

**HIGHLAND BOARD OF ZONING APPEALS**  
**Minutes of the Meeting of**  
**April 25, 2018**

The Highland Board of Zoning Appeals met on April 25, 2018 in the meeting room of the Municipal Building, 3333 Ridge Road, Highland IN. Mrs. Murovic called the meeting to order at 6:30 p.m. The meeting opened with the Pledge of Allegiance led by Mr. Grzynski

**ROLL CALL:** Present Mr. Martini, Mr. Grzynski, Mr. Leep and Mrs. Murovic. Also present Attorney Jared Tauber, Building Commissioner Mr. Ken Mika and Town Council Liaison Mr. Steve Wagner. Absent Mr. Helms,

**MINUTES:** The minutes of the March 28, 2018 were approved as posted

**ANNOUNCEMENTS:** The next meeting of the Board of Zoning Appeals to be May 23, 2018 at 6:30 p.m.

**Communications:** Letter from Redevelopment Director Kathy DeGuilio-Fox regarding the Use Variance request for the Adult Day Care center at 2914 Highway Ave. Correspondence was read by Mr. Martini. Letter stated that an Adult Day Care center would not be part of the vision that Redevelopment/Town of Highland have for the Downtown Highland Area.

**Old Business: Continued Public Hearing for Mr. Uko Uko** of 766 W. 65<sup>th</sup> Lane, Merrillville, IN 46410, requesting a Use Variance for An Adult Day Care Center at 2914 Highway Ave. a B-2 zoned district (also Downtown Sub-District in the Redevelopment Area). {HMC 18.40.030} Permitted Uses.

Ms. Dianne Craft of 7233 Tilly Dr., Hammond, IN introduced herself. Ms. Craft attended the meeting and was spokesperson on behalf of Mr. Uko Uko.

Ms. Craft referenced the last BZA Public hearing. She states that she was informed that there was no Adult Day Care program in Highland. She states that is so incorrect, that there is an Adult Day Care program that's been in the area for forty years. The Adult Day Care she states started out as Bridges but is now called Dungarvin. She states that with Dungarvin Adult Day Care there is no age limit, they come in at the age of 18 once they transition out of High School and stay there until they pass away or if one day they have to be placed in a nursing home. Ms. Craft brought a remonstrator with her to speak. Her name is Ruby Perry and resides at 4130 Hawthorne St., East Chicago, IN. Ms. Craft states Ms. Perry's children have been a part of Dungarvin for years. Ms. Craft states that the zoning has been here for a long time. Adult Day Care program is huge. They come from East Chicago, Hammond and from all over. She continued that at the last Public Hearing she attended, the BZA members asked for information regarding the Adult Day Care Program. Ms. Craft brought in what is known as a pick list from other adult day care programs in this particular area. She referenced seniors, whether it's developmental disability, it is still an adult day care program. She states that if you go over there to see the vans, there aren't a lot of vans, because one van may pick up 20 people. She said it would be the same for their adult day care in Highland. She calculates there would be 10 people at their facility to begin with because of the pick list. She said there's a waiver and you have to fill out the application to get qualified for the waiver. She showed the BZA members the application, a Medicaid application that the people have to qualify for. She said this application in here is a big package and many people do not know how to fill out the application. She said one thing about Medicaid is you can apply for

Medicaid but not everyone can get you qualified, so that's what her goal is to bring them in and get them qualified for Medicaid to get them qualified for the waiver to help them transition into the facility. She distributed a copy of the pick list which tells of all the providers which included all the day care programs in the community. Ms. Craft then spoke of all the rooms at the location of where the adult day care would be. She said she got the measurements. She said the board members wanted pictures so she got them pictures of how the facility would look. She spoke to how big facility is where she hopes to put in the adult day care. She referenced the location used to house Vyto's Pharmacy and how big it is. She said Dr. Rahmany, who owns the building had all the walls knocked down. She said she was a part of Dr. Rahmany and Vyto's Pharmacy merging and that's how long she's known Dr. Rahmany. She then referenced a discussion at the first Public Hearing about things going on in the community and the parade for the 4<sup>th</sup> of July. She said she surveyed the people in the community and she said a lot of them have been the 15 to 20 years and spoke of the streets being shut down during parade. She states said that the streets were kept open during the parade according to her conversations with the community. She states they are trying to bring something into community and that they deserve to be there. She said everything about it is that zone. She states she did research on every board member. She said they do a good job. She referenced Attorney Tauber and said he was a family person and he wears many hats. She said she wears many hats too and that with her hat there is a lot of knowledge up here. So she is quite sure that with your hat you had to have a lot of knowledge. She said Mr. Tauber is on many boards, passionate and loves family. She referenced Mrs. Murovic being about the family? Ms. Craft stated she did her homework but she wasn't sure the Board Members did their homework. So this is what Ms. Craft is trying to do. She said Dungarvin is already zoned and spoke to Ruby Perry about her auntie being a part of an adult day care program. Ms. Perry states there is no difference between the adult day care programs, only the locations are different, like East Chicago or Gary. Ms. Perry feels that adult day care is a necessary thing. Ms. Perry also referenced her sons that were in attendance with her at the hearing. Her sons have been attending Dungarvin's adult day care for about ten years. She feels that as a parent as people age or have disabilities that people need help and that the adult day care provides that assistance. Ms. Craft said the Board members that one day they may have to go into an adult day care program and feels that going into an adult day care program is better than having to go into a nursing home.

