

**Valparaiso Board of Zoning Appeals
Regular Meeting Minutes
April 19, 2023**

The regular meeting of the Valparaiso Board of Zoning Appeals was held at 5:30 p.m. on Wednesday April 19, 2023, at Valparaiso City Hall, 166 Lincolnway, Valparaiso, Indiana. Remote access was available via livestream on the Valparaiso City Website. Paul Reed presided. The Pledge of Allegiance was said. Members present were Diane Worstell, Bill Oeding, Paul Reed, and Mark Ribordy. Kyle Yelton was absent. Also present were Beth Shrader, Jessica Gage, Attorney Patrick Lyp, and petitioners.

MINUTES

Adoption of Meeting Minutes – March 15, 2023

Motion: Bill Oeding moved to approve the minutes from March 15, 2023. Mark Ribordy seconded the motion and so approved with a 4-0 voice vote.

Old Business

UV23-001 and VAR23-002

A petition filed by Curfin Property Holding Inc. c/o McMAHON Associates Inc. The property is located at 2052 Morthland Drive in a Commercial General (CG) Zoning District; it is also partially within the US 30 (Morthland Drive) Signature Corridor Overlay. The petitioner requests the following variance(s):

- Section 11.305(D) – To allow additional outdoor storage of operable vehicles for sale;
- Section 11.305(L) – To reduce Landscape Surface Ratio coverage from 25% to 18.1% (per plan); and
- Section 10.301 – To reduce required on-lot landscaping for the new project area (per plan) to 0 additional plantings.

Kevin Coros of McMahon and Associates addressed the Board on behalf of Currie Ford. Since the last meeting they have decided to adhere to the landscape planting schedule. This gives the property all that it needs for the additional impervious area added. The variance from Section 10.301 is no longer needed. They are still asking for the landscape ratio reduction to 18.1%. His client stores a large amount of inventory in this area. They are one of the largest car dealerships in the state, if not the country. The landscape ratio is a pretty big deal for making sure the company can thrive and continue to do so right here in Valpo. There has been communication back and forth regarding drainage in this area as well as storm water volume retention. He has been working with the Engineering Department regarding storm water storage on site. He has given them calculations showing they hold the stormwater back. They have implemented a spreader system and a culvert in the northeast corner of the property to help slow water down to the requirements set by the city's stormwater ordinance. The Engineering Department is ok with the latest calculations provided.

Public Hearing

Richard Anderson, counsel for neighboring property – He submitted a letter to the Board. This is a project that keeps growing without any approvals. Then they come after the project is built, but don't complete the entire approval process. In a normal development process, there would be easements granted. There would be plats. There would be things the city requires. This is being done as a bandage approach. If you look at the BZA standards, there are hardships that are required to be met. There are not hardships when you have created it yourself. There is a massive amount of cars. It looks like a salvage yard. That is what his client has to look at. They would like the city to look at the setbacks. Get some green grass. Get the easements in place. Make sure the drainage is proper.

Seeing no one else wishing to address the Board, Paul Reed declared the Public Hearing closed.

Rebuttal from Petitioner

Kevin Coros – The mapping of this area shows the rear area existed long before the latest UDO was adopted. That rear impervious area has been there and he understands it is grandfathered. All they are doing is adding material. What they are here for is the .8 more or less impervious area on the side. It is correct that was done without a permit. They are cleaning up the mess and making sure it is done appropriately and with all corrections. Doing everything else to the standards of the UDO such as storm water retention was sprung on them last week by Mr. Zurbriggen. As far as adhering to that, they thought they were grandfathered. They made sure they adhered to that and held back the correct amount of stormwater for the new impervious pavement. There are cars parked back there. This is a motor vehicle dealership. There needs to be cars there otherwise there won't be a dealership. The bottom line is they are doing things they need to do now per the UDO. The impervious area in the back has existed further back than Google Earth goes with their maps. He feels they are doing everything they can by the UDO.

