

**MINUTES
CITY OF COLUMBUS BOARD OF ZONING APPEALS
TUESDAY, MARCH 26, 2024 & 6:30 P.M.
COUNCIL CHAMBERS, CITY HALL
123 WASHINGTON STREET
COLUMBUS, INDIANA
AND WEBEX**

Members in Person: Zack Ellison, Charles “Chuck” Doup, Grant Hale, and Barry Kastner alternate for Michael Kinder.

Members via WebEx: None

Members Absent: Michael Kinder and Charlie Hammon

Staff in Person: Melissa Begley, Andres Nieto, and Deputy City Attorney Austin Whitted

Staff via WebEx: Janie Meek

Mr. Ellison opened the meeting with a brief explanation of the board and its responsibilities. Proof of adequate public notice for all cases on the agenda was confirmed.

Deputy City Attorney Austin Whitted administered an oath to all in attendance who would be speaking.

OLD BUSINESS REQUIRING BOARD ACTION

None

NEW BUSINESS REQUIRING BOARD ACTION

CDS-2024-003: All-Phase Electric Supply – A request by All-Phase Electric Supply for a development standards variance from Zoning Ordinance Section 6.1(E)(3) to allow 2 accessory structures to be located in the 2nd Street front yard. The property is located at 231 Vollmer Street, in the City of Columbus.

Mr. Nieto presented for the Planning Department.

Mr. Ellison asked if it was known how long the accessory structure has been at the auto repair shop. Mr. Nieto stated that he was not certain of the exact date but it has been there since at least 2004

Cordell Prescott manager of All Phase Electric represented the applicant. Mr. Prescott stated that they mainly store conduit and steel pipes in the containers to keep them from rusting and keep them from being stolen.

Mr. Ellison asked how long have the containers been on the property.

Mr. Prescott stated that 1 was brought on the site in late 2020 and the other was placed in the fall of 2022.

Mr. Ellison asked if the applicant had been notified that he was out of compliance of the zoning ordinance on these containers.

Mr. Prescott stated that the code enforcement officer did say something and the applicant thought he had approval for them, according to the previous manager. He reviewed the paperwork and found he only had approval for the outside storage area and not the containers.

Mr. Ellison asked where would the applicant store the materials if he did not have the containers.

Mr. Prescott stated he would need to move to a larger location or find an off-site storage facility.

Mr. Hale stated criteria #2 has not been met and it is not common practice to use shipping containers as storage buildings. Criteria #3 mentions practical difficulty and asked if the lot was too small to build a storage area that meets the zoning ordinance standards.

Mr. Prescott stated that the cost of building a permanent structure was too great and the containers are temporary. He hopes to either find a larger location or replace the existing structure with a larger one in the next few years. He added that with the supply chain leveling out he hopes to remove one of the storage containers within the next 6 months. Mr. Prescott provided the board with the information regarding the anchors he purchased to anchor the containers at this time.

Mr. Ellison stated it is the applicant's burden to prove why they are unable to meet the zoning ordinance requirements. He noted that the 2nd street corridor is an entryway to the city and shipping containers are an unsightly storage option as well as not being permitted.

Mr. Prescott indicated that there is a very dilapidated car wash directly on the corner of 2nd street and 3rd street, that is currently being used by the homeless and illegal drug users, which looks far worse than the shipping containers on his site.

Mr. Ellison stated that property is not before the board at this time.

Mr. Prescott responded that he just wanted to point out what an eyesore and nuisance that site is for the city's entrance corridor.

Mr. Doup wanted to clarify that the shipping containers are temporary and not permanent.

Mr. Prescott stated that they are for temporary use.

Mr. Doup asked if the applicant would commit to a length of time for the use.

Mr. Prescott stated he could commit to a 2 to 3 year use specifically for the larger container that stores the pipes.

The board members and Attorney discussed what a temporary approval would mean, long term, for this request.

Mr. Ellison opened the meeting to public comment.