Mrs. Murovic asked for the handouts Ms. Craft had in her possession.

Mrs. Murovic opened the Public Hearing. Hearing no remonstrances the Public Hearing was closed.

Mr. Martini referenced the parking spaces available for location of the adult day care. He states he counted 17 parking spaces. He said there were four cars parked up against the wall which he presumed were being used by the tenants in the apartments above the proposed adult day care location. He referenced the tenants using 5 or 6 parking spaces so that would leave maybe 10 or 11 spaces for the adult day care. Ms. Craft said they only have two vehicles. Mr. Martini asked about visitors to the adult day care and Ms. Craft responded maybe there would be about five at any given time. Mr. Martini asked about how many employees there would be. She responded maybe 5 workers. Mr. Martini said he looked in front and north side of the building and he said all the spaces were taken except for one spot. Mr. Martini also remarked that thought there are only 5 or six spaces in the front of the building.

Mr. Martini referenced the last meeting and how many people would be attending the day care. Ms. Craft responded for the first 2 or 3 years there would be about 10.

Mrs. Murovic asked that with the space available that the maximum people able to attend would be 20? Ms. Craft responded yes, unless they expand their space to the other part of the building. Mrs. Murovic referenced the pictures Ms. Craft distributed and asked if the pictures were for only half of the building space and Ms. Craft responded yes. Ms. Craft also mentioned that the space was larger than it appeared when Vyto's Pharmacy was at the location, as the pharmacy part took up much of space area. Ms. Craft also said Dr. Rahmany gutted the whole building so it's an open space.

Mrs. Murovic spoke and said what Ms. Craft is seeking is a Use Variance and as a Board the members vote on it as a recommendation to the Town Council. Ms. Craft said she thought it was on zoning and Mrs. Murovic said yes it would be based on what the Board members conclusion would be at this meeting. Ms. Craft asked what the recommendation would be based on now? Mrs. Murovic said there would have to be a discussion.

Mr. Grzymski commented that he appreciated Ms. Craft coming in front of the Board. He stated that when the Members look at the downtown area of Highland, they look at a vibrant, restaurant type and retail stores area.

Mr. Grzymski stated he would like to motion to make an Unfavorable Recommendation request for the Use Variance. Mr. Martini seconded and it unanimously passed with a roll call vote of 4 - 0.

Mr. Tauber stated that the Town Council would make the final decision on the adult day care center and that would be within the next one to two Town Council meetings.

Mr. Mika suggested to Ms. Craft to contact the Town to see if it would be on the next Town Council Meetings agenda. Mr. Mika thought it would more likely be on the agenda later in May.

Ms. Craft asked if they made the final decision could she appeal? Mr. Tauber said he was not allowed to give legal advice, but to call the Building Commissioner's department or seek legal counsel. Ms. Craft responded with yes they would bring in legal counsel. Mr. Tauber stated there hasn't been a decision yet. Ms. Craft stated she is here to fight for her seniors.

**New Business: Public Hearing for Mitchell Robinson, 9137 Cottage Grove Ave., Highland requesting a variance to move fence beyond build line. Property is on a corner. {HMC 18.05.060}(G)(5)(a) Permitted Obstruction in Required Yards. The following shall not be considered to be obstructions when located in the required yards specified: (a) In All Yards. Ordinary projections of skylights, sills, belt courses, cornices and ornamental features projecting not to exceed 12 inches; open terraces or decks not over four feet above the average level of the adjoining ground but not including a permanent roofed-over terrace or porch and not including terraces or decks which project into the required front yard by more than six feet from the front of the principal structure; awnings and canopies; steps which are necessary for access to a permitted building or for access to a zoning lot from a street or alley; chimneys projecting 18 inches or less into the yard; arbors, trellises and flagpoles; fences, screens, hedges and walls; provided, that in residential districts no fence or wall shall be located in the required front yard and no landscaped screen or hedge shall exceed three feet six inches in height if located in the front yard, and no fence, landscaped screen, hedge or wall shall exceed six feet in height if located in a side or rear yard. On a corner or reverse corner lot, the side yard setback shall be the same as the front yard setback on adjoining lots; fences shall not be installed beyond this point. No fence, screen, hedge or wall shall interfere with line of sight requirements for local streets or intersections. No fence,**

