

**VALPARAISO BOARD OF ZONING APPEALS**  
**Regular Meeting Minutes**  
**June 16, 2021**

The regular meeting of the Valparaiso Board of Zoning Appeals was held at 5:30 p.m. on Wednesday, June 16, 2021 at Valparaiso City Hall, 166 Lincolnway, Valparaiso, Indiana. Remote access was available via livestream on the Valparaiso City Website. Mike Micka presided.

Members present were Paul Reed, Diane Worstell, Kyle Yelton, and Mike Micka. Also present were Beth Shrader, Carley Lemmon, Attorney Patrick Lyp, and petitioners. Byron Martin arrived after roll call.

**MINUTES:**

Paul Reed made a motion to approve the May 19, 2021 minutes as presented. Diane Worstell seconded the motion. A voice vote was taken and unanimously carried 4-0.

**OLD BUSINESS:**

None.

**NEW BUSINESS:**

**SE21-001** – A petition filed by Bond LLC – Janet McNair c/o Attorney Glen Kuchel. The property is located at 560 Bond Avenue in the Commercial Neighborhood (CN) Zoning District. The petitioner requests the following Special Use/Special Exception variance:

- Article 13, Section 13.400 – To allow for a request for Special Use to make the nonconforming use and building/structure conforming per the criteria set in Article 13, Section 13.403.

Attorney Glen Kuchel presented. The petitioner would like to allow the property at 560 Bond Avenue to continue to be used as it has been for many decades. There will be no change in the property or the building. The property has been zoned and used as Light Industrial for years. In March, the City of Valparaiso (Planning Department) made amendments to the City Zoning Map changing the property to Commercial Neighborhood. The petitioner's request is to simply keep the property zoned Light Industrial and be able to continue to serve their tenants. The petitioner is a good neighbor and is not and will not have a negative impact on the neighborhood. Ms. Janet McNair stated her family has owned the property since 1958. The building is well rented with a waiting list. There is a great group of tenants in the building and we would like to keep business as is.

**Public Hearing:** Mike Micka asked if any of the public would like to speak in favor of or in opposition of this petition. Mr. Micka also asked that the public address their questions to the Board Members while at the same time the petitioner will take notes and respond at one time.

**Mr. Vince Neal**, 460 Bond Avenue, Valparaiso, stated he has no opposition to the petition. The petitioner has been a good neighbor.

There were no online comments. The public hearing was closed, and questions/comments were heard from the Members.

C: The Plan Commission also heard a lot of positive testimony on behalf of the petitioner.

Q: Are the conditions agreed upon with the petitioner?

A: Yes.

Staff advised there are conditions proposed as Findings of Fact. The Special Use, if approved, will be predicated to the Commercial Neighborhood zoning and should the zoning ever change in the future a subsequent Special Use Variance would need to be sought.

**Motion:** Diane Worstell made a motion to approve SE21-001 mitigating non-conformities associated with the change to Commercial Neighborhood Zone for section 13.400. Proposed Findings of Fact are included in the approval and approval is contingent upon the petitioner recording the document and providing the City of Valparaiso with a copy. Paul Reed seconded the motion. A roll call vote was taken and unanimously carried 5-0.

**VAR21-010** – A petition filed by Biruh’s Kitchen. The property is located at 309 Lincolnway in the Residential Transition (RT) Zoning District. The petitioner requests the following variance(s):

- Article 3, Section 3.505, Table 3.505 – To vary the minimum side yard setback of ten (10) feet to allow for a side yard setback of zero (0) feet.
- Article 3, Section 3.301, Table 3.301(B) – To vary the required minimum on-site parking spaces from 14 spaces to allow for a minimum of 3 on-site parking spaces.
- Article 9, Section 9.201, Table 9.201 – To vary the required minimum Landscape Ratio (LSR) of 60% to allow for a minimum LSR of 17%.

Petitioners presented. They have been in operation from a licensed kitchen since 2017. They would now like to expand and provide a dine-in experience at 309 Lincolnway. It is zoned Residential Transition (RT). The proposed plan includes three (3) parking spaces in the rear of the building and an outside dining area. Landscaping exists on the west side of the building and they will be adding more on the north side of the building and a trash enclosure. The existing building is built on a zero-setback line. The way the existing building sits, they are only capable of providing a less than required landscape plan. There are seventeen (17) parking spaces available on Lincolnway and parallel parking in front of the building. There is also a public parking lot located within one block. This is a unique Ethiopian restaurant.

