

MUNSTER BOARD OF ZONING APPEALS
MINUTES OF REGULAR BUSINESS MEETING
Meeting Date: March 8, 2022

The announced meeting location was Munster Town Hall and could be accessed remotely via Zoom, a video conferencing application.

Call to Order: 6:45 pm

Pledge of Allegiance

Members in Attendance:

Sharon Mayer
Daniel Buksa
Roland Raffin

Members Absent:

Stuart Friedman
Brad Hemingway

Staff Present:

Tom Vander Woude, Planning Director
Dave Wickland, Attorney

Approval of Minutes:

Motion: Mr. Buksa moved to approve the minutes of the February 8, 2022, meeting.

Second: Mr. Raffin

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

Preliminary Hearings

- a. BZA 22-002 Jeffery and Nancy Nixon requesting approval of a variances from TABLE 26-6.405.A-2 to permit a 6-foot tall fence in a front yard at 8004 Hohman Avenue.**

Mr. Vander Woude said this is a variance request from 2 standards in our zoning ordinance. The property address is at 8004 Hohman Avenue. This is a residential property. The petitioners have installed a fence on their north lot line that extends past the front of the house. In addition to requesting a variance for the existing nonconformity, the petitioners are requesting additional 6' fence to be installed in their front yard, which is defined by the nearest roofed portion of the building. Mr. Vander Woude stated that a front yard fence cannot exceed the maximum height of 42". The Nixons are proposing a 6' fence which is why they are requesting a variance from that standard. Mr. Jeffery Nixon introduced himself and his wife, Nancy Nixon, noting their address as 8004 Hohman Avenue. He said they would like the fence for privacy in their kitchen and to screen their neighbors' property. Mr. Nixon pointed out the disrepair of one neighboring fence, a top rail is missing from one section, and the growth of a large brush weed is pulling the chain link further out of alignment. He pointed out that all the neighbor's shrubbery is overgrown. On the north side, he showed the debris that the neighbor has stacked on the side of his garage. Mr. Nixon explained that they are friendly and have no conflicts with the neighbors on either side of them. He said they have been planning this fence for a long time because he and his wife are very visual people and aesthetics mean a lot to them. He said they would like a nice backdrop to showcase their garden when viewed from inside their home. He moved on to explain the fence plans, including the panels and the front and back gates. He described his design for the fence. He said the 6' will screen views into the kitchen from cars and pedestrians looking in when they are eating, provide a screen from the neighbor's yard, and provide security and privacy, especially since a large pine tree has been removed from the front of this area. He showed an insurance proposal which described the front of the property as irregular. He said that the publication Fine Home Building is planning to feature this fence in an upcoming article because of the design, the engineering, and the

building techniques. The Nixons said they believe this speaks to their efforts to build something that enhances their property and the neighborhood as well as something that is beautiful. Mrs. Nixon said the south side of the house where the pine tree was removed, the new addition juts out and is all French doors and windows, so their main concern is security. She said they have lived in this home for 33 years, there are more people walking and the new train line is coming. She is looking for that added layer of security. She said when she planned the gardens, she had planned that area as a courtyard. She said she did not know this would not be allowed. Mr. Nixon reiterated that they would like to move forward and build the fence as proposed. Ms. Mayer asked Mr. Vander Woude to explain how the front of the new addition became the front corner. He answered that the front yard as defined as the nearest roofed portion of the principal building, clarifying this is nearest to the side lot line. Ms. Mayer asked whether there would be a problem if this second addition had been in line with that side of the house. Mr. Vander Woude said there would not, that if the addition had not been built or if it had been built in line with the front of the house there would not be a problem. Mr. Buksa said this is one of his favorite houses in Munster and he thinks the plan makes sense for the property. It looks nice, and it is a nice architectural feature in the neighborhood. He thinks they should investigate the roof line issue and adjust the code somehow. Mrs. Nixon said that the addition is only 2 years old, that had they known then what they know now, they would have built the fence first. Ms. Mayer asked Mr. Vander Woude if there was a survey. He answered that there was only the plan and that should be sufficient to make their decision. Ms. Mayer asked about the short, wrought iron fencing pictured in the front. Mrs. Nixon said she put that in a temporary measure to discourage people from cutting through the yard. Mr. Vander Woude said that the intention is to put a 6' fence in that location. Ms. Mayer asked what materials were planned for the fence. Mr. Nixon explained that it is solid PVC. Mr. Nixon added that he designed it and he is building it by milling all the parts himself.

