

**Valparaiso Board of Zoning Appeals
Regular Meeting Minutes
September 20, 2023**

The regular meeting of the Valparaiso Board of Zoning Appeals was held at 5:30 p.m. on Wednesday September 20, 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, James Bilder, 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 – July 19, 2023

James Bilder stated the last two motions under roll call had Bill Oeding's name instead of his. The minutes will be changed accordingly.

Motion: Diane Worstell moved to approve the minutes from July 19, 2023, as amended. James Bilder seconded the motion and so approved with a 4-0 voice vote.

Old Business

VAR23-004

A petition filed by Indiana Land Trust No. 120977 dated April 5, 2022, c/o Richard E. Anderson, Anderson & Anderson, P.C. The property is located at 2811 Leonard Drive (newly established address, formerly 2851 Leonard Drive). The petitioner requests the following variance(s) related to proposed new construction of an office building (BP Business Park Zoning District):

- (1) 11.304(F) to reduce corridor bufferyard landscaping along rear of parking lot from State Road 49;
- (2) 11.304(G) to permit parking in front of building with respect to State Route 49 corridor;
- (3) 11.502(B) to reduce the length of the required offset from 20 feet to 16 feet 9 inches on the east and west sides of the building; and
- (4) 11.506(B)(2) to permit Low-E glass to be installed in windows in lieu of transparent glass.

Attorney Richard Anderson presented on behalf of Petitioner. This property is located in Eastport Centre. The proposed use is a 6,058 sq ft building. The revised drawing he presented tonight has the landscaping as required; the only thing is it is not right next to the parking lot like it is supposed to be. There is a drainage swale that exists; it was put in by Eastport a long time ago. They now have double landscaping – the one from the State and the one they are installing. The only request with this variance is the location of it.

The second request is to permit parking in front of the building. They are talking about parking between the building and the 49 bypass. Basically tenants prefer to have separate employee entrances. He confirmed with Samantha Camp that he has the correct sections of the Ordinance. It says “parking shall be located behind the principal building with respect to the corridor whenever practicable.” The practical thing here is you are having an end cap of a building. If you look at the building and the lot, everyone gets to be on the front on Leonard Drive and the parking in the rear gets to be employee parking. His standard is less than the BZA standard because it says where practical. The section also says the setback on the corridor has to be 30’. The distance from the corridor to the parking lot is 95’. They are three times within what the Ordinance requires which is 30’. They have double landscaped so no one can see the parking lot from 49. If this is the State Route 49 standards, they have meet the standards that it has to be practical that they can’t do it. And, in the Ordinance you talk about putting parking lots in what he would call the rear – the area between the building and the 49 bypass. They anticipate the lots will not be any closer than 30’.

The third request is to reduce the length of the required offset from 20 feet to 16 feet 9 inches on the east and west sides of the building. He is withdrawing this request because they redrew the plan and it has the 20ft bump out.

The fourth request is to permit Low-E glass to be installed in windows in lieu of transparent glass. It is a little unclear in the ordinance as far as transparency. The samples he brought last time were the same thing that is in the car wash on Highway 30. He would like approval of the same glass they have been using.

In summary he is requesting three things -- the location of the landscaping, that parking be permitted between the building and 49 bypass, and to permit Low-E glass to be installed in windows in lieu of transparent glass.

Questions/Comments from the Board

Mark Ribordy – Do you have tenants yet? Are you putting two or four in the building?

Richard Anderson – They are not sure.

Paul Reed – You have side entrances on this building also? Front, back and sides?

Richard Anderson – Yes.