Public Hearing: Mike Micka asked if any of the public would like to speak in favor of or in opposition of this petition. Mr. Micka also asked that the public address their questions to the Board Members while at the same time the petitioner will take notes and respond at one time.

Ms. Louise Williams, 501 Glade Place, Valparaiso, states she is in favor of this petition.

There were no online comments. The public hearing was closed, and questions/comments were heard from the Members.

Q: What are the hours of operation?

A: 10:00 am to 2 pm and 5:00 pm to 8:00 pm.

Q: What is the seating capacity of the building?

A: 30 including outside.

Q: How many staff?

A: 3-4.

Q: Liquor license?

A: Not at first, but eventually we would like to achieve that.

C: In 2010, six (6) variances were granted and some commitments were made at that time that have not been honored. There is some carryover in this petition. If approved at this time, the previous commitments need to be adhered to by the property owner.

Motion: Byron Martin made a motion to approve VAR21-010 To vary the minimum side yard setback of ten (10) feet to allow for a side yard setback of zero (0) feet; to vary the required minimum on-site parking spaces from 14 spaces to allow for a minimum of 3 on-site parking spaces; and to vary the required minimum Landscape Ratio (LSR) of 60% to allow for a minimum LSR of 17% and including the petitioner’s proposed Findings of Fact. Kyle Yelton seconded the motion. A roll call vote was taken and unanimously carried 5-0.

**VAR21-011** – A petition filed by Adam McAlpine. The property is located at 701-705 Glendale Blvd. in the Urban Residential (UR) Zoning District. The petitioner requests the following variance(s):

- Article 9, Section 9.403(C) – To allow for an access spacing on opposite sides of the street of less than 75 feet.
- Article 3, Section 3.503, Table 3.503 – To vary the required 12-foot building separation to allow for a building separation of 10 feet.

Mr. Adam McAlpine presented. The proposed development is approximately 3.78 acres. The developers proposes 14 paired patio buildings for a total of 28 apartment units. The distance between the buildings is 10 feet which is less than the 12-foot standard. The 10 feet is allowed by the fire department. The entrances do not conform to City standards due to this being an in-fill development with neighboring entrances already in place. We worked with the City Engineer and a traffic study was performed per the Engineer’s requests. This will not be a high traffic development.

Public Hearing: Mike Micka asked if any of the public would like to speak in favor of or in opposition of this petition. Mr. Micka also asked that the public address their questions to the Board Members while at the same time the petitioner will take notes and respond at one time.

Ms. Victoria Thanos, 507 Glade Place, is opposed to this petition. This is a high traffic area both vehicles and pedestrian at various times of the day. Neighbors did not receive notice of the Plan Commission meeting being held.

Mr. Roy Pratt, President of the Glade Place Condominiums, is opposed to this petition. It is difficult to get in and out of drives

Dr. Jenna Presitco, 607 Glade Place, is opposed to this petition. Traffic is dangerous in this area. The Landscape Plan shows a great loss in trees and we would like to have more saved.

Ms. Sherry Christian, 704 Albert Street, questioned where the new road is going to be in comparison to the backyards on Albert Street and what type of buffer will be in place.

Ms. Saba Mohammad & Partner, questioned the setbacks and saving trees. A one-time traffic study is not an acceptable practice in this situation and needs to be further pursued.

Ms. Denise Pequet, Wheatherwood Drive, notes her appreciation for the wildlife outside her home and does not want to see that altered. This area has a lot of traffic already and that needs to be taken seriously.

Resident (Nick), the Landscape Plan appears to be tree heavy on the adjacent business side of the development and not on the residential side. Also, why can't the retention ponds be in the rear versus the front of the development.

Ms. Louise Williams, 503 Glade Place, questioned the roadway within the development will be two-way traffic. There are a lot of curb cuts in this small area.

There were no online comments.

Beth Shrader advised there was written correspondence from Nancy Smith, 702 Albert St., is opposed to this petition noting quiet neighborhood, too many entrance points, wildlife, traffic and not enough space between the homes. More information is needed.

