

HIGHLAND BOARD OF ZONING APPEALS
Minutes of the Meeting of
February 24, 2021

The Highland Board of Zoning Appeals met on the Zoom Platform Meeting ID: 984 2928 5458, Passcode: 681567 on February 24, 2021 at 6:30 p.m. Central Time (US and Canada). Mrs. Murovic called the meeting to order at 6:30 p.m. The meeting opened with the Pledge of Allegiance led by Mr. Martini.

ROLL CALL: Present were Board Members Mr. Martini, Mr. Grzynski, Mr. Helms and Mrs. Murovic. Also present was Building Commissioner/Zoning Administrator, Mr. Ken Mika and Mr. John Reed, Attorney.

MINUTES: The minutes of the January 27th, 2021 meeting were approved as posted.

ANNOUNCEMENTS: The next meeting of the Board of Zoning Appeals to be March 24, 2021.

COMMUNICATIONS: None

Old Business: None

New Business: Public Hearing for Steven & Jacqueline Keller, 2017 Azalea Drive, Highland, IN 46322, requesting a Use Variance for a childcare facility located at 2635 45th Street, Highland, IN 46322. {HMC 18.35.040} Permitted uses in a B-1 District do not include daycare.

Mrs. Murovic asked if there was anyone present to represent this petition.

Mrs. Jacqueline Keller replied that she was present and introduced herself and stated that she and her husband, Steven, resided at 2017 Azalea Drive.

Mrs. Murovic asked if the Proof of Publication was in order and Mr. Reed replied that it was in order, published on February 11th, 2021, more than 10 and less than 30 days prior to their BZA public hearing.

Mrs. Keller stated that she and her husband were requesting a Use Variance and wished to expand their child care center, Spring Ahead, to include an additional neighboring building at 2635 45th Street in the Jera Square Mall. She went on to say that they wanted to accommodate their families that are expecting more children with quality infant care and also start a “Fabulous Five” program that will accommodate children that leave pre-K, but do not make the cut-off date to start kindergarten. She wanted to offer a program that would give these in between children the best alternative to getting them ready for

the following year when they are ready to begin their kindergarten year. She continued that she and her husband wanted to split a toddler classroom that is currently for 12 months and 1 day aged children through 24 month children into two separate spaces that would accommodate children aged 18 – 24 months in one half and keep the other half for those younger toddlers, the reason being that there is such a difference in the development of children between these ages and their needs are very different. She stated these reasons were the main need for the additional space at their new Spring Ahead Two location.

Mrs. Murovic opened the meeting to the public. Hearing no remonstrance, she closed the public meeting and opened it to the Board for discussion.

Mr. Grzynski asked if the existing building was lot 4. Mrs. Keller confirmed that was correct. He then asked if the new location was to be lots 2 & 3. She confirmed it was and went on to explain that she had spoken to her engineer about that, because they were not taking the entire building and the fact that it was horizontal vs. vertical. Her engineer referred to the space as more of a condominium space.

Mr. Grzynski shared the layout Mrs. Keller had provided on the screen and asked if there were any concerns of children crossing the parking lot between the two separate spaces, or if parents would have to deliver them to the separate buildings they had to go to. Mrs. Keller said this was an important issue and had been considered even before they thought of expanding Spring Ahead. She continued that they could not put in a second playground for the new building, so the safe transfer of the children to reach the playground area, which could only be accessed from the original building was one of their first concerns. Mrs. Keller showed some of the other documents that she had provided, which were a letter of approval from the State with the SFSA seal regarding the playground variance they had obtained and a layout of the proposed new building plan and their solution to the safe transfer of the children that showed the placement of the crosswalk they designed with their engineer. There would be two fabricated steel gates and an administrator would have to briefly close them to seal off any possible traffic before the children crossed through the walk safely from one building to the other and into the playground. She went on to explain that this design was presented to the State of Indiana as part of the Safety Plan and that they wanted to make sure they could have two separate buildings and one playground for the children. She continued that the State of Indiana gave her the green light, as the letter shows. She also stated that they had been planning to expand and wanted to do it when the time was right. Even though the pandemic was a downfall, she stated she is convinced there will be a baby boom in the future. She and her husband feel that this is the perfect time for them to move forward with their plans so they are ready for all their current clients that are expecting. She said she is getting many calls requesting to tour her facility for the future. They are sure that expansion will be necessary to keep up with the demand.

Mr. Grzynski asked if there was a landlord for the new addition. Mrs. Keller replied that the buildings had the same owner. He then asked if the owner of the buildings was okay

with the temporary fence/gates that the children would cross from one building to another with. She replied that the owner was good with that.

Mr. Mika asked if the proposed addition was the same address as Spring Ahead One. Mrs. Keller replied that it was not. The first building was at 2617 45th Street and the new building's address was 2635 45th Street. Mr. Mika then asked if there were other tenants in the new building's address. Mrs. Keller replied that there were 5 other tenants. He then asked if the other tenants were divided up into suites. She replied that each tenant had their own address. He concluded that, depending on which way the petition would go, they had to be specific about how the space was divided up.

Mrs. Murovic said that the letter from the State indicated that the facility would have to follow a planned schedule that was submitted with the variance. She continued to ask what that schedule was like and that she had not seen a copy of that. Mrs. Keller replied that they did not have the license yet. She continued that the license number referenced on the letter was different than their license number for Spring Ahead One; she was being proactive to be prepared and see if this proposal would even work before she got the license for the new building. Mrs. Murovic asked if Mrs. Keller had submitted a plan or a schedule. Mrs. Keller responded that the layout the Board had reviewed was the plan, showing the gate location and safe crossing for the children. Mrs. Murovic asked if this was what the State meant by "schedule". Mrs. Keller and Mr. Mika confirmed that it was. Mrs. Murovic thought they meant a time schedule, because the Spring Ahead Academy would be taking control of the parking lot at the times the children were crossing through. She continued to ask if the other tenants would be okay with them taking control at those times.