Questions/Comments from the Board

Attorney Lyp – At the last meeting, he had mentioned the possibility of resolving a long outstanding situation with the city. When the building to the west was built and before an occupancy permit was issued, there was a question about the easement for stormwater. After a fair amount of back and forth, a Temporary Certificate of Occupancy was issued in August of 2020. The petitioner forwarded a letter dated March 28th of this year. It is between Currie Motors and Attorney Anderson. Currie offers to grant the stormwater easement. There is a cost to that. Currie Motors felt the cost was a fair and reasonable cost to reimburse them for the additional work done to accept the water from the Wise Guys property. He has talked to Attorney Anderson and asked for a resolution to this. He reviewed the Temporary Certificate of Occupancy; it expired in 2020. That is a challenge that needs to be addressed in short order. He asked if the Petitioner would be willing to keep the offer they presented to Attorney Anderson on March 28, 2023, open for an additional 30 days. His hope is that an additional 30 days will

give Attorney Anderson and the property owner the good sense and judgment to get this thing done.

Kevin Coros – He will see if his client will answer or at least will give them a day to get back with an answer.

Attorney Patrick Lyp – His concern is that if the Board grants the variances, then the Petitioner relinquishes the offer. Then the city is in a much more difficult situation trying to get Wise Guys to honor what they committed to back in 2020. It would be helpful to the process if your client would maintain the offer for 30 days after today's date to give Wise Guys time to accept the terms or negotiate some terms so this can be resolved.

Kevin Coros – If you could give us a date to respond by, he would like to give them time to decide.

Attorney Patrick Lyp – The other option would be to continue this. He doesn't think any of them want to do this. He is looking for a path to get the Currie matter resolved and leave open the possibility of resolution with your neighbor to the west.

Julie Sieracki – In-house counsel for Currie Motors. They do not have an issue with that, but they do not want to do anything to delay what is before the Board today. They are two separate issues and their position has been to be good neighbors and work with Wise Guys to accommodate the water in a way that is not going to add significant drainage issues to Currie. That unfortunately has not happened. It has created further drainage issues and now they are dealing with it. The issues are now interconnected. Currie is taking on the drainage at this time. They are willing to grant the easement with remuneration for taking on the water. They can talk about a settlement. She spoke briefly with Attorney Anderson today. It does not seem like there is a meaningful negotiation at this point.

Attorney Patrick Lyp – All he is asking for is a commitment that what was written on March 28th they will commit to for 30 days from today's date.

Attorney Julie Sieracki – Absolutely it will. They hope that will not delay what is before the Board today.

Beth Shrader – She affirmed that what Kevin Coros explained about the storage capacity being added to the site plan has been done. The storage is commensurate with the new pavement that has been added since the UDO established the standards. All of the legal nonconforming outdoor storage parking area is still legal nonconforming. The Engineering Department finds it acceptable.

Bill Oeding – At the last meeting a Board member asked the question if the vehicles parked in Valparaiso are sold in Valparaiso. The answer was that everything is sold in the community. Then the next answer was most everything is sold in the community. Then tonight you said you

are the largest dealership in the country. What percentage of the vehicles stored there today are likely to be sold there or transferred to another location to be sold.

Frank Herrera – General Manager for Currie Motors. Everything is sold out of that location. Inventory there is not a storage facility for other groups. There are exceptions for dealer trades. But he has not done a dealer trade in 2.5 years. His inventory is precious to him and to the community.

Paul Reed – When you were here a month ago, the whole concept was you did not want to put landscape in because it was going to block the view of the new parking area.

Kevin Coros – We did not want the landscaping in so it would block the potential sale of inventory.

Paul Reed - Why not pave that area where you are putting the landscaping and put the landscaping in the back where the drainage problem is?

Kevin Coros – The landscape in the back is shown per the buffer yard standards that are required for the UDO. He doesn't think there would be an objection from Currie Motors if that is fine by the Board and Beth.

Beth Shrader – It depends where you are swapping it for. If you swapped it within the overlay district, then that would be acceptable. If you swapped it outside the overlay district, then you would need to petition for a new variance because the amount of LSR would change. The LSR requirement is different in the overlay than it is outside the overlay.

