

HIGHLAND BOARD OF ZONING APPEALS
Minutes of the Meeting of
December 8, 2021

The Highland Board of Zoning Appeals met in the meeting room of the Highland Municipal Building, 3333 Ridge Road, Highland, IN 46322 on December 8, 2021. Mrs. Murovic called the meeting to order at 6:30 p.m. The meeting opened with the Pledge of Allegiance led by Mr. Thomas.

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

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

ANNOUNCEMENTS: The date of the next meeting of the Board of Zoning Appeals is to be held on January 26th, 2022.

COMMUNICATIONS: None

Old Business: Findings of Fact for Autumn-Lynumn Simmons, 3145 Duluth Street, Highland, IN 46322, requesting a Use Variance for an in-home daycare facility located at 3145 Duluth Street, Highland, IN 46322. {HMC 18.15.030} Permitted uses in an R-1 District do not include daycare.

Mr. Grzynski motioned to approve the Unfavorable recommendation to the Town Council for the Findings of Fact for Autumn-Lynumn Simmons regarding her Use Variance petition request for an in-home daycare petition request. Mr. Thomas seconded and the motion passed with a 4 – 0 roll call vote.

Old Business: Findings of Fact for Thuong (Tina) Cap, 611 James Place, Griffith, IN 46319, requesting a Use Variance for a Tattoo Studio to be located at 2716 Condit Street, Highland, IN 46322. {HMC 18.50.040} Listed Permitted Uses in an I-1/Light Industrial District do not include Tattoo Studios.

Mr. Thomas motioned to approve the Unfavorable recommendation to the Town Council for the Findings of Fact for Thuong (Tina) Cap regarding her Use Variance request for a Tattoo Studio. Mr. Martini seconded and motion passed with a 4 -0 roll call vote.

Old Business: Findings of Fact for Highland Osborn Partners LLC, 20 W. Road, Dune Acres, IN 46304, represented by Jared Tauber, Tauber Law Offices, requesting a Use Variance for a Climate Controlled Storage Facility at 8601 Indianapolis Boulevard and 8621 Osborn Avenue, Highland, IN 46322. {HMC 18.45.030} Permitted uses in a B-3 District do not include Storage Facilities.

Mr. Martini motioned to approve the Favorable recommendation for the Findings of Fact for Highland Osborn Partners LLC regarding their Use Variance petition request for a Climate Controlled Storage Facility. Mr. Thomas seconded and the motion passed with a 4 – 0 roll call vote.

New Business: Public Hearing for Price Point Builders, PO Box 1343, Crown Point, IN 46308, represented by Camille Schoop and Bruce Young, requesting a Variance to place a garage as the primary façade of the house in front of the build line or porch. {HMC 18.15.080} (K) (1) Design Standard: (K) Single Family Residence Garages shall be designed as not to dominate the primary façade of the building. Garages may be located as follows: (1) Garages shall be set back six feet from the primary façade of the building.

Mrs. Murovic asked the petitioner if there was only a PO Box for the business address. Mr. Bruce Young also gave his own address of 12816 Lee Court, Cedar Lake, IN. Ms. Camille Schoop also gave her address of 7260 Madison Street, Merrillville, IN.

Mrs. Murovic asked Attorney Reed if the Proof of Publication was in order for this petitioner. Mr. Reed responded that it was in order, published on November 23, 2021 in the Northwest Indiana Times, which is more than 10 and less than 30 days prior to tonight's meeting. Mr. Mika confirmed their sign was posted properly on the property.

Mr. Young and Ms. Schoop passed out the literature they had prepared to the Board members and proceeded to explain what each page showed. Mr. Young stated they were applying for a K1 Design Standard Variance to allow the garage to dominate the primary façade of the home. He continued that a good reason for this is to allow the house to be accessed from Henry Street with an attached garage in the front. He continued that the lot is narrow and limits all other options and added placing the garage here allows the house to have more square feet. He said the house is good looking and he felt it would work well in Highland. He stated that there is an acceptable offer and bank approval pending for the property. He added that the hardship was that having the garage in the rear would only allow for access from the alley, which has limitations because of the fact that the alley does not go all the way through and that would be difficult for snow plows. He also added that it may be difficult for emergency vehicles to get in and out of the alleyways because of the fact that it is very narrow, has many potholes and is not easily accessible from the one side street. He pointed out that the literature showed the Plat of Survey with where the house would be placed on the property, showing the setbacks and that it would allow for a nice sized back yard. He added that there were also examples of

other homes they had built and that they had great success with previous homes that were similar in nature. He then stated that there was an example of the floor plan of the home, the front façade and the layout of the house. He continued that there were also example photos in their literature packet of other homes in the area that had garages dominating the primary façade of the home and that they were not setting a precedent by proposing this home in Highland and they were just asking to continue on with that.