screen, hedge or wall shall be constructed of material that may be described as rubble, cardboard, chicken wire, trees and brush, corrugated tin, utility poles, railroad ties, barbed wire, broken glass or electrified material. The design, location and construction of a fence or wall shall be approved by the building commissioner prior to the issuance of a building permit.

Mr. Tauber stated that the Proofs of Publication were in compliance with IC 5-3-1.

Mr. Robinson introduced himself along with his wife Alyssa Hojnicky Robinson. Mr. Robinson distributed packets which contained Google Earth pictures, pictures of his property, a diagram of where he was asking to install his fence, a plat and a picture of the fencing material he was hoping to install.

Mr. Robinson referenced a picture of the chain link fence that is currently on his property. He referenced the fence was probably put up in, to his knowledge, probably 1994 when it was okay to have a fence butt up to the sidewalk. He said they are seeking a variance to install a fence about (4) feet from the sidewalk. He states they don't currently have much privacy in their backyard. They also have a dog and if he is on a leash in the back yard that he would not get loose and that no other dogs could get into their yard.

He referenced his plat and he had highlighted the area of where he would like to put the fence. He said their biggest concern was the driveway and they wanted to make sure they could see pedestrians walking by so they want to put the fence on the west side of the drive at a 90 degree angle. Mr. Robinson then referenced they wanted to install a 6' white vinyl fence.

Mrs. Murovic opened the Public Hearing. Hearing no remonstrances the Public Hearing was closed.

Mrs. Murovic commented that she noticed they are keeping the fence on the side where their neighbor is (3) feet off the property line. She asked if that was where they would put the fence. He replied yes.

Mr. Grzymski asked if they would put a gate across the driveway. Mr. Robinson replied there would be (2) gates. One would be by the garage and one by the sidewalk.

Mr. Martini motioned to grant the variance request with the stipulation the fence would be placed (4) feet off the sidewalk and the area of fence on the west side of driveway be positioned at a 90 degree angle. Mr. Grzymski seconded and unanimously passed with a roll call vote of 4 -0.

**Public Hearing for** Lisa Whipps, 2151 Hayes Leonard Rd., Valparaiso, IN 46385 requesting a Use Variance to open a gymnastics studio 9910 Express Dr., an I1 zoned district. {HMC 18.40.030} Permitted Uses.

Mr. Tauber stated that the Proofs of Publication were in compliance with IC 5-3-1.

Ms. Whipps is being represented by Attorney Jim Wieser, 429 W. Lincoln Highway, Schererville, IN 46375.

Mr. Weiser had Ms. Whipps distribute a brochure which contained pictures and a description of what her other gymnastic and cheerleading facilities entail. Mr. Wieser feels it's important the Board members all have a thorough understanding of what transpires at Ms. Whipps facilities.

Mr. Weiser spoke to the fact that a gymnastic facility may seem out of place in an industrial area. He hopes to explain why it makes sense for her facility to be located in that area.

Mr. Weiser gave background information on Ms. Whipps. He states she been in business for 29 years. She currently has a facility in Hobart and a facility in Schererville. He states this is Ms. Whipps passion and she gets engaged in children who are interested in gymnastics and cheerleading.

Mr. Weiser states she needs a facility that is large enough to handle all of the children that she trains. He states that this facility is an 8400 square foot facility and the ceiling height meets the requirements for the gymnastic activity. Facilities in other areas do not meet these requirements.

Mr. Weiser spoke of other matters that he felt were important for the Board members to be aware of and that would be the hours of operation. He states that most of the hours of operation would be in the late afternoon and evening. He states that most of the other businesses would be closed at this time and would help in regards to traffic control or issues. He said there would be some events that would transpire on a Saturday afternoon, but 80 to 90 percent of the services she provides would be late afternoon or early evening. Mr. Weiser spoke to the parking and that there is plenty of parking space available by the back of the building. He continued that the owner of the building in conjecture with Ms. Whipps there will be a significant renovation of the building. He further states that Ms. Whipps has come to an agreement with the owner to contribute twenty thousand dollars to the renovation to make the building look really nice.

