tonight should be considered a part of that upgrade. Mr. Vander Woude said that should Target decide to either install compliant fixtures within the parking lot or to implement a comprehensive plan for the entire site, there would be no need for a variance. Target representatives would be able to withdraw their application and not return to the Board of Zoning Appeals.

Motion: Mr. Buksa moved to schedule public hearing for BZA 21-011 for January 11, 2022.

Second: Mr. Petersen

Discussion: Mr. Petersen said that the full Board, in particular Mr. Raffin, will be keenly interested in this business. He noted that Mr. Raffin was one of the architects of the current building code and he anticipates that Mr. Raffin will offer comments consistent with those he has offered.

Vote: Yes – 3 No – 0 Abstain – 0. Motion carries.

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 the applicant has withdrawn this request. He hasn't yet found a tenant that would need a parking variance. Rather than moving this petition forward, he is choosing to withdraw. Mr. Wickland said no action is necessary.

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 January 11, 2022, at 6:45 p.m.

Adjournment:

Motion: Mr. Buksa moved to adjourn.

Second: Mr. Petersen

Vote: Yes – 3 No – 0 Abstain – 0. Motion carries.

Meeting adjourned at 7:17p.m.

Chairman Stuart Friedman
Board of Zoning Appeals

Date of Approval

Executive Secretary Thomas Vander Woude
Board of Zoning Appeals

Date of Approval