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

Mr. Thomas asked how many houses on Henry Street had front facing garage doors currently. Mr. Young replied that there were not many, maybe one or two, and they were mostly accessed through the rear. He added that they were all parking in the front and putting driveways in the front, then walking around to the back of the house, because of the way it was set up initially. Mr. Mika added he didn't think there was one house on the block currently that had a front garage facing Henry Street. Mr. Young said that is why they are adding driveways in the front, so they can access Henry Street. Mr. Mika didn't dispute that and stated that this is a unique block and the reason why they were having to apply for the variance was because having a garage in front of the build line, dominating the primary façade, was in conflict with the ordinance. Mr. Mika continued that many of the examples Mr. Young referred to in his packet were what was considered legal non-conforming and they were only existing because they were constructed before the current ordinance was in effect.

Mr. Thomas stated that many of the examples Mr. Young had in his packet showed the homes with garages in the rear of the property and asked him what the reason was for changing that. Mr. Young replied that the reason was that on Henry Street the alleyways were so narrow and the particular alley behind this lot doesn't go all the way through. He added many of the neighbors are not using their garages to store their cars and they just park in the front on Henry Street, or in a driveway if they added one. Ms. Schoop added that they had this particular home under contract in Crown Point on another lot, but the buyer, who worked in Illinois, was not crazy about the lot in Crown Point. They told him about the lots available in Highland and when he saw them, he loved this lot in Highland. She then realized that they may need a variance to change the house design because of the front garage dominating the primary façade. Mr. Mika added that from the start of his discussions with Price Point, he had never given any advice to the contrary or indicated Highland would ever allow a garage to dominate the main building facade. Mrs. Murovic added that they were not objecting to a garage or driveway being in the front of the home, but in this case the garage is the dominant façade. She added that yes, there are other examples of garages dominating the façade, but since then, they had reconsidered the ordinance with great thought and realized that allowing this to continue is not what they wanted to do. She continued that the original designs that they had proposed were in line with the ordinance, especially the little white farmhouse look that seemed to really fit the area and was conducive to the neighborhood because of the existing quaint, older homes.

Ms. Schoop stated that the contract they had that had been approved by the bank for approximately \$370,000 would help the other homes on the block and would bring up their property values. Mrs. Murovic said that esthetics were also important and that other petitioners had come before them and requested front garages and sometimes had to change the size of the garage or change the design so it wasn't as dominant or protruding as much. Mr. Young said he understood that, but being an architect, he also understood that it was difficult to get the square footage for the home with such a small lot. He was limited to a 34' maximum width, so it was hard to build or design a house that doesn't have a front loading garage. Mrs. Murovic added that nothing to do with size or width of the lot has changed since they originally purchased the lots and decided to build homes on them. Mr. Young admitted that, then added that he felt the home would be an improvement to the neighborhood, being beautiful, new construction. He added he understood Highland wanting to keep a certain look, but these lots were non-conforming, being that they were 50' wide and they had decided to try to keep access to Henry Street because of the issues with the alley. Mrs. Murovic added that the lots being 50' wide were conducive to the area, as they were all the same. Mrs. Murovic asked Mr. Young, since he was an architect, if he had come up with any other design plans to possibly change the garage from being the primary façade, or possibly using the space above the garage to add to the square footage. Mr. Young replied that because the ordinance requires usable space beside the garage, it was hard to get a basement included that met the requirements of the ordinance.