Motion: Mr. Raffin motioned to set this to a public hearing.

Second: Mr. Buksa

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

Ms. Mayer asked the Nixons to work with Mr. Vander Woude to give notification to the neighbors and they would be on the public hearing agenda next month.

b. BZA 22-003 Feras Musleh of 821 Main Street LLC requesting approval of a variance from Table 26-6.4050-1 to allow a reduction in the required parking spaces for a restaurant at 821 Main Street.

Mr. Feras Musleh introduced himself and stated his address 11725 Dover, Crown Point, IN as representing the landlord of the property, 821 Main Street, LLC. Also attending is a representative of the future tenant, Domino's Pizza. Mr. Musleh said that normally Domino's falls under a restaurant category. This location will be a pickup and delivery only location, with no tables or seating. He said they don't feel there is a need for much parking since there will be no sit down or waiting. They also have a 2-minute guarantee. When a customer pulls up, they have 2 minutes to get them in and out. Most clients pre-order or choose delivery. He mentioned that in working with Mr. Vander Woude, there is the ability for them to add a few more on-street parking spaces should it ever become an issue. Mr. Vander Woude said that this is a strip center located in the northeast quadrant of Calumet Avenue and Main Street. There is an Anytime Fitness and a health food store called Nutrition on Main which take two of the tenant spaces. The third tenant space is an approximately 1300 square foot space they hope to lease to Domino's Pizza. When the center was designed, it was planned with sufficient parking for retail or personal services use in each of the 3 units. The ratio of parking is 4 ½ spaces per 1000 square feet if total gross floor area. A restaurant requires 5 parking spaces for each 250 square feet. As a result, they

are short 19 spaces. Mr. Vander Woude said that he investigated whether they could use on street parking to the north and to the east. It is not clear whether that is a permitted use of the streets. They are not public, they are a private ingress/egress easement but they are built to the width of a standard residential street which has 30 feet of pavement and could accommodate on street parking. Taking that into account, they could fit approximately 12 additional spaces on the street, thereby reducing their variance to 7 spaces. He asked to Mr. Musleh to describe the operation and the number of spaces they would need. Mr. Musleh explained the bigger space user is Anytime Fitness Their busiest time is Monday through Wednesday from 4:00-6:00PM. He mentioned that he operates Anytime Fitness. He assumes that Domino's will be busy from 5:00 PM and later. There would be an overlap of 1 hour that could be a potential issue. In speaking with the prospective tenant, Domino's, they found that are busier in the second half of the week, Friday, Saturday, and Sunday which are slow times for the gym. That is why they don't anticipate a parking issue. He said Domino's could speak to other locations that do high volume and have much more restrictive and shared parking with other tenants with no parking problems. Ms. Mayer asked Mr. Vander Woude how many parking spaces are allotted by calculation for this tenant space. Mr. Vander Woude said there are 6 spaces available for any business there, enough for a retail or personal service type of use. Ms. Mayer asked the number of spaces needed for a restaurant. Mr. Vander Woude said a restaurant would require 27 total or 19 additional. Ms. Mayer said she would like answers to a few questions about business hours, number of employees and the number of patrons expected during different hours so the petitioners should be prepared to answer those questions at next month's public hearing. Mr. Buksa motioned to set this issue for public hearing contingent upon the petitioner meeting all the town's notice requirements. Mr. Raffin seconded

Motion: Mr. Buksa moved to schedule a public hearing for BZA 22-003.

Second: Mr. Raffin

Discussion: Mr. Raffin asked the number of employees and delivery drivers intended for this store. The Domino's representative said 3-7 employees at any given day shift including 2-3 delivery drivers, noting that a typical restaurant would have 12-15 employees. Mr. Raffin noted that they would need 7 spots for employees alone. Jason agreed but said that most drivers would be out on the road. Ms. Mayer said they would still need additional spots for pick up.