Tom Wetherald, 2980 Washington Street, participating in-person, stated he notified the city a few years ago when the 2nd container was added to the site about how badly they look on one of the main city corridors. He understands about the business that has been there for 52 years having a storage in what is considered a front yard, which storage building was there before it was considered a front yard. Mr. Wetherald stated that it is not just the containers; they also have skids and other items just sitting out in the parking lot creating an eyesore. Mr. Wetherald stated that the applicant should be treated the same as the other property owners and abide by the ordinance regulations. If his current site is not big enough he should find one that is. Mr. Wetherald stated in his opinion the board should not approve something that was asked for after it had already been installed like these shipping containers.

Mr. Doup asked if Mr. Wetherald had registered a complaint about the abandoned car wash.

Mr. Wetherald stated that he has several times. He has even approached the owner offering to purchase the site, but the owner told him he does not want to sell. Mr. Wetherald stated the owner of the car wash told him that he has plans to develop the property. Mr. Wetherald opposes the request.

Tom Dell, 1063 Hummingbird Lane, participating in-person, stated he understands the applicants need for outdoor storage but the containers do not meet any criteria especially in the front yard. He opposed the request.

Ms. Meek indicated that no members of the public attending via WebEx wished to speak.

Mr. Ellison closed the meeting to public comment.

Mr. Prescott stated he understood that the containers are an eyesore, but there are not a lot of locations in Columbus that are large enough for their use and affordable. He stated that he would remove the pallets from the front yard area. He added that their lease is up May of 2024, but they are struggling to find an alternate location in Columbus that meets their needs. Mr. Prescott added that he and his staff have concerns with their safety regarding patrons of one of the business' on Mr. Wetherald's property. Those patrons frequently cross his property being loud and causing a nuisance for his staff and customers.

Mr. Ellison mentioned the other violations on the property as stated by staff in the staff report. He advised the applicant to work on fixing those violations.

Motion: Mr. Doup made a motion to deny the request agreeing with staff findings that criteria #2 and #3 have not been met. Mr. Hale seconded the motion. The motion passed with a voice vote of 4 in favor and 0 opposed.

CDS-2024-004: National Road Plaza – A request by National Road Plaza for a development standards variance from Zoning Ordinance Section 8.1(C)(1) to waive the requirement to landscaping as part of the Area #1 Parking Lot Public Street Frontage. The property is located at 3142 & 3162 North National Road, in the City of Columbus.

Mr. Nieto presented for the Planning Department.

Mr. Doup asked if any research had been done on the landscaping of the surrounding properties and if they were in the easement. He was concerned that the utilities were relocated when the Central Avenue and US 31 intersection was redone.

Ms. Begley stated that the trees on this site were removed sometime between 2022 and 2024, after the intersection was completed. She noted that she was unaware if the utilities were relocated during that intersection update.

Mr. Ellison asked if there have been any other instances where planting landscaping was an issue due to utility easement.

Ms. Begley stated that she couldn't recall another scenario like this one. She added that there have been instances with overhead power lines and the ordinance has provisions that allow lower growing landscape options.

Marvin Pavlov represented the applicant. Mr. Pavlov gave some of the history of the landscape area/property line shift with the US 31 expansion from two lanes to four. He indicated that he did not remove the trees; it was a company that stated they were hired by Duke Energy in 2022 to remove all of the trees in the easement after branches kept falling and taking out the power line. Mr. Pavlov said he tried to stop them, but was told that the trees did not belong to him. He tried to contact Duke Energy without success. He was told after the trees were all gone that it was not part of his land because it was in the easement and they had the right to remove the trees. Mr. Pavlov stated they were not aware there was a violation until they applied for building signage last year. Mr. Pavlov went on to say that 2 months ago they signed up for the new fiber optic cable and were told that there is a gas line in the easement and the gas company will not allow any landscaping in the easement with their lines. He added that there were multiple utilities in the easement and any landscape he put there could be destroyed anytime work would be done to any one of those utility lines. Mr. Pavlov stated that he has already started to fix the dumpster violation on the property, but he does not know how to solve the landscaping violation since the utility companies will not let him put landscaping in that easement.

