

LOWELL BOARD OF ZONING APPEALS MEETING
December 12th, 2019

President Sean Brady called the meeting to order at 6:45pm. The Pledge of Allegiance was recited. Recording Secretary Dianna Cade called the roll. Members answering the roll call were, Ryan Thiele, Manny Frausto, Jim Konradi. and Sean Brady. Also, present was, Nicole Bennett, Town Legal Counsel and Rich Oman Director of Planning and Building.

APPROVAL OF MINUTES

Mr. Konradi made a motion to approve the November 14th, 2019 regular meeting minutes, seconded by Mr. Frausto and carried by voice vote of all ayes.

NEW BUSINESS:

#19-017 129 N. Nichols to consider the variance from developmental standards of Town of Lowell Zoning Ordinance §155.075 (A)(a)(5)(c)(B)(1)(b). Petitioner is requesting to erect an accessory structure that is larger than what is allowed, not in the rear quarter of the yard and closer than the minimum separation of 10' from other accessory structures. Petition has been filed by John Gesiakowski, 129 N Nichols St. Lowell, IN. Parcel #45-19-22-482-020.000-038.

Mr. Gesiakowski, 129 N Nichols stated that he would like to build a larger garage than what he has. He stated he needs it for storage of various items in his yard, including a few boats, and vehicles.

President Brady opened the public hearing, no remonstrances were heard.

Mr. Brady asked for further clarification on what the plan was for location and building of this structure. Mr. Gesiakowski stated there is an existing garage with a lean-to on the back of it. The lean-to is getting taken down and he is going to expand to the west. He stated there is also an 8x10 vinyl shed that will be taken down. The new garage and existing garage will be connected. Discussion followed on the size of the new part of the structure being added. Mr. Oman asked if the wall on the existing structure was staying up. Mr. Gesiakowski stated yes. Mr. Oman stated that this is considered an accessory structure, instead of an addition since that wall is not getting taken down. Mr. Thiele asked if the new part of the garage aesthetically would match the existing garage. Mr. Gesiakowski stated if that is the request of the Board, he will make it match.

Mr. Konradi made a motion to approve the variance of 1200 sq. ft. with the condition that it match the existing garage to make it consistent and the other mentioned accessory structures are removed, seconded by Mr. Thiele. Attorney Bennett stated that this encompasses three variances in one. Usually, this would be a separate motion on each one but the way this will be constructed it is all or nothing because of that the Board can make one motion. MOTION APPROVED 4-0 with conditions.

#19-007 1914 E. COMMERCIAL to consider the variance from developmental standards of Town of Lowell Zoning Ordinance §155.102 (G)(1) and §155.104 (A)(b)(3) for property located at 1914 E. Commercial Ave. Petitioner is requesting to add square footage to an existing pylon sign and animation. Petition has been filed by Southlake

National Bank, 600 E. 84th Ave. Merrillville, IN 46410. Parcel #45-19-25-227-001.000-008.

Attorney Paul Rossi, stated he is here to represent the petitioner, which is Southlake National Bank doing business as Centier Bank at 1914 E. Commercial, Lowell. He stated that they are seeking a variance for the pylon sign that has been located at the bank for at least twenty years. Attorney Rossi stated the sign is currently legal non-conforming. They are seeking two variances tonight. He stated the first petition is for the current sign to be updated with an electronic animation board. He stated that this type of signage is becoming very popular and there are some already displayed up and down Commercial Ave. He stated technically they are not changing the height or width of the current standing structure or the footprint of the sign. He stated the actual digital portion of the sign would be larger, a total of 8.3 feet. This amounts to about a 1' wider and 6" taller. This new electronic box does fit within the existing structure. He passed out pictures of the new signage and discussed what was being changed.