Staff Comments

Beth Shrader – She appreciates the revisions that have been made to the architecture and landscaping. The landscape standards have lots of layers. Sometimes it can be difficult to get the correct calculations. She thinks the quantity of plant material shown is representative of the quantity to meet the standards. The actual calculations don’t have the correct code

references. She will direct them to the correct ones. The main element that is missing is evergreens in the 49 buffer yard. If some of the trees proposed there could be substituted with evergreens, the landscape ordinance should be fully met showing something substantially similar to what they are presenting today. For the Low-E glass, the standard is no reflective glass on office buildings. You can have tint. It should be transparent up to 4' interior of the windowpane. This meets the standard so a variance is not needed. If you want the extra assurance that is fine. She thanked them for revising the architectural details to meet the standard.

Jim Bilder – He walked the property and took pictures. He thinks that is a piece of property that is conducive to the length and depth of it as opposed to its width. He understands the argument. As long as the laws are met, it is their choice. He could not find anything objectionable except for what was brought up at the last meeting and those issues were addressed.

Paul Reed – You said you are going to have two tenants. You could push it back and have parking in front of the building and use the side entrance as employee entrance.

Richard Anderson - You have to remember there is an existing swale. The ordinance contemplates parking in the back and says it has to be 30' away. He is 90' away from the corridor. He has doubled the landscaping. The 49 bypass is old. The pine trees there are approximately 15'-20'. The building is designed with frontage on Leonard Drive. People like parking on both sides. The standard is "where practicable"; he does not think it is practicable to put an endcap building here and expect other tenants to want the back end of it.

Diane Worstell - She thinks if parking were in the front, there would be a sea of asphalt in front of the building much like they used to have in front of K-Mart. That is not real attractive. It might look better to have some parking in front and some in the back.

Richard Anderson – It would be double the asphalt. It would look like a grocery store.

Jim Bilder – As to the aesthetics of it, it conforms more when you drive that circle if it were built as shown to what is currently there. It seems to match more closely to the shape and configuration as to the way the buildings are facing.

Paul Reed – Beth do the adjacent buildings and parking line up?

Beth Shrader – There is a mix along Leonard Drive. This standard has been inconsistently applied. Some were built before the standard existed. Since it has been applied, there could have been some variances. It seems like along Leonard Drive the properties that abut the 49 corridor, only the property to the south of the one in today's petition has parking between the corridor and the building.

Jim Bilder – Is that parking or a drive through?

Jessica Gage – The property to the south has one line of parking on the west side of the building. Two properties to the north only has a service drive between the building and State Route 49.

Mark Ribordy – It sounds like the biggest issue is parking. It seems like you have done the landscaping.

Richard Anderson – And that was to help with the parking. No one is going to see any of it. The parking is 90’ from the right of way.

Mark Ribordy – He asked the location of the swale on a picture.

Richard Andreson – You cannot push the building back or it will get water.

Mark Ribordy – He doesn’t think it needs to be pushed that far.

Richard Anderson – It has to be pushed back far enough to get double parking. He is not sure that can happen.

Mark Ribordy – It can be pushed to the north if you didn’t have to drive to the back of the building. There is a drive on the north of the building.

Richard Anderson - The purpose is to not see parking from 49. He is 90’ from the corridor. He has two rows of landscaping. The whole purpose is not to make it hard for someone to get in the building and to make sure you cannot see parking from 49. He has done that. Twisting the building is fine but people have to like it for them to want to rent the space.

Paul Reed – You said you anticipate two tenants. That will be between you and the city’s Building Department to make sure ordinances are adhered to. For instance, in July we talked about medical versus clerical office type work.

Richard Anderson – We are not asking for any variances to the number of parking spaces.

MOTION: James Bilder moved to approve VAR23-004 numbers 1, 2 and 4 subject to replacement of some trees with evergreens. (The variance request regarding building offset was withdrawn, with the revision meeting ordinance standard.) Diane Worstell seconded the motion. The motion passed with a 4-0 vote.