Mark Ribordy – You are saying landscape the back and put everything to the street?

Paul Reed – Yes. He wonders why they are leaving that whole green space if the problem was being able to see the cars.

Kevin Coros – We know we are asking for variances. The asphalt impervious area we are installing is above and beyond the landscape ratio required. Keeping it back further seemed more preferable to keep more greenery up front in the overlay district. The last thing we want to do is add a variance item that wasn't planned that would continue this matter. We would really like to end this tonight.

Beth Shrader – From a corridor perspective having more landscape up near the frontage is preferred. Also, from a practical perspective, they are paving with asphalt what has already been paved with gravel or millings. They would need to remove all of that and replace it with suitable topsoil to ensure things actually grew. This is less practical. It is certainly more expensive to swap.

Bill Oeding – In Section 10.301, they are requesting to drop the on-lot landscaping. Why is that different from the second request of Section 11.305(L)?

Beth Shrader – There are two ways landscaping is measured. One is by number of plants, and the other is by the area dedicated to plantings. Turf doesn't count as a plant, but it does count towards the landscape ratio. The LSR is interchangeable with pervious surfaces. They still are not meeting the 25%. They are at 18.1% LSR in the overlay district with the plan you have in front of you tonight.

Paul Reed – How much land would it take to get to the 25%?

Kevin Coros – If you look at item 12 on the new sheet he passed out, .43 acres has to be removed in order to meet the 25%. That amount is equivalent to basically the entirety of the impervious area that forms the downward "L" piece. The darker shade to the right side. Everything from the overlay line south would have to be removed. This is a significant portion.

Mark Ribordy – Is the back paved?

Kevin Coros – The north/south line of "x"s you see represents a fence line. Everything west of there is already paved. Everything to the right of the "x" line is new. That is what we based our drainage off of and the landscape ratio is based on the portion south of the overlay. They meet the landscape ratio ordinance north of the overlay district. It is just the enhanced features of the overlay.

Beth Shrader – It is 15% outside the overlay. They meet that LSR. They are meeting the LSR for the underlying zone but not the overlay.

MOTION: Bill Oeding moved to approve UV23-001 and VAR23-002 with the Section 10.301 removed. Diane Worstell seconded the motion and so approved with a 4-0 roll call vote.

Roll Call Vote:

Paul Reed – Yes	Bill Oeding –Yes
Mark Ribordy – Yes	Diane Worstell – Yes
Kyle Yelton – Absent	

New Business

UV23-002

A petition filed by Cory Detamore c/o DVG Team, Inc. The property is located at 1056 S. State Road 2 in a Commercial General (CG) Zoning District. The petitioner requests the following variance(s):

- Use Variance from Section 2.201(B) to allow Caliber Collision auto body/collision repair (a light industrial use) in a CG Commercial General zoning district; and
- Use Variance from Section 11.305(D) to allow outdoor storage of vehicles as an accessory use to Caliber Collision auto body/collision repair in the US 30 (Morthland Drive) Signature Corridor Overlay District.

Jeff Ban – Principal and owner of DVG Team presented. He was joined by Cory Detamore and Russ Pozen of DVG Team and Grant Currier of the Lyndon Group architectural firm. Caliber Collision is a national firm. They have over 1,500 auto body repair sites. They are a publicly traded company. Northwest Indiana is a market they want to be in. Cory Detamore has been working in Lake and Porter County to develop sites. The site is located at 1056 South State Road 2. Current zoning of the property is CG Commercial General. The site has one building with two uses. The uses are the Dollar General store that was recently improved and the Club Car golf cart facility. This use is only allowed in Industrial zoned properties in the City of Valparaiso. Auto body repair is more retail related. This proposed area has a lot of auto related businesses in that CG District. Caliber Collision has a lot of positive ratings from customers and rating services. They are national. They have a successful track record of working with developers such as Cory on doing leases. It is a \$4.1 Billion Dollar company.

