

LOWELL BOARD OF ZONING APPEALS MEETING
JULY 14TH, 2016

Vice President Brady called the meeting to order at 6:40pm. The Pledge of Allegiance was recited. Recording Secretary Dianna Cade called the roll. Members answering the roll call were Sean Brady, Chris Van Dyke, and Ryan Thiele. Jim Konradi and David Foust were absent. Also present were Town Attorney Nicole Bennett, Building Administrator Carl Ferro, Councilman Edgar Corns, and three citizens.

APPROVAL OF MINUTES

Mr. Van Dyke made a motion to approve the June 9th, 2016 regular meeting minutes, seconded by Mr. Brady, and carried by voice vote of all ayes.

PUBLIC HEARING:

BZA #16-020 – 401 E. Hilltop, Lowell, IN, Levi Weirich, - Variance from Developmental Standards – in order to erect an accessory structure that is bigger than is allowed and does not meet the rear lot location requirement as stated in Ordinance §155.075(A)(1)(a)(B)(1)(a).

PUBLIC HEARING CONTINUED FROM LAST MONTH.

Mr. Levi Weirich approached the podium and stated his name and address. Ms. Bennett stated we left this petition's public hearing open, Mr. Weirich may make a statement and then we will address the continued public hearing.

Mr. Weirich discussed that he has applied for the variance to the ordinance to build a detached garage that is larger than what is permitted and he also discussed the location of the structure not being in the rear of the yard. Mr. Weirich stated that he was here last month but we did not have enough BZA members to vote one way or another.

Ms. Bennett asked if there were any remonstrators here tonight and if not we will close the public hearing. With no one there to speak for or against the petitioner the public hearing was closed.

Mr. Brady asked what were the specifics of the variance. Ms. Bennett stated there are two (2) variances that he is petitioning for. The first variance is for the requirements of the square footage Ms. Bennett continued on and explained the square footage requirements as set forth in the ordinance. She stated that Mr. Weirich is seeking an additional 520 sq. ft. to build the accessory structure. The second variance is location of the structure which is not in the rear lot. Discussion followed.

Mr. VanDyke made a motion to approve the variance with the stipulation that the exterior of the structure match that of the primary structure. He motioned as well to approve the second (2nd) variance requested which would allow the structure to not be located in the required 1/4 rear lot of the property, seconded by Mr. Thiele. Motion passed with a roll call vote of all ayes.

Ms. Bennett stated that as a form of discussion, I would like to advise the Board and request that included in the Findings, whatever your vote may be, that the primary structure on this lot is constructed on the property line. She referred to the plat of survey that was provided to the Board. Ms. Bennett stated that there has been some discussion about a requirement that he would have to go thru the resubdivision process to join these two (2) lots. For the purpose of this Board and also for Mr. Weirich's knowledge, in reviewing the definition of lot according to the Lowell town ordinance, the property meets that definition. Specifically, for the record, this property as you can see by the plat that he had provided us with and also including the prior permitting thru the town, this property, with its current resubdivision, happened prior to 1973 which is noted on the plat of survey and it sets forth that this property is lots 7 and 8, resubdivided from lots 1,2,3 & 4. At one point it was joined into two (2) lots and the construction happened on the center line. Ms. Bennett read in part the definition of the Lowell town ordinance for lot: *It may be a single parcel separately described or a combination of such parcels when adjacent to one another and used as one lot.* Because this is not new construction and has been used as one lot historically, there would not be any further requirement under the ordinance for further resubdivision, so this would conclude what action he would need to take. Mr. Brady asked Ms. Bennett if the motion needed to be changed to include the above verbiage and she stated no, it will be included in the Findings.

VARIANCE WAS APPROVED TO BUILD A STRUCTURE THAT IS LARGER THAN WHAT IS ALLOWED AND IS NOT LOCATED IN THE REAR ¼ OF THE PROPERTY.

BZA #16-022 – 165 S. Nichols, Lowell, IN, Donald Parker – Variance from Developmental Standards – in order to erect two (2) accessory structures; one of which is not in the rear yard and the other with a proposed placement that has a rear setback that is less than allowed and to keep the existing structure that is already located on the property bringing the number of accessory structures to 3(three) which is not allowed as stated in Ordinance 155.075(a)(B)(1)(b) 155.033(B). Petitioner seeking 3 (three) variances total. One structure not in rear quarter of property, one for rear setback requesting 5' variance, and a variance for 3 accessory structures on the property. No variance needed for total sq. ft. of all three structures which will be under the allowed 900 sq. ft.

Mr. Scott Parker, approached the podium and stated his address as 23528 Harrison St. is here representing Don Parker. He stated that what they would like to do is build two (2) garages, one will access off of Nichols and one will access off of Oakley. He discussed the variances that they were requesting. Mr. Brady asked if both of the proposed new accessory structures were getting driveways. Mr. Parker stated yes. Mr., Brady asked if it they are concrete driveways. Mr. Parker stated yes.