Roll Call Vote:

Paul Reed – Yes

James Bilder –Yes

Mark Ribordy – Yes

Diane Worstell – Yes

Kyle Yelton – Absent

New Business with Public Hearing

UV23-004 and VAR23-007

A petition filed by Harold Hal Kelley Respite Foundation Inc. c/o Abonmarche. The property is located at 500 Don Hovey Drive. The petitioner requests the following variances related to proposed new construction of a homeless shelter and resource center (INL Light Industrial Zoning District):

- (1) Table 2.201(A) to allow an Institutional Residential use (Sheltered Care Facilities and Rehabilitation Centers) in an INL Light Industrial zoning district;
- (2) Table 3.505 to reduce INL minimum front yard setback requirement of 25ft to 9.1ft per plan;
- (3) Section 2.402 to allow chain link fencing for all new project fencing although visible from a non-industrial zoning district, and to allow the chain link fencing to be uncoated, and to allow a portion of a fence (side portions of front yard to meet existing city utility fencing) to have a height of 8ft per plan;
- (4) Table 3.301(B) to reduce minimum Landscape Surface Ratio (LSR) from 30% to 24.1% per plan;
- (5) Multiple variances from Article 10 to reduce the landscaping requirements to that shown on planting plan.

Mitch Peters presented. This proposal is to build a primary shelter, resource center, cooling center. This site was chosen because the city feels this is the best site for this facility. The changes are necessary as part of the design as well as the restricted area they can utilize. Currently, that lot is all impervious with asphalt and buildings. What they are putting in will improve the neighborhood and existing lot. Tonn & Blank is the contractor. They are soliciting from unions. The city has been supportive providing ARPA funds, the property, and the opportunity to do this. This is something that is needed in Valparaiso. They have partnered with many organizations. They are working to rehabilitate the individuals back into society. This will eliminate having people rotate from church to church. The churches are on board. This will be run in a professional manner. There will be security. They will provide meals. That will be supported by the community and grants.

Public Hearing

507 Don Hovey Drive – How is the transportation going to work for the people to get to and from job interviews or shopping. The sidewalks are broken. Will there be public transportation? Were there any other properties available? The only place close to walk to is an auto repair and Duffy's bar. This is not setting these people up for success. If the people do not abide by rules, what happens if they need to be removed? What is the process? Will they just be kicked out or will they be taken to someplace else where they will have heat or cool?

Mary Dee – Her grandchildren reside at 411 Don Hovey. She has worked with organizations that help the homeless. There are a lot of unsheltered that are just floating and camping in the woods behind her house. Business owners have trouble because there is nowhere for the

homeless to go. The shelters are closed during the day. At the temporary warming center at Living Hope Church there have been quite a few people. She supports this project.

Sara Kolacky – Representing LeRoy Bowman. He owns seven properties in the area. She is not arguing that there is not a need; there are concerns. Security is an issue. Residents need to be safe. There is a variance request to have the front setback go from 25ft to 9ft. A 9ft setback concerns Mr. Bowman. He would like to see that be kept at 25ft or at least greater than 9ft. There is fencing in the area. Is it fully enclosed? If not, is it planned to be? This is for the safety of the residents.

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

Rebuttal from Petitioner

Matt Keiser of Abonmarche responded. The setback of the building is dictated because of the size. If you look to the south there are a bunch of raised tanks, and the city wants to stay clear of those. The area they were given is the 200ft by 200ft corner spot. The existing building is 6ft from the property line. They pushed it back as far as they could. They have parking on two sides of the building. Emergency services have a loop they can get in and out. This is why they asked for a 9ft setback. But they are further back than what the city has been using. The entire area is fenced off. They will be taking some of the fence down but will have to connect on the north side or there will be a gap where city services are not protected.