He went through all the companies in the area. Caliber Collision is consistent with the type of retail auto services that are here. He presented a map that has all the auto service businesses in the area and in CG zoning highlighted. Among them is M & S Collision, CDE Collision, Gerber Collision and Glass, The Dent Shop, and Valpo Auto Body. They do not feel they are asking to do anything different from what has already been permitted by the City of Valparaiso. There are seven automotive services and sales that are permitted to have outdoor storage. Number one is Currie Motors which was just before this Board. There also is Team Chevy, Grieger Motor Sales, Riggs Outdoor Power and Equipment. All of these businesses are doing the same thing they are asking to do. The existing businesses are in the Overlay District. They are in the CG zoning District. Caliber is not asking to do anything that is not already permitted. Other businesses are Paul Sur Buick GMC, Wheels Unlimited, and Valpo Trailer. All are in the CG zoning District. All are doing outdoor storage of products. All are no different than what they are asking and what has already been approved for those locations.

They are proposing to put in \$5.7 Million Dollars of investment to change and renovate this building so it meets the development standards from an architecture standard of the city. If they get through the use, then they will be working with the Planning and Engineering Departments to do all of the things we need to do to improve the site. As part of the plan a fence will be put up. The Club Car business was not for sale. Cory Detamore went to them and made an offer. The proposed renovations to the 16,000 sq ft building include façade enhancements consistent with city standards, landscaping improvements, and site improvements. This kind of business stays consistent. Everyone drives their car and all end up in a wreck. The business is recession proof. It will create 12-15 fulltime jobs. It will create new property taxes. There will be a lease for 15 years and extensions of equal amounts. This

business intends to stay. Caliber Collision recently opened a facility on US 30 in Merrillville and one on Highway 6 in Portage. Once cars are brought here, they are taken inside and fixed. They are not making money just sitting outside.

They have submitted a set of Findings. They are:

- The proposed use will not be injurious to the public health, safety, morals and general welfare of the community because Caliber Collision is a national auto care and repair company that performs quality work in a clean and safe manner. Repairs are performed inside the building. Vehicles waiting to be repaired are securely hidden behind opaque fencing to not have an unwanted view from the general public.
- The use and value of the area adjacent to the property included in the proposed variance will not be affected in a substantial adverse manner because the retail type function of Caliber Collision will improve the use and value of this area. Currently this corridor is adjacent to Horse Prairie Avenue which has several light industrial uses such as Dave's Automotive Shop, Hines Plumbing, Accurate Auto Tire Barn, and others.
- The need for the Use Variance arises from the following conditions peculiar to the property involved which is Caliber Collision is an auto body repair facility which is a similar use as other businesses in this corridor. However, since auto repair is considered Light Industrial, the use variance is required which is peculiar for this area. There are many similar uses in this same zoning district in both of these corridors of Highway 2 and US 30 that have been approved by this Board.
- The strict application of terms of the Zoning Ordinance will constitute an unnecessary hardship if applied to the property for which the variance is sought because the CG Zoning District is intended for a full range of community and regional scale commercial enterprises. Caliber Collision is a community use. Everyone who owns a vehicle will at some point need a repair or some type of auto care. People prefer the convenience of taking their vehicle to a place that is among other businesses they use in their daily lives and that are safe and secure.
- Approval of the proposed use variance does not interfere with the Comprehensive Plan adopted by the City of Valparaiso because the Comprehensive Plan shows this area as CG. Caliber Collision provides a service to the general community just like other adjacent properties that provide a service to the public. Providing a safe and visually appealing auto body repair service for the general public in a location nearby to other commercial properties provides convenience to the community which is consistent with the Comprehensive Plan.