Mr. Martini added that he thought the original designs Mr. Young had presented to the Board with his initial variances had great appeal. Mr. Young said the whole reason behind the change was to access the garage off Henry Street instead of the alley, due to it being very narrow and it didn't access anything, it just was a dead end and difficult for snow clearing and emergency vehicles. Mr. Mika stated that emergency vehicles would always access these homes via Henry Street and had done so for 50 years or more with no difficulties. Mr. Young replied he was trying to alleviate that by placing the garage in front. Mr. Thomas said they were not saying he could not have a sidewalk or driveway in the front, but the issue was that the garage was the dominant structure. Mrs. Murovic added that his design showed 24' of garage sticking out as the prominent structure. Mr. Young asked if he took the same design and spun it around, putting the garage toward the alley, then put a deck on the front and a front door, if the Board would accept that. Mrs. Murovic stated that she thought Mr. Young was coming up with some solutions for himself and that it would just be the front of a house then and there would be no need for the variance if the garage was in the back. Mr. Mika added the front of the home would have to face Henry Street, as that is the address. Mrs. Murovic added that this plan could include driveway space, even if the garage was in the back. She stated that they just didn't want the garage to be the dominant structure. Mr. Martini asked if there were other homes that had garages accessing the alley. Mr. Young said there were, but that most of them didn't use them and parked in the front. Mr. Mika said he said he saw only one home to the South that had cars parked in front of the home and thought that most of the other home owners did access their garages through the alley.

Mrs. Murovic added that from personal experience, cars are often left out of garages for various reasons and parked in the front and that doesn't mean the garage is not accessible. Mr. Martini stated that the current design Mr. Young was proposing for this location with the garage dominating the primary façade did not fit the neighborhood. Mr. Grzynski added that he felt the current design being proposed is better than what was existing on this lot, but he felt with the garage dominating the front, it was just not appealing and he would like to see a different design. Mr. Young stated that, in order to meet the ordinance, he would probably just flip the house around so the garage was in the back, facing the alley. Mrs. Murovic added that they appreciated Mr. Young investing in the Highland community. Mr. Young proposed another design change but was told that it would require another variance and appearance before the Board. Mr. Mika suggested deferring until next month so the design change could be reviewed, with the understanding that the garage cannot dominate the façade of the home. Mrs. Murovic pointed out that in the ordinance, the garage is supposed to be 6' behind the primary façade of the house. Mr. Young asked if it could be less than that, or equal to the primary façade. Mrs. Murovic stated that they just didn't want to see it as a primary façade. Mr. Young stated that with that restriction, there would be no other recourse than to have the garage facing the alley. Mr. Thomas added that there are not many lots in Highland to build a new home, but the requirements in Highland are that the garage cannot be a primary façade. Mrs. Murovic added that it was a great location and very much in demand. Mr. Young added it was definitely a high demand area and that they were just trying to make the property more useful so it had access off of Henry Street rather than the alley. Mr. Young asked if the Board was not willing to budge on the garage in the front. Mrs. Murovic replied that she wouldn't say that, but the current design as presented, dominating the façade by 24' was not acceptable. Mr. Thomas pointed out that there were other designs that would conform to the ordinance and would work in this lot.

Mr. Martini motioned that the petitioner's variance request be deferred until the BZA meeting of January 26th, 2022, in order for the petitioner to present a design that does not show a garage as the dominant primary façade of the home and should match other homes in the area.

Mr. Grzynski seconded and the motion was passed with a 4 – 0 roll call vote.

New Business: Public Hearing for John Bhatti, 7940 Spruce Street, Highland, IN 46322, requesting a Variance to replace a fence beyond the 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.

Mrs. Murovic asked if there was anyone present to represent this petition for a hearing. Mr. John Bhatti stepped forward and introduced himself as the petitioner. Mrs. Murovic asked if 7940 Spruce Street was Mr. Bhatti's address. Mr. Bhatti explained that this was his mother's home, but he was the Power of Attorney for his mother, as she had recently suffered a stroke and was currently living in a nursing home. Mr. Bhatti stated he had a letter stating he was her Power of Attorney. A copy of the letter was made and added to the file. Mr. Bhatti continued and stated his legal address as 12521 Woodlawn Ave. in Dalton, IL 60419.

Mrs. Murovic asked Mr. Reed if the Proof of Publication was in order. Mr. Reed replied that the Proof of Publication was published on November 25th, 2021 in the NWI Times, which was more than 10 and less than 30 days prior to tonight's meeting, so it was in order. Mrs. Murovic confirmed that the sign was up and in compliance with the date as posted.