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

Public Hearings

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

Mr. Vander Woude said Target had presented plans to add more lighting to the parking lot to better illuminate the pickup and go section. The lighting plan exceeded several the town's standards for parking lot lighting. At prior meetings, the Board had requested additional security in that area. In response to that, the applicant coordinated with the town Police Department and agreed to add some security cameras to the front of the store. At the public hearing held last month, the Board requested that Target add lighting on the rows of parking to the north and the south also. The applicant has returned with a plan that includes 1 additional fixture added to each of 4 poles. Now in addition to the planned 2 new fixtures added 2 new poles, all totaled, these additions will illuminate the entire front portion of the parking lot. Mr. Vander Woude said that this does change the variance request. These additions exceed the maximum illumination of our standard 2 ½ foot candles. They had previously proposed 3.96 foot candles. The additional fixtures bring the new average to 4.49 foot candles

throughout the entire lot. Connor Strege of Kimley-Horn introduced himself as the petitioner. Ms. Mayer thanked Mr. Strege for going back to Target and discussing the Board's requests from the last month and she is heartened that all agree. She asked Mr. Raffin if he had any questions since he missed the last meeting. Mr. Raffin asked if the Police Chief had recommended security cameras on the light poles. Mr. Vander Woude said he had asked the Police Department what their thoughts were on the security in the parking lot. They said that it was currently acceptable but if asked for suggestions to improve security, they would recommend adding cameras to the customer pickup area. What they proposed to do would be to add a camera to the team member entrance/exit and an additional camera focused on the drive-up stalls. Mr. Raffin asked if these cameras would be mounted on the building or on the poles. Mr. Strege said the camera serving the stalls would be installed on the pole. Mr. Raffin said it would be good on the pole. He said he works on Walmart stores, and they require pole mounted cameras. Ms. Mayer asked if Mr. Buksa had any concerns. He answered that his concerns had been well documented in the minutes, adding that if the petitioner had agreed to the changes, he is also in agreement.

Motion: Mr. Raffin moved to approve BZA 21-011 with the condition that a security camera will be added to cover the Team Member entrance/exit from the store's dedicated Drive-Up door and the associated path to the Drive-Up stalls and an additional security camera will be dedicated to the Drive-Up stalls.

Second: Mr. Buksa

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

b. BZA 22-001 Brian McShane of 45th Street Properties LLC requesting approval of variances to install entrance door signage and directional signage both that exceed the maximum permitted area and do not comply with sign material standards

This petition was deferred for lack of public notice. Mr. Vander Woude said that there was a preliminary hearing last month. Mr. McShane attended to discuss his petition. He is currently out of the country and did not fulfill the notice requirements. Mr. Vander Woude believes it is Mr. McShane's intention is to come to the April 12 public hearing.

Motion: Mr. Buksa moved to continue BZA 22-001 to April 12, 2022.

Second: Mr. Raffin

Vote: Yes – 3 No – 0 Abstain – 0 Motion Carries

Findings of Fact

a. None

Additional Business/Items for Discussion

a. Fran Lin Garage

An update was requested from the Board on a past petitioner on Fran Lin Drive. He described driving on a Sunday at 8:45AM southbound on Fran Lin. There were clearly 2 cars. Mr. Vander Woude said the homeowner has a contract to close up the attached garage and they are waiting for materials. Mr. Raffin asked how long they had been waiting on materials. Ms. Mayer asked if he had a permit for this work. Mr. Vander Woude confirmed that the homeowner has 6 months to complete the work. Ms. Mayer asked if it had yet been 6 months. Mr. Vander Woude said it was not yet. Ms. Mayer suggested

that he may need a reminder. Mr. Vander Woude said that his team has been in regular contact with him. If the permit expires, his team can act but for now, it is an active building permit so there is not a lot that can be done.

b. Brad Hemingway

Mr. Vander Woude noted that Brad Hemingway was appointed to the Board of Zoning Appeal. He was not able to attend this meeting due to a prior commitment. He will be joining next month and will be sworn in at that time.

c. Governor Holcomb- Termination of the Declaration of Public Health Emergency

Mr. Vander Woude said he sent an email but wanted to reiterate that the Governor's Declaration of Public Health Emergency has been terminated so there are some new rules pertaining to virtual participation to these meetings:

1. Board Members can attend only 2 virtual meetings in a row
2. Board Members must attend more than 50% of meeting in person unless there is a health issue preventing in person participation.
3. 50% of the Board must be present in person for the meeting to be held.

Next Meeting: Ms. Mayer announced that the next regular business meeting will be April 12, 2022, at 6:45 p.m.

Adjournment:

Motion: Mr. Raffin moved to adjourn.

Second: Mr. Buksa

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

Meeting adjourned at 7:45 p.m.

President Sharon Mayer
Board of Zoning Appeals

Date of Approval

Executive Secretary Thomas Vander Woude
Board of Zoning Appeals

Date of Approval