Attorney Bennett stated the sign is legal non-conforming. She stated that in 2013 free standing signs were prohibited in the town code. She stated these signs can continue as long as they are only maintained. The message can be changed but not the height or width of the boxes. She discussed the specifics on the change in the size of the box which is larger than what Attorney Rossi had stated. She stated the request is also for the sign to be animated and that is also prohibited by the town code. She stated that this is two separate motions. The one request is for a free-standing sign because as soon as a sign is changed it is not legal non-conforming anymore. She stated that because of the changes in size they are requesting to make to the sign this variance is for a free-standing sign. The size does not matter it is to allow for a free-standing sign. The second would be for the animation. Both remove the legal non conforming statues. They are separate variances one can be approved and not the other.

Attorney Bennett discussed the parameters of legal/illegal non confirming sign. She stated once they change the size of the sign it becomes illegal non-conforming therefore, they need a variance to have a free-standing sign which is not allowed in the town code as of 2013. They are also seeking a variance for animation on the sign. Illumination is allowed but animation is not which is movement on the screen.

Discussion followed on the construction of the new sign box on the existing pylons.

Attorney Bennett asked Attorney Rossi if the intention of the animation on the sign was to have items at any one time on the screen moving or just exhibit changeable copy. Attorney Rossi stated there will be animation on the screen which could include images or moving words. He is not sure to what extent but his client has expressed that there will be animation in use on the sign. Attorney Bennett discussed what the definition of animation was. She stated animation is not allowed by code but changeable copy is. Attorney Rossi stated Centier does not want to distract drivers and this sign is a good distance off the road compared to other signs in town. President Brady opened the public hearing no remonstrance's were heard.

Mr. Oman stated that animation as discussed is not allowed per Town code it can be distracting and this sign is on Route 2 which is the major thoroughfare in town. He stated that he had some conditions suggested in his staff report.

Mr. Frausto asked Attorney Bennett if they can set limitations on the motion since Town ordinance does not define animation to the exact; can the motion be left open in case in the future the sign is deemed disruptive and revisit the variance. Attorney Bennett stated the BZA can pull variances. She stated the motion cannot be left open because the ordinance states it is not allowed the motion is either yes or no. Conditions can be added such as if the movement is allowed on a certain time basis or a number of images in a minute etc. She noted if you grant the variance open ended that gives them carte blanche authority and you would have to have a severe reason to pull back the motion.

Mr. Thiele asked about the brightness of the sign. He stated that is his concern, there are a lot of kids that cross that road and he feels the brightness could be a distraction. Attorney Rossi stated he did not have the exact specs on the brightness of the sign he could get it. Discussion followed. Attorney Bennett stated under the Towns general sign guidelines there is illumination standards. She discussed. Attorney Rossi stated Centier had every intention on following the state and town guidelines on illumination as they have done in all their other locations in the region with this updated signage. Discussion followed on state and Town guidelines.

Mr. Thiele made a motion to approve §155.102 G1 with the condition that the EMC shall be programmed so that there are no effects of blinking, scrolling, flashing flickering, or rotating in the individual images and shall be programmed so that the image will change instantaneously as seen by the human eye, and the EMC shall not use blinking, fading, rolling, shading, dissolving, or similar effects as part of the change, and with staff approval of construction plans, seconded by Mr. Konradi and carried with a roll call vote of all ayes. MOTION APPROVED 4-0 with conditions.

Mr. Konradi made a motion to approve the staff report as Findings of Fact, seconded by Mr. Thiele and carried with a roll call vote of all ayes.

ANNOUNCEMENTS:

Mr. Brady stated that the next regularly scheduled meeting will be moved to the third week of January to accommodate the Town Council appointments for Boards and Commissions. The meeting will be on January 16th, 2020 at 6:30pm. Mr. Thiele made a motion to change the meeting in January 2020, second by Mr. Frausto and carried with a roll call vote of 3 ayes and with Mr. Konradi voting nay.

ADJOURNMENT:

With no further comments or questions, Mr. Thiele made a motion to adjourn the meeting at 7:25pm, seconded by Mr. Frausto and carried with a voice vote of all ayes.

Sean Brady, President

Jim Konradi, Secretary