Mr. Bhatti stated again that this was his mother's property and that she had a stroke a year and a half ago. He continued that she was recovering and was working towards being able to return to her home. He stated he had been doing some jobs around her home in order to make it ready for her return. He added she was an outdoor person and enjoyed barbecuing and being outside. He then stated he had taken down the old fence with the intention of reinstalling it in the same spot. He also said he had taken out the deck a year and a half ago because it was really bad, but had left the spot empty. He continued, saying the fence that was removed was crooked and raggedy and only had two posts with concrete; the rest were just installed with dirt and a couple of bricks. He found out that there would be an issue with where the new fence could go only after he came to apply for a permit and thought he could install it where it was originally. He then explained that he had a few pictures for the Board to show what the property currently looked like in the front and back and so they could propose where it could go, if it couldn't go where it used to be, which was right up to the sidewalk. He added that he wanted to understand the law regarding this because when he read it, it wasn't clear to him. He stated the ordinance didn't say it had to equal to the house or how many feet from it, so he wanted the Board to interpret that and explain it. Mrs. Murovic asked Mr. Bhatti if that was all he wanted to present. He replied that he was finished at this point until he could understand the law regarding fences more.

Mrs. Murovic stated that one of the items that really helps with this kind of situation in determining build lines is a Plat of Survey and asked Mr. Bhatti if he had one. Mrs. Murovic asked recording secretary Susan Rae if there was a Plat on file in the Town. She replied there was not and that his permit had been applied for using a GIS view of the home and it was in the file for this petitioner.

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

Mrs. Murovic explained that the fence was not to go beyond the build line and on corner lots, there are two build lines, the front and the side. She continued that having a Plat would help determine those build lines, or setbacks. Mr. Bhatti asked if he should come back with a plat or survey, unless the Board would allow the fence to be in the same spot it had been, or to reach a compromise by bringing it in a little bit. He continued that he understood the safety issues concerning the driveway and pedestrians or bicycles passing by not having enough visibility of the vehicles backing out. He added he was glad he took the old fence down because it was in such bad shape, he felt it was dangerous the way it was. He said he hoped the Board could come to a compromise, even if it wasn't all the way to the sidewalk. Mrs. Murovic said they do work with people because they understand that back yards are coveted and people really want to preserve as much of the space there as possible. She added safety was the main concern. She continued he was welcome to get a plat or survey, but it was not an absolute requirement. She added that generally, the setbacks are not beyond the build lines of the home and that most of the nearby homes will all follow along the same building line. She stated the ordinance has now changed for fences on corner lots, so that is why they cannot go all the way up to the sidewalks any longer and what he has come before the Board with was not at all uncommon.

Mr. Martini asked where the fence that was taken down had been located originally. Mr. Bhatti replied that it was right up to the sidewalk along North Drive, but started about a foot behind the front building line on the Spruce Street side. Mr. Mika pointed out that the main objective was to get the fence as far off the sidewalk as possible, obviously for safety reasons, also if the sidewalk ever needs replacing they would need adequate room to perform the work and also, to facilitate snow removal in the winter. Mr. Bhatti said he would rather have the fence parallel to the house rather than the sidewalk because the home was at an angle and he felt it would be more appealing and look better aesthetically. Mrs. Murovic stated that whatever the setback was from the sidewalk, there would also have to be a 45 degree angle at the driveway, for increased visibility. Mr. Grzymiski asked Mr. Bhatti if he was wanting to angle the fence. Mr. Bhatti replied he would prefer to angle the fence to be parallel with the house, but angled along the sidewalk. He asked if the Board did agree on 2 feet off the sidewalk, what would be the length of the angled section. The Commissioners replied it would be a 6 foot section. Mr. Bhatti asked if, even with a plat, would they still want the fence off the sidewalk. Mrs. Murovic stated that was correct and with the current waiting time for obtaining plats being approximately 5 or 6 months or more, that would put him pretty far out on his fence project. Mr. Martini asked what kind of fence Mr. Bhatti was going to be putting up. Mr. Bhatti replied it would be a typical 6' wooden privacy fence.

Mr. Martini motioned to approve the fence variance request for Mr. Bhatti at 7940 Spruce Street in Highland with a 2 foot setback from the sidewalk, with a 6 foot cutout, 45 degree angle section in front of the driveway.

Mr. Thomas seconded and the motion passed with a 4 – 0 roll call vote.

BUSINESS FROM THE FLOOR: None

ADJOURNMENT: Motion: Mr. Martini Second: Mr. Grzymski Time: 7:30 p.m.

Agenda is subject to change without notice.