Mitch Peters – They run two halfway houses. Most of those people are court ordered to attend the program. They want to be there to get out of jail. They are security conscious. They will always have security personnel on site. There will be security cameras. Residents will have to be medication compliant. NorthShore is dispensing medication as required. They will have case management. Currently these people are scattered all over town. He is trying to get them situated in a place that will make a difference in their lives and provide for the safety and comfort of the community. The first Respite House was opened in 1999. This is the first year they have had to call for police assistance. If there is an incident, staff will call the police. They don't tolerate issues in the neighborhood. They provide clean and safe facilities. They are working on transportation. At first they will be calling the bus every morning until a permanent stop can be located here. Option two is purchasing a used V-Line or Opportunity Enterprise bus. They are going to work with New Creations for jobs. Work One is doing vocational training. If the people are removed and they were court ordered to be there, they will be removed to the jail. Services will be provided. If it is not possible, they will not be able to stay there but they will not just throw them into the community. They looked at other properties. It is difficult financially right now to find property. The city came forward and offered this property. They are working with other facilities to transition women and children into a more stable condition.

STAFF

Attorney Patrick Lyp – He has been working with Mitch Peters for at least one year on this project. It was mentioned during the Public Hearing that Living Hope Church has been the warming center and overnight shelter for the last year. The city recognizes that they need something. The church has a degree of usefulness but has challenges. They learned during COVID those facilities could not be used. The city has worked as best they can to create facilities. Other communities have done less. When it is cold outside and people are looking for a warm place to go, and you know Valparaiso has a place, that is where you go. A lot of the people in the Valparaiso facilities are not Valparaiso people. The city was looking for property that could be donated at no cost. Part of the challenge has been the gas pumps to the south on the property. This property is advantageous because of its close proximity to PACT; some of the residents of this facility will have interaction with PACT. There is a lot of bureaucratic red tape to go through to get a V-Line stop. They will be working on it. This location is not being transferred to Mitch and his group today. There is a five-year Property Use Agreement. There are a lot of stipulations and conditions. One is the maximum number of units is 12. The warming center can house more. If they want to ask for more after five years, the city has to ask for the request so the city has to have a reason for wanting more units. The BZA would hear that request also. The city sees this as a benefit to the community. This is a succession plan. This is a trial engagement for the first five years. The city, independent of what the BZA might rule, can crack down to make sure that what they are being promised is what is happening. If approved, the motion should incorporate by reference the Property Use Agreement. There are a lot of specific provisions and terms that are applicable to allowing this property to be used as a shelter.

Beth Shrader – It is noted that the sidewalks are only on the north side of Don Hovey Drive and are in very poor condition. This has been brought to the attention of the Engineering Department. They manage Asset Management for the entire city. She will get it addressed as soon as possible. If there is a deviation that is called for in advance, the V-Line will extend their route. People will have to get on the bus. If not, they will not be able to get another deviation. If there are enough deviations then the routes will be changed to accommodate.

Questions/Comments from the Board

Paul Reed - You talked about more units being added. Is that an addition to the building?

Mitch Peters – No. It is designed to hold 24 with four live-in staff. Twelve on the bottom floor with two live-in staff and 12 on the second floor with two live-in staff. The Agreement with the city is that they will only open the bottom floor of the primary shelter initially. When they can demonstrate the need to the city, they will open up the second floor.

Paul Reed – In Site Review you stated this is for Valparaiso residents only. How is that going to work?

Mitch Peters – They pretty much know who is a resident is and who is not because they are engaged with them currently. There is a database in town to identify them. He will have access to New Creations' data base for sure and Housing Opportunities will as well. He will be creating his own. The university is working with him on case management. Some of the people do not have IDs. They will be working with the people to get a driver's license or State ID and a copy of their birth certificate. On cold nights he does not know if he could put someone out because they do not have an ID, but they will have a place to move them to in the morning.

Diane Worstell – Where are the other Respite House facilities?

Mitch Peters – One is at 305 Union Street; Project Neighbors partnered with them on this building. The other is at 1408 Chicago; this is a remodel. The board is welcome to tour either one.

Paul Reed – Explain the fence. It will wrap around the building and then free access from Don Hovey to get in?

Matt Keiser – The fence between the Respite House and VU property stays. The one that comes down is the front yard and building in back and up the side and connecting to the Valpo fence that goes to the west.