Public Hearing

Email – received and read by Beth Shrader. Matthew Gariup – Managing Partner of Bypass Partners. They own 255 through 265 and 355 through 361 Morthland Drive. This is the strip center that has Parlor Donuts and the strip center that has the other auto related businesses. The letter says: We, Bypass Partners, are the owners of the property (which Beth just identified). They received notice. They cannot attend the meeting. They oppose the variances requested. Bypass acquired its property with knowledge of the existing zoning and surrounding

uses of the property in the area. Based on this information and research, Bypass has made significant improvements to its property including but not limited to the commercial building located at the intersection of State Road 2 and Highway US 30. They are concerned about an auto body repair shop being located on the main gateway into the city along a signature corridor. The city has worked diligently for years investing in and promoting its access points. Given all of this time and effort, should the city and those involved regarding appropriate uses feel that auto body/collision was a suitable use in Commercial General it would have done so. Alternatively, the use would have been considered as possible limited use or special exception. Concerns about buffering abutted uses, visual impact along the entryway and adverse storage of inoperable and/or damaged vehicles are negative impacts on adjoining property. The proposed uses of the Caliber property are in direct conflict with the permitted uses allowed on the property. The proposed use is not in keeping with the area. General Commercial offers the widest variety of uses under the city's UDO. There are a number of uses of this type throughout the city and presumably areas that allow auto body/collision repair. To protect and preserve this area the proposed use should be located in one of the areas of the city that are designed for this type of use. This use does not seem to be consistent with the city's most recent Comprehensive Plan of the US 30 corridor. We do not see how there is a condition peculiar to the property involved in supporting the variance. The property is and always has been commercial with access to a state highway and does not have any unusual physical characteristics. Requiring the property to be used for uses permitted in Commercial General does not constitute an unnecessary hardship. Commercial General provides a great number of uses without a use variance. One of these many uses is an appropriate use of the property.

Seeing no one else wishing to address the Board, Paul Reed declared the Public Hearing closed.

Rebuttal from Petitioner

Jeff Ban – This is a corridor that is important to the city. He believes if this purchase is not completed and the improvements made, they will be looking at the same building for the next couple of decades. Regarding outdoor storage at this site, it happens today. If you look behind the fence of Club Car, they have golf carts sitting out there. Some are good and some are being repaired. That business has been there for decades, so it probably did not go through this process. Auto body is a retail function that we all need. It needs to be convenient. It needs to be in a location that services your neighbor, families and businesses around the city. What we are proposing architecturally is totally consistent with the Comprehensive Plan and the development standards. This use has been done many times in these corridors and multiple times in this zoning district. From the outdoor storage perspective, there are many auto service related businesses that are have trailers, tractors and cars outside. They look nice. It is how you develop the site.

Questions/Comments from the Board

Diane Worstell – She likes the plan for shielding all the cars from view and having the opaque fence. All the work in progress is out of sight. She thinks if the people in the email saw the plans it might change their minds. This was a thorough presentation. She has no objection.

Jeff Ban – One thing the Club Car business does not do is bring additional people to the remonstrator's business. People will bring their car in for repairs and then use the services of the other businesses that are neighboring. This is a positive economic move as well.

Paul Reed – Is the Overlay District causing the issue with the Use Variances?

Beth Shrader – No. Collision repair is not a permitted use in Commercial General. There are a lot of legal non-conforming uses. They were approved at one time. She has not done the research to know what the zoning was when they were approved. The presentation is accurate with the type of uses that are in this area. Very few, if any, were established post UDO.

Jeff Ban – Industrial seems to be the district that wants to see auto repair. Industrial means a lot of different things. Sometimes it might not be safe with the amount of truck traffic you get. His opinion from a land use perspective is this auto repair is more of a retail function. This use belongs in commercial.

Grant Currier – This isn't your Dad's era type body shop. The technology is light years ahead. He presented a diagram of the layout of the building.

Beth Shrader – She wants to draw attention to the staff report. The report provides the other types of vehicle uses. Many of those were mentioned in the presentation. The fact that collision repair is in light industrial speaks to the expected noise of clanging metal, odors that would be offensive to surrounding uses. It is worthwhile to take into consideration the type of operation that is specific to this petitioner. In Site Review, they provided the type of services that are provided at Caliber Collision.

Cory Detamore - This is new age technology that they are providing across the country. They spend a lot of time sending their employees to train for new technology and machinery. Everything is designed to be replicated so they have the highest quality across the country.