Mrs. Keller explained that the children have an A.M. playground time and a P.M. playground time, so the inconvenience would only be twice a day for 5 to 10 minutes at the most. Mrs. Keller continued that with the proposed plan and schedule, they were bound to abide by what the State approves. There would be no changing their minds at a later date, or their approval would be null and void. Mrs. Murovic noted that the State's letter indicated that there would be an annual inspection. She then asked if there had been any inspections yet and also, how long Spring Ahead had been in business. Mrs. Keller responded that they had been in business for 6 months. She continued that they had aced every inspection, including the Town inspections. Mr. Mika added that he would find it hard to believe that they would ever have a problem with any inspections. He continued that, as he had told the commissioners in the Study Session prior to this meeting, the work completed was excellent. Mrs. Murovic added that when she has passed by the facility, it was very tidy and impressive looking. Mrs. Keller thanked them and added that they were giving it their all.

Mr. Mika then asked Mrs. Keller if they would be filing with the state for a change in occupancy, as they did with their first location. Mrs. Keller confirmed they would do that.

Mr. Helms motioned to grant a favorable recommendation to the Town Council regarding the Use Variance at 2635 45th Street for the extension of the Spring Ahead Academy daycare facility. Mr. Martini seconded and motion was unanimously approved with a roll call vote of 4 – 0.

New Business: Public Hearing for Alexander Momcilovic, 8542 Henry Street, Highland, IN 46322, requesting a Use Variance for Residential Use in a B-2 (Central Business District) zoned property at 8542 Henry Street, which has an existing residential use of Legal Non-Conforming. Mr. Momcilovic is attempting to refinance this property. {HMC 18.40.020} Limitations of Use. A. Dwelling units are not permitted below the second floor, on lots which contain a business use.

Mrs. Murovic asked if there was anyone present to represent this petition. Mr. Alex Momcilovic introduced himself and stated his address as 8542 Henry Street. He added that he had moved to the location in 2019 from St. John.

Mrs. Murovic asked if the Proof of Publication was in order. Mr. Reed stated that it was in order and had been published on February 12th, 2021, which was more than 10 and less than 30 days before the public meeting.

Mr. Momcilovic stated that he was trying to refinance his home because he had been in an engagement that had since ended. Both his and his prior fiancé's name were on the house. He signed a legal document saying that he would refinance the house by January in order to get the woman's name off of the house. He continued that he did not have any idea about the fact that he would need a Use Variance to do this and had no trouble when he bought the home. After the appraisal, his lender informed him that he would have to obtain a Use Variance in order to refinance. He concluded by saying that he wanted to comply with the document he had signed with the lawyer in order to refinance his home.

Mrs. Murovic opened the meeting to the public. Hearing no remonstrance, she closed the meeting to the public and brought it back to the Board.

Mr. Helms asked if this was a single family home even though it was zoned B-2 and if it had ever been converted from something else. Mr. Momcilovic replied that it was a regular house, a single family home. He added that there were 12 houses on the block, six on each side and it was the street behind the Post Office. His house was between two others, one house from the corner.

Mr. Helms asked if the original lender was fine with this and there were no problems with it being a residence that could be mortgaged. Mr. Momcilovic replied that when he bought the house with guaranteed rate lending, they did not say a thing. Then when he tried refinancing with a different company, the A & M Mortgage Group, he got a different story and was told about the Use Variance.

Mrs. Murovic asked if he had attempted to seek a different lender for refinancing. Mr. Momcilovic replied that he hadn't and he just decided it would be proper to address the problem now and he thought that the issue would arise anyway if he ever tried to sell the house in the future. He felt that the first lender had most likely just overlooked the issue. Mr. Helms said to Mr. Mika that he believed Ken had mentioned in the Study Session that there were no immediate plans to develop the area any further, or change anything about the character of the area. Mr. Mika confirmed that was correct and stated there were no current or future plans for any redevelopment in that area. He added that the area had existed for many, many years and continues to be of a residential capacity. Mr. Helms added that if a Use Variance was given that would stay with the property, it would not be foreseen as a problem in this case, from a developmental stand point. Mr. Mika replied that if, in the future, the property did become desirable for a developer, the properties would most likely increase in value and the residents would probably go with the change. He did not see the Use Variance as a problem in the future. Mr. Martini added that the BZA had a number of these cases in the past in this same area. Mr. Mika agreed and added that between 2005 and 2007, with the financial problems that were occurring, there were a number of these cases and the lending institutions began getting more particular regarding the condition of the property, for good reason because they were losing themselves when things that hadn't been addressed when financing had been sought and it was recognized that this was a possible avenue in which a person could seek relief from the situation if it was warranted.

Mrs. Murovic added the fact that the way the property stood now, if there were a fire or natural disaster that destroyed the home by 50% or more, that it would have to be torn down and could not be rebuilt as a residence, as it is in a business district. Mr. Mika confirmed that fact and added this was a way of circumventing that potential, this Use Variance would allow them to keep the residential use and rebuild as a residence.

Mr. Helms motioned to grant a favorable recommendation to the Town Council for the Use Variance regarding allowing the residential use in a B-2 zoned district at 8542 Henry Street. Mr. Martini seconded and it was unanimously approved with a 4 – 0 roll call vote.

BUSINESS FROM THE FLOOR: None

ADJOURNMENT: Motion: Mr. Grzyski Second: Mr. Martini Time: 7:02 p.m.