Adam McAlpine's Rebuttal:

- Many of the trees on the perimeter of the property will be preserved. Anything on the Glade Place property will not be touched by us. The goal is to direct the run-off properly and all things need to be considered.
- CVS has not been contacted regarding this project.
- No discussion has taken place regarding a median on Glendale Blvd. The petitioner is willing to discuss this with the City Engineer.
- The plan is to preserve existing trees as we can. This will block headlights due to the under canopy.
- Target market is high end rentals, snowbirds, empty nesters. There is a demand for this type of low maintenance product.
- The easement is for egress and ingress and to ensure sufficient width of buried utilities.
- The road will be two-way traffic. The road will be built to allow for emergency vehicles to be able to maneuver easily. It is a private drive so garbage pick up may or may not be the City. It will not be a dumpster.
- Off set water will be carried through the site via a conveyance path on the west side to the detention basins and will not impact the backyards on Albert Street. Standing water will be addressed throughout the development.
- We are happy to continue traffic examination should the City desire that.
- There is no fence. Trees make better boarders. Landscape requirements ensure property buffering.
- Detention basins are two feet deep. They will look like part of the landscaping. They are placed appropriately and help to push the buildings off of Glendale Blvd.
- Tree are existing on the adjacent business side of the development and we will leave those.

- These are single-story homes to accommodate 28 families. We are under the maximum allowed for this Zone.

The public hearing was closed, and questions/comments were heard from the Members.

Q: What is the price point of the units?

A: We are not sure at this time. It will be market driven.

Q: How many bedrooms will there be in each unit?

A: Two.

Q: One car garage with each unit?

A: Yes.

Q: What comments did the City Engineer have regarding traffic?

A: The City Engineering department reviewed Mr. McAlpine's study and it was found to be acceptable.

Q: What is the dimension of the 75-foot access area?

A: The east entrance to CVS' west entrance is 6 feet. The west is 28 feet.

Q: Is parking at an angle?

A: The concept does show that and will need to be altered to 90-degree stalls.

C: Drive spacing in in-fill situations is a common situation due to driveways already existing. 12-foot building separation is required for the UDO but 10-foot is allowed by building code. Traffic study was reviewed and accepted by engineering. Landscape buffers are required by the UDO and described by the adjacent zones.

Motion: Byron Martin made a motion to continue VAR21-011 to allow for a better review of the provided traffic study. Diane Worstell seconded the motion. A roll call vote was taken and unanimously carried 5-0.

**VAR21-012** – A petition filed by Christopher & Linda Kemper. The property is located at 2263 Vale Park Road in the General Residential (GR) Zoning District. The petitioner requests the following variance(s):

- Article 3, Section 3.503 – To vary the minimum lot width per unit from 45 feet to allow for a minimum lot width of 41.04 feet.

Mr. Chris Kemper presented. The existing home was constructed under County Zoning that allowed for less than 45 feet lot width. The lot width is 41.04. They would like to put up a solar array.

Public Hearing: Mike Micka asked if any of the public would like to speak in favor of or in opposition of this petition. Mr. Micka also asked that the public address their questions to the Board Members while at the same time the petitioner will take notes and respond at one time.

Beth Shrader noted the following written correspondences:

Hillary South, 2806 Westwind Drive, Valparaiso, is in support of this petition.

Juanita Geija, 2706 Westwind Drive, Valparaiso questioned the unit being installed and asked for details.

Mr. Kemper stated there will be nothing else built and the solar ring will be roof mounted.

The public hearing was closed, and questions/comments were heard from the Members.

Beth Shrader advised the variance is required to bring the lot into conformance. The solar array is not in question at this time.

Motion: Diane Worstell made a motion to approve VAR21-012 to vary the minimum lot width per unit from 45 feet to allow for a minimum lot width of 41.04 feet as presented and based on the proposed findings of fact. Paul Reed seconded the motion. A roll call vote was taken and unanimously carried 5-0.

**VAR21-013** – A petition filed by Elias Kalafatis. The property is located at 1004 Calumet Avenue in the Commercial General (CG) Zoning District. The petitioner requests the following variance(s):

- Article 11, Section 11.306, Table 11.306(A) – To vary the minimum landscape yard along the right of way of thirty (30) feet to allow for a minimum landscaped yard along the right of way of zero (0) feet.
- Article 11, Section 11.306, Table 11.306(A) – To vary the landscape requirements.
- Article 11, Section 11.306, Table 11.306(A) – To vary the requirement to screen parking areas to allow for no parking area screening.