Paul Reed – On the south side there will be a gate?

Mitch Peters – There will have to be because that is an easement for the towers located on the city lot.

Paul Reed – He asked Beth to explain the setback.

Beth Shrader – When rights-of-way do not meet the standard as set out in the UDO, they require a dedication of right-of-way to bring it to the standard. Right now, there is just 15ft fee simple. That is half of the perceived right of way. They take that to be a 30ft right of way but 60ft is the standard right-of-way width for a local street that has commercial or industrial properties on it. In order to get 30ft from the center line, they need a dedication that would bring the property line to where you are seeing it on the site plan which results in a 9ft setback. As Mr. Keiser mentioned, the building will be further back than the building that is being demolished on the property right now. The two remaining buildings will be closer. While the city still owns this, they will deed it as right-of-way so when the property is transferred this will all be taken care of. Related to that, two or three of the variances are directly related to the reduction in the lot size. Clearly the setback and the landscape ratio are related to that issue. There are many rights-of-way in the area that require this dedication. Nickle Plate, Cyrus, and Axe are all inadequate and in time will be sought to be brought to standards.

Paul Reed – What are the multiple variances to reduce landscape requirements? Is there a planting plan?

Matt Keiser – There was a planting plan. What they are doing is all grassed and the Respite House will work with donations to get the most planting they can.

Paul Reed – What is the UDO requirement?

Beth Shrader – On this lot, it gets tricky since this is a Use Variance. They looked at it. The land ratio is lower than what is required. There are limited places to plant. They requested they plant as much as possible in the available sites. There is a conceptual plan. The amount proposed is adequate for the use in this specific location.

Mitch Peters – The master gardeners come in and plant. They will put as many plants as possible.

Paul Reed – The fence will not be barb wired?

Mitch Peters – It will be chain link with a nice gate big enough for trucks to come in for any type of access they need.

Matt Keiser – The barbed wire was put up by the city when there were millions of dollars of equipment being stored. Now Public Works has moved. It is more of a shell for a few things to be stored and it no longer needs that type of protection.

Beth Shrader – She showed a picture of the conceptual planting plan.

Beth Shrader – They have not talked about signage.

Mitch Peters – We will comply with any requirements.

Beth Shrader – That is tricky because this is an Industrial Zone, and we feel it should be held to a different standard than the industrial standard. Staff recommendation on signage would be that as a condition of approval any signage be regulated by institutional residential standards, not by industrial standards for square foot allowances and that it not be internally illuminated.

Mitch Peters – He believes the only sign will be a brass plaque like on Respite House II by the door. He is not anticipating a sign anywhere in the yard.

MOTION: Diane Worstell moved to approve case UV23-004 and VAR23-007 covering the five specific variances under that. Also, the motion incorporates the Property Use Agreement and a condition of approval that any signage be regulated by Institutional Residential standards not by industrial standards for square foot allowances and that it is not internally illuminated. Mark Ribordy seconded the motion.

Roll Call Vote:

Paul Reed – Yes
Mark Ribordy – Yes
Kyle Yelton – Absent

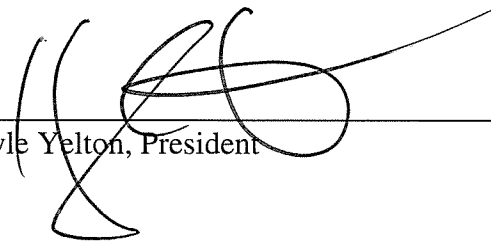
James Bilder –Yes
Diane Worstell – Yes

Other Business

ADJOURNMENT

Motion: Jim Bilder moved to adjourn the meeting. Mark Ribordy seconded the motion and so approved with a 4-0 voice vote.

NEXT MEETING: October 18, 2023, 5:30 p.m.



Kyle Yelton, President



Beth Shrader, Executive Secretary