Jeff Ban – If they fix a fender, they will also fix a window if it got smashed. If a steering column got messed up in a front-end collision, they will fix that. It is not just fenders they are fixing. It is the whole car.

Cory Detamore – Dealerships send auto body repairs out for the work. A lot of local businesses will begin to use Caliber. They will be working together.

Mark Ribordy - You have said the cars are coming in and getting out. It takes a lot longer than that to repair a car.

Cory Detamore – This is a 16,000 sq ft prototype. Caliber has three prototypes across the country. They are 12,000 sq ft, 14,000 sq ft and 16,000 sq ft. They are pushing for the 16,000 sq ft in Valpo because they have done research for the area. The 16,000 sq ft allows them two spray booths. Typically, where the hold up is they wait to be able to paint. The 16,000 sq ft allows them room to fix and store cars inside. Next week they are breaking ground on a 16,000 sq ft in Crown Point. Merrillville looks different because they bought a building and just did a façade.

Bill Oeding – On this site the opaque fence is in the front. What about the side and back?

Jeff Ban – They will be opaque also.

Bill Oeding – The property behind is vacant.

Jeff Ban – He does not think it will get developed. It is flood frontage.

Cory Detamore – They are keeping the buffer of trees.

Beth Shrader – Because of time constraints, full design has not been done for the site. There has been some architecture which has had comments. It has been through site review. Typically, the expectation is if you are putting a light industry use in a CG zone, the bufferyard standards hold you to a light industry bufferyard standard. On the west and north there is space for that. You intend to have opaque fencing. There are the overlay standards. Being a signature corridor there are enhancements that are required up along the street right of way. These are things that would be expected moving forward through the permitting process.

Bill Oeding – In the 16,000 prototype, how many parking places do you have in your storage area?

Cory Detamore – There are 52 spaces. This is a preliminary design. It has not gone through engineering. They realize they may have to change the number of spaces.

Grant Carrier – It typically is 50-65.

Cory Detamore – He already was aware of a few items. He asked Hamstra why there were pots out front. Their answer was that was their way of landscaping. He knows the restrictions on the sign.

Paul Reed – Where are employees going to park and how many will there be?

Cory Detamore – Typically, there are between 15 and 20 employees. They will park in the rear.

Bill Oeding – There will never be a vehicle parked in the parking lot on weekends or on holidays.

Paul Reed – How many parking spaces are allowed for Dollar General?

Cory Detamore – There is a cross shared and cross access agreement. There is ample parking for both. He might repave and restripe the parking lot but they have to work with Dollar General and make sure their semi-trucks have access.

Bill Oeding – You have a 15-year lease with Caliber Collision?

Cory Detamore – Yes, with four five-year options to renew. His plan is to get approval tonight and then immediately get the architectural completed working with Beth and Jessica so he can get it to the state. He wants to do his improvements this summer and be open by the new year. If he does not get this tonight, he will have to cancel the purchase contract with Hamstra.

MOTION: Bill Oeding moved to approve UV23-002. Diane Worstell seconded the motion and so approved with a 4-0 roll call vote.

Roll Call Vote:

Paul Reed – Yes

Bill Oeding –Yes

Mark Ribordy – Yes

Diane Worstell – Yes

Kyle Yelton – Absent

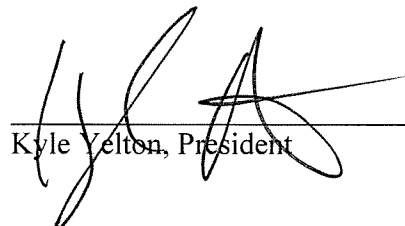
Other Business

Bill Oeding announced he is resigning from the Board. Beth thanked him for his service. He is taking over as City Administrator.

ADJOURNMENT

Motion: Bill Oeding moved to adjourn the meeting. Diane Worstell seconded the motion and so approved with a 4-0 voice vote.

NEXT MEETING: May 17, 2023, 5:30 p.m.



Kyle Yelton, President



Beth Shrader, Executive Secretary