Ms. Sophie Kalafatis presented. Mr. Elias Kalafatis was also present. The property is home to Martini's restaurant and has recently been renovated. They would like to push the patio dining to the sidewalk instead of landscaping the corner. They have made a large investment into the beautification of the outside of the building and have added a lot of greenery on the north side of the entrance.

Public Hearing: Mike Micka asked if any of the public would like to speak in favor of or in opposition of this petition. Mr. Micka also asked that the public address their questions to the Board Members while at the same time the petitioner will take notes and respond at one time. No one spoke, and there were not online comments, therefore the public hearing was closed, and questions/comments were heard from the Members.

Ms. Shrader advised the corner area in question is in poor condition. The petitioners will be improving it with new concrete. The City is going to continue to work with the petitioner to further address the right of way areas and better define their parking areas.

Q: Is there a green area in front of the sidewalk?

A: Yes, along Calumet Avenue that the City Park Department maintains.

Q: Will there be planters inside the patio area?

A: Yes.

Motion: Kyle Yelton made a motion to approve VAR21-013 to vary the minimum landscape yard along the right of way of thirty (30) feet to allow for a minimum landscaped yard along the right of way of zero (0) feet; to vary the landscape requirements; and to vary the requirement to screen parking areas to allow for no parking area screening as presented and based on the proposed findings of fact. Byron Martin seconded the motion. A roll call vote was taken and unanimously carried 5-0.

**VAR21-014** – A petition filed by Josh Thornton. The property is located at 2606 Valley Drive in the Business Park (BP) Zoning District. The petitioner requests the following variance(s):

- Article 2, Section 2.402(A)(1c) – To vary the maximum fence height in a street side yard from four (4) feet to allow for a fence height of six (6) feet.

Mr. Josh Thornton presented. Lighthouse Autism Center is remodeling the building formally known as Vale Park Animal Hospital. The fence will be at least 16 feet away from the existing sidewalk. A six-foot fence is requested to allow for additional safety to the children in their care. An updated drawing was provided in the Member's packets. The location is considered to have two front yard and one side is a parking lot. Additional safety is imperative.

Public Hearing: Mike Micka asked if any of the public would like to speak in favor of or in opposition of this petition. Mr. Micka also asked that the public address their questions to the Board Members while at the same time the petitioner will take notes and respond at one time. No one spoke, and there were not online comments, therefore the public hearing was closed, and questions/comments were heard from the Members.

Motion: Diane Worstell made a motion to approve VAR21-014 to vary the maximum fence height in a street side yard from four (4) feet to allow for a fence height of six (6) feet for the specific use as Lighthouse Autism Center as presented and based on the proposed findings of fact. Kyle Yelton seconded the motion. A roll call vote was taken and unanimously carried 5-0.

**VAR21-015** – A petition filed by Crew Carwash c/o Justin Furr. The property is located at 2615 LaPorte Avenue (Outlot A) in the General Residential (GR) Zoning District. The petitioner requests the following variance(s):

- Article 2, Section 2.303(A) – To allow for an accessory structure to be built without a principal building on the property.

Mr. Justin Furr presented online. Crew Car Wash has been working with their neighbor Ms. Coleman to finalize an agreement regarding significant landscaping, a replaced picnic shelter, and enhanced detention pond. In order to build the picnic area without a primary structure on the property a variance is required.

Public Hearing: Mike Micka asked if any of the public would like to speak in favor of or in opposition of this petition. Mr. Micka also asked that the public address their questions to the Board Members while at the same time the petitioner will take notes and respond at one time.

Attorney Patrick McEwen, attorney for Ms. Coleman, stated that what started out as the detention pond for Parkwood Estates was never transferred by the original developers and was later purchased by Ms. Coleman without knowledge of never being transferred. The detention pond serves 28 residencies in Parkwood.

Ms. Brenda Coleman, 2100 McAfee Dr., Valparaiso, stated her home backs up to Crew Car Wash. She would like to have the car vacuums muffled in some fashion to help with her quality of life. We also wish the fence and berm were higher. Although there are still some items to be worked through, she is in favor of this specific petition.

Mr. Paul Lambert, 2605 McAfee Dr., Valparaiso, the neighbors appreciate all the Mr. Furr has done so far. He does agree with Ms. Coleman's concerns and adds electrical power to the proposed pavilion would be very good.

