

Board of Zoning Appeals
City of Crawfordsville
March 15, 2017

The City of Crawfordsville Board of Zoning Appeals met on Wednesday, March 15, 2017 at 7:00 p.m. in the Common Council Chambers of the Municipal Building. Board members present were: Don Swearingen, Phil Wray and Don Gould. Commission member Phil Littell was not in attendance for the meeting. Others in attendance were: Brandy Allen, Director of Planning & Community Development; Darren Chadd, City Attorney of Taylor, Chadd, Minnette, Schneider & Clutter; and Megan Huckstep, Executive Assistant, Department of Planning & Community Development.

President Don Gould called the meeting to order at 7:00 p.m. and the roll was called.

Meeting minutes from February 15, 2017 were presented. Don Swearingen made a motion to approve the minutes as presented. Phil Wray seconded. Motion approved 3-0.

Don Swearingen then reviewed the rules and procedures for the meeting.

There were no items of old business to discuss; therefore the Board proceeded with new business.

1000 E Market Street **Rene Orozco, Pollos Tire Shop** **UV 0048**

Planning Director Brandy Allen explained that there were two variance requests before the Board for the same property at 1000 East Market Street. The first variance to be presented was a use variance to allow the use of a semi-trailer and a camping trailer as accessory structures in a B-3, business zoning district. She explained that a second variance for setbacks of the non-conforming accessory uses would also be considered if the use variance was approved. Ms. Allen introduced the petitioner Rene Orozco, the owner and operator of Pollo's Tire Shop at 1000 East Market Street. She informed the Board that the property was currently being use for a used tire shop and was zoned B-3, business. It was noted that the site was surrounded by B-3, business, I-1, industrial and R-3, residential zoning districts. Again, Ms. Allen explained the first request being considered was a use variance from the schedule of uses of the Zoning Ordinance to allow a camper and a semi-trailer to be used as accessory structures in a B-3, business zoning district. She proceeded with providing a history of the property reporting that the property has been used as a tire shop for several years; however as the tire shop has expanded additional storage had been added. It was noted that the City had received several complaints concerning the units being used as permanent accessory storage structures, which are also in violation of the setbacks for accessory structures. Ms. Allen read from the definition of Accessory Structure in the Zoning Ordinance which states that an accessory structure does not include "a trailer, portion of a box truck, or any other similar container". Therefore, Ms. Allen informed the Board that she issued a notice to correct for the violations on the property and the owner of the business decided to seek a variance requesting to keep the structures as accessory structures. Ms. Allen continued reviewing her report and reiterated that there had been complaints about the location of the structures due to traffic and transportation concerns. She explained that the semi-trailer and camper are in violation of the setback requirements along two state highways, commonly known as State Road 32 and US Highway 136, which could create safety issues for traffic through the area. It was noted that there were no known environmental issues as this time nor were there any fire, police or emergency preparedness issues known. Ms. Allen stated that the use variance was being requested because the zoning ordinance did not allow semi-trailers, campers, box trucks, or other similar units to be used as accessory structures. She explained that a development standard variance would also be requested by the Petitioner if the use was approved since the structures currently are in violation of the lot and yard or setback requirements. Ms. Allen reviewed the findings of fact as follows:

Whether the approval will not be injurious to the public health, safety, morals, and general welfare of the community?

There have been concerns about the use of these structures, as well as the location, in relation to the safety of travelers near this property.

Whether the use and value of the area adjacent to the property included in the use variance will not be affected in a substantially adverse manner?

In the property's current condition, the area adjacent to the property could be affected in a substantially adverse manner. This property is on a major thoroughfare to Crawfordsville, and this property is located at a key gateway to downtown Crawfordsville.

Whether the need for the use variance arises from some condition peculiar to the property involved?

While the property does have unique challenges due to the shape of the lot and setback requirements along a thoroughfare, there is nothing about the property that would require specifically that a camper, semi-trailer, or other unconventional method of storage be used on the property.

Whether the need for the variance was not self-created?

The need for this variance could be considered self-created. There does not appear to be a clear reason that an approved accessory could not be used, although any accessory use would require a setback variance no matter where located on the property.

Whether 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?

The strict application of the ordinance may constitute a hardship if no accessory structures are permitted. However, it would not be considered an unnecessary hardship to prohibit the semi-trailer and camper as accessory units to be used as storage. No matter what storage unit is used, it will require a setback variance, however an approved accessory unit can be considered. There is no condition on the site that would require the use of an unapproved accessory structure.

Whether the approval does not interfere substantially with the Comprehensive Plan?

The Comprehensive Plan shows this area as commercial.

Based on the findings of fact, Planning Director Brandy Allen stated that staff recommended denial of the use variance.

Frances Hoar, translator, came forward with Rene Orozco concerning the petition request. Mr. Hoar stated that Mr. Orozco was out of room inside of the building and was using the trailer and the camper for storage. He claimed that the previous owners used the trailer as storage as well. He explained that the site had been vacant but the petitioner was trying to put it to good use and was renting the property from the current owners. Mr. Hoar indicated that Mr. Orozco also has additional storage off-site. He explained that an alternative solution would be to leave the tires outside.

The meeting was open to public comment. Sam Smith came forward and stated that he was an interested neighboring property owner. He stated that he was happy to see that the issue was finally being addressed. Mr. Smith stated that he felt the semi-trailer and camper trailer being used as accessory storage structures were an eye sore to the community. Mr. Smith questioned what actual workable inventory at the site was and what tires could be disposed of. He also questioned how to properly dispose of tires. Mr. Smith emphasized that he thought Mr. Orozco had a viable operation but that it needed to be done and maintained properly.

Mr. Hoar and Mr. Orozco came forward. Mr. Hoar stated that the business owner welcomed Mr. Smith to come and review his inventory and operation. Mr. Hoar stated that the tires are taken off-site to a recycling facility. He noted that the owner keeps approximately 100 different types and sizes of tires. He noted that the owner had additional storage off site already.

There was no further comment from the public. It was noted that twelve letters were mailed certified and that nine return receipts had been received prior to the meeting. No written correspondence was received prior to the meeting.

President Gould explained the Board's role which was to determine if the trailers were allowed as storage. Discussion arose among the Board. Don Swearingen explained that the location of the site, in addition to the property size and shape, limits what can be done. Discussion arose regarding the existing building and structures on site and their setbacks limitations. Concern was addressed with tires being stored outside. Question arose regarding whether the health department would allow tires being stored outside. Phil Wray expressed his concerns with the trailers. He explained that the property was located within a gateway to the city, and the trailers were eyesores that were not acceptable. With no further discussion, Don Gould moved to deny the request for a use variance. Don Swearingen seconded. Motion approved to deny the request 3-0.

It was noted that the use variance was not approved therefore there was no need to proceed with the development standard variance request for the trailers on the same property at 1000 East Market Street.

Under miscellaneous items, Brandy Allen explained two violation letters that were mailed out to property owners on Wabash Avenue and Vandalia Court. It was noted that no correspondence had been received for the Vandalia Court violations; however the owners of the property on Wabash Avenue were in the process of getting permits and making changes to satisfy the requirements of the zoning ordinance.

With no further business, the meeting adjourned at 7:48 p.m.


Minutes Approved: 4/19/17



President



Member



Member



Member

Member