Mr. Hale stated he understands that the utility companies do what they need to do in their easements without getting the property owners permission and he appreciates the applicant wanting to be compliant. He noted the staff's recommendation for continuance to obtain documentation from the utility companies

stating they would not allow landscaping in the easement, but he also knows how difficult it is to get those companies to respond.

Mr. Ellison opened the meeting to public comment.

Tom Dell, 1063 Hummingbird Lane, participating in-person, stated he was in favor of approval of this request due to the difficulty presented by the utility easement.

Ms. Meek indicated that no members of the public attending via WebEx wished to speak.

Mr. Ellison closed the meeting to public comment.

Mr. Ellison asked if there were any plant alternatives that would not disturb the utilities in the easement. Ms. Begley stated there were areas that could be seeded with wildflower mix that would not grow too deep or interfere with the gas and electric lines. She was unsure about the other utilities.

Mr. Doup stated that the planning department staff has done as well as they can, but they do not have the authority to override the ordinance. Mr. Doup stated that a citizen should not be required to plant landscaping in an easement that has already had landscaping removed by a utility holder.

Motion: Mr. Doup made a motion to approve the request agreeing with staff findings that criteria #1 has been met, criteria #2 has been met as the neighboring properties will not be adversely affected by not requiring the landscape in the easement and criteria #3 has been met because it is unreasonable to ask the applicant to comply given the presence of the various easements on the property and requiring the applicant to contact utilities to get written confirmation would be too burdensome. Mr. Hale seconded the motion. The motion passed with a voice vote of 4 in favor and 0 opposed.

Mr. Kastner left the meeting.

FINDINGS OF FACT

CDS-2024-001: William & Angela Meyer

Motion: Mr. Doup made a motion to approve the findings. Mr. Hale seconded the motion. The motion passed with a voice vote of 3 in favor and 0 opposed.

CUV-2024-001: MAC Duplex 1

Motion: Mr. Doup made a motion to approve the findings. Mr. Ellison seconded the motion. The motion passed with a voice vote of 3 in favor and 0 opposed.

CUV-2024-002: MAC Duplex 2

Motion: Mr. Ellison made a motion to approve the findings. Mr. Doup seconded the motion. The motion passed with a voice vote of 3 in favor and 0 opposed.

CUV-2024-003: Cherry Street Boarding House

Motion: Mr. Doup made a motion to approve the findings. Mr. Hale seconded the motion. The motion passed with a voice vote of 3 in favor and 0 opposed.

CCU-2024-001: Athens Church of Columbus

Motion: Mr. Doup made a motion to approve the findings. Mr. Hale seconded the motion. The motion passed with a voice vote of 3 in favor and 0 opposed.

CCU-2024-003: Roviari Building Shared Parking

Motion: Mr. Doup made a motion to approve the findings. Mr. Hale seconded the motion. The motion passed with a voice vote of 3 in favor and 0 opposed.

CCU-2024-002: HMGO Real Estate

Motion: Mr. Doup made a motion to approve the findings. Mr. Hale seconded the motion. The motion passed with a voice vote of 3 in favor and 0 opposed.

CCU-2023-018: Carina Solar

Motion: Mr. Hale made a motion to approve the findings. Mr. Doup seconded the motion. The motion passed with a voice vote of 3 in favor and 0 opposed.

APPROVAL OF MINUTES

The February meeting minutes were not available for approval.

DISCUSSION

The staff and board members briefly discussed the review process of new applications by the planning department staff.

HEARING OFFICER REPORT

CDS-2024-002: Keith & Rose Bode – A request by Keith and Rose Bode for development standard variances from Zoning Ordinance Section 3.5(D)(2) to allow a parent tract remainder to be smaller than permitted and Zoning Ordinance Section 3.5(D)(2) to allow 1 additional lot to be subdivided from the original parent tract. The property is located at 1040 West 625 South, in Wayne Township.

ADJOURNMENT: 7:46 p.m.

Motion: Mr. Hale made a motion to adjourn. Mr. Ellison seconded the motion. The motion passed with a voice vote of 3 in favor and 0 opposed.

Zack Ellison, Chairperson

Charles Doup, Secretary