Ms. Bennett stated that she would like to offer the Board some clarifications. She referred to the site plans that were submitted with the petition application. The petitioner would like to put up two (2) garages which qualify as an accessory structure. The petitioner would like to place one in the rear lot, and looking at the site plan it is on the

east side of the building which would require a rear setback variance of five (5) feet. The requirement for rear setback is fifteen (15) feet. This is placed out ten (10) feet so it would be a five (5) foot variance from the minimum requirement of fifteen (15) feet. The garage to the north, the second structure, is in the side yard. This is a corner lot with the house facing Nichols St. Ms. Bennett stated this is the second petition you are hearing tonight with a variance request from the Lowell town ordinance that requires all accessory structures to be located in the rear ¼ of the lot. The second variance requested is to allow him to construct the accessory structure in the side yard. Ms. Bennett referred to the second site plan that is in color and was provided at the time of application for petition that references an existing shed on the property. The requirement by the ordinance is that the Town allows for two accessory structures for a combined total of nine hundred (900) square feet. Ms. Bennett stated that the petitioners request for the third (3rd) variance is to keep the shed and add the other two accessory structures, so it would be a variance from the maximum allowed of two (2) accessory structures. The primary structure does not have an attached garage, and in adding up the measurements that the petitioner has provided, this property would still have less than the allowed nine (900) square feet for accessory structures. The third (3rd) requested variance is for an allowance of a third (3rd) structure, not for the total square footage involved. Ms. Bennett stated those are the three (3) variances that are requested by the petitioner to build these accessory structures on this property and keep the existing shed that is currently on the property. Discussion followed.

Mr. Brady asked if there was an ordinance on how many driveways were allowed on one lot? Mr. Brady stated it looks like there are three (3) driveways here. Mr. Parker stated we would be getting rid of one of the driveways. Mr. Brady asked Mr. Parker if it was the one in front of the house. Mr. Parker stated yes. Ms. Bennett stated that there was not an ordinance on the number of driveways allowed.

Mr. Ferro stated that I do not see a problem with this petition.

The public hearing was opened with no one to speak for or against the petitioner, the public hearing was closed.

Mr. Van Dyke made a motion to approve the variance request for the two accessory structures with the stipulation that they must match the appearance of the primary structure, and approve the variance allowing three (3) total accessory structures, seconded by Mr. Thiele, and carried with a roll call vote of all ayes.

Mr. Van Dyke made a motion to approve the variance request from the minimum fifteen (15) feet rear setback requirement for the accessory structure to be erected on the eastern side of the parcel. The minimum required rear setback is fifteen (15) feet, the petitioner has ten (10) feet, therefore needing an additional five (5) feet of variance from the minimum required fifteen (15) feet, seconded by Mr. Thiele, and carried with a roll call vote of all ayes.

Mr. Van Dyke made a motion to approve a variance for the accessory structure to be located in the side yard and not in the rear ¼ yard. Mr. Thiele asked if we could add a stipulation to that motion for the original driveway to be removed? Discussion followed. Mr. Van Dyke stated since there is no stipulation on the ordinance on how many driveways are required, my motion stands as is, seconded by Mr. Thiele and carried with a roll call vote of all ayes.

ALL THREE VARIANCES APPROVED.

#1 Setback variance of five (5) feet.

#2 Allowing three (3) accessory structures.

#3 Allowing one structure to be built in the side yard.

FINDINGS OF FACT:

Mr. Brady read the Findings of Fact into Public Record for: BZA #16-017 – 5950 175th Ave., Lowell, IN, Therese Birkmeyer - Variance from Developmental Standards – in order to erect a fence that is more than three (3) feet in height which is not allowed as stated in Ordinance §155.090(B).

Mr. Van Dyke made a motion to approve the Findings of Fact, seconded by Mr. Thiele, and approved with a roll call vote of all ayes.

Mr. Brady read the Findings of Fact into record for: BZA #16-018 – 122 S. Union, Lowell, IN, James Baiel Jr., - Variance from Developmental Standards – in order to construct an accessory structure with a side and rear setback less than what is allowed as stated in Ordinance §155.033(B).

Mr. VanDyke made a motion to approve the Findings of Fact, seconded by Mr. Thiele, and approved with a roll call vote of all ayes.

Mr. Brady read the Findings of Fact into public record for: BZA #16-020 – 401 E. Hilltop, Lowell, IN, Levi Weirich, - Variance from Developmental Standards – in order to erect an accessory structure that is bigger than is allowed and does not meet the rear setback requirement as stated in Ordinance §155.075(A)(1)(a)(B)(1)(a).

Mr. VanDyke made a motion to approve the Findings of Fact, seconded by Mr. Thiele and approved with a roll call vote of all ayes.

Mr. Brady read the Findings of Fact into public record for: BZA #16-022 – 165 S. Nichols, Lowell, IN Donald Parker – Variance from Developmental Standards – in order to erect two (2) accessory structures; one of which is not in the rear yard and the other with a proposed placement that has a rear setback that is less than allowed and to keep the existing structure that is already located on the property bringing the number of accessory structures to three (3) which is not allowed as stated in Ordinance §155.075(A)(1)(a)(B)(1)(b)§155.033(B).

Mr. VanDyke made a motion to approve the Findings of Fact, seconded by Mr. Thiele and approved with a roll call vote of all ayes

COMMENT:

ADJOURNMENT:

With no further comments or questions Mr. VanDyke made a motion to adjourn the meeting at 730 pm, seconded by Mr. Thiele, and carried with a voice vote of all ayes.

Sean Brady, Vice President

Chris Van Dyke, Secretary