Mr. Weiser states that he feels in proving his hardship it speaks to the type of building that is needed for this particular business. He further states you cannot find building types like this one in other zoned classifications. He feels this business would be a great service to this community.

Mrs. Murovic opened the Public Hearing.

Mr. Victor Garcia of 2948 100<sup>th</sup> St. Highland, IN spoke. Mr. Garcia feels excited to bring Indiana Elite Gymnastics to the Town of Highland. He states this is an award winning program, a wonderful business that is very supportive of the youth in our community and he sees no downside to this Use Variance request. He feels it would be a great addition to the Town.

Kelly Cundiff of 9744 5<sup>th</sup> St., Highland, IN spoke. She states she has volunteered through Highland Pop Warner and as a Highland varsity cheerleading coach. She states she has worked with Ms. Whipps and she sees how the program would benefit not only the Highland Pop Warner but also the high school cheerleading program. She also feels that Ms. Whipps program would help keep kids off the streets. She feels Ms. Whipps is well known in the area and would be good for all involved.

Mr. Skipper of Munster In spoke and said he would like to piggyback off of other people's comments. He feels that in addition to bringing the gymnastic program to Highland, it would also bring more people from other communities around to this area which could benefit Highland as well.

Ms. Whipps spoke to the fact that she host's one or two tournaments a year and that there could be up to 500 children at a tournament which in turn would bring families in who would be spending money at local restaurants which would benefit the town.

Mr. Roy Nagle spoke. Mr. Nagle is the owner of the building where the gymnastic facility would be located. He states he has been a resident of Highland for fifty years. He said his children went to high school in Highland and now his grandchildren will be attending Highland schools. Mr. Nagle feels this is a good situation for everyone involved. He feels that the renovation of the building will bring a positive to the area.

Mrs. Murovic asked if Mr. Nagle was planning to make renovations to the outside of the building as well and Mr. Nagle replied yes, both inside and out. Ms. Whipps states she intends to blacktop the parking area around the entire surround of the building.

Mr. Mika asked if the entire building would be utilized for the gymnastics facility or if Ms. Whipps would be sharing it. Ms. Whipps replied she would be the only one. Mr. Mika then asked if this building was the one with all the signs and barrels? Mr. Nagle replied they would be disposed of. Mr. Mika said that was one of his main concerns and that the code issues could be addressed when they got to the point of the Use Variance. He said there would be certain requirements to bring the building up to date. Ms. Whipps replied sure. Mr. Mika asked about the parking issue too as there is limited parking in the front and in the rear certainly could be enough parking, but right now there is no designated parking area. Ms. Whipps replied that would be one of the upgrades she would be responsible for. Mr. Mika also commented about putting asphalt down that the area is very sensitive to drainage and there would have to be a discussion about that.

Mr. Weiser said they recognize that and that Ms. Whipps probably would not be moving in until October. Ms. Whipps said the plan is for October or November and that all issues would be completed prior to Ms. Whipps moving in.

Ms. Whipps states she had her facility in Porter County built so she is aware of that nature of drainage.

Mrs. Murovic asked how many spaces Ms. Whipps was hoping to put in. She replied the Hobart facility has 36 spaces, but this facility may not have as many spaces.

Mrs. Murovic closed the Public Hearing.

Mr. Martini mentioned parking was a major concern to him. He asked about summer hours. Ms. Whipps said the hours would not change much during the summer.

Ms. Whipps hopes to add another entrance to the building. There were concerns from the Board members regarding safety issues with young pedestrians being in an industrial area.

Mr. Weiser said there could be stipulations regarding the parking if a Favorable Recommendation was given for the Use Variance.

Mr. Mika asked if there were any preliminary plans put together in referenced to the additional parking. Mr. Weiser replied there has not been one with the assumption they would have to come back with those plans. Mr. Weiser feels they can get a plan together to be in compliance with the code. Mr. Mika said he understands that however if the Board is going to be a position to make a recommendation one way or another, they need to be able to confirm there will be enough parking spaces to meet the need of this particular situation. Mr. Mika said he thought it would be premature to make a decision without even a preliminary plan.

Mr. Weiser suggested asking for a continuance to get a plan together.

Mr. Grzyski motioned to continue the Public Hearing to the next BZA meeting of May 23, 2018. Mr. Martini seconded and it unanimously passed with a roll call vote of 4 -0.

**BUSINESS FROM THE FLOOR: None**

**ADJOURNMENT: Motion: Mr. Grzyski Second: Mr. Martini Time: 7:25**