Mr. Kevin Hagen, 2600 McAfee Dr., Valparaiso, we appreciate the pavilion being replaced. He supports his neighbor's concerns and supports the proposed structure.

Neighbor, 2603 McAfee Dr., Valparaiso, plans to use the pavilion and appreciates the petitioner replacing it.

Neighbor, is opposed.

Carl Zitta, 2608 McAfee Dr., Valparaiso, he had to put up a fence and continues to work on additional buffers due to the car wash being very invasive.

There were no online comments.

Mr. Furr's rebuttal:

- This has been a long process and we hear the neighbor's frustrations.
- We will be reinstalling landscaping and buffers. The trees and spacing should help with visibility and noise. We are doing our part to address these concerns.
- Power is something that can be provided to the pavilion without issue.
- We will continue to address concerns with our operations team regarding radios, loud noise, etc.

The public hearing was closed, and questions/comments were heard from the Members.

Beth Shrader advised the agenda item this evening is the allowance of an accessory structure without a primary structure.

Q: Who is responsible for the maintenance of the building?

A: Parkwood Estates would like the parcel transferred back to Ms. Coleman with the adjacent business owners responsible for maintenance.

Q: Is electric allowed?

A: It has not been presented to the Building Department, but the petitioner agrees to seek out that permission.

C: The parcel where the pavilion will be located will transfer the parcel the Parkwood POA and it will be available for their exclusive use. Maintenance will be the responsibility of the Crew Car Wash DOM 51 LLC entity.

Motion: Kyle Yelton made a motion to approve VAR21-015 to allow for an accessory structure to be built without a principal building on the property as presented and based on the proposed findings of fact. Paul Reed seconded the motion. A roll call vote was taken and unanimously carried 5-0.

**UV21-002/VAR21-016** – A petition filed by Christopher Enright. The property is located at 105 Porter Vale Blvd. in the Commercial General (CG) Zoning District. The petitioner requests the following variance(s):

- Article 11, Section 11.304(C)(12) – To allow for a Light Automobile Service use in the State Route 49 Overlay District.
- Article 11, Section 11.304(Ia) – To vary the required yard abutting corridor setback of 90 feet for buildings that are 36 feet or less in height to allow for a setback of 40 feet.
- Article 11, Section 11.506, Table 11.506 – To vary the required 60% transparency along the west (primary) building façade to allow for a transparency of 17%. To vary the required 30% transparency along the north building façade to allow for a transparency of 23%.

Mr. Chris Enright presented. Bell Tower is proposing a new location in the northwest corner of the Porter Vale shopping center. The State Road 49 Overlay does not allow light automotive repair and that is part of what our business is. There is quite a buffer existing. The transparency is close to being met on the primary side but not quite due to the windows not being the length of the building. Bells sells and installs tires and does light services such as brakes and shocks and alignments.

Public Hearing: Mike Micka asked if any of the public would like to speak in favor of or in opposition of this petition. Mr. Micka also asked that the public address their questions to the Board Members while at the same time the petitioner will take notes and respond at one time. No one spoke and there were no online comments, therefore, the public hearing was closed, and questions/comments were heard from the Members.

Q: Is the setback considered from 49 or from the entrance ramp?

A: From the property line in. In this case, the right-of-way is extensive.

Q: Are the service doors glass?

A: Yes.

Motion: Diane Worstell made a motion to approve UV21-002 to allow for a Light Automobile Service use in the State Route 49 Overlay District. Kyle Yelton seconded the motion. A roll call vote was taken and unanimously carried.

Motion: Byron Martin made a motion to approve VAR21-0016 to vary the required yard abutting corridor setback of 90 feet for buildings that are 36 feet or less in height to allow for a setback of 40 feet; and to vary the required 60% transparency along the west (primary) building façade to allow for a transparency of 17%. To vary the required 30% transparency along the north building façade to allow for a transparency of 23% as presented and based on the proposed findings of fact. Paul Reed seconded the motion. A roll call vote was taken and unanimously carried 5-0.

**STAFF ITEMS:**

None.

**ADJOURNMENT:**

There being no further business, the June 16, 2021 Board of Zoning Appeals meeting was adjourned at 8:40 p.m.

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Mike Micka, President

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Beth Shrader, Executive Secretary