

LOWELL BOARD OF ZONING APPEALS MEETING

June 9th, 2022

Dave Regan called the meeting to order at 6:02pm. The Pledge of Allegiance was recited. Recording Secretary Dianna Cade called the roll. Members answering the roll call were, Ben Clemens, Dave Reagan, Tom Cartwright, and Shane Lawrence. Jim Konradi was absent. Also present was, Nicole Bennett, Town Legal Counsel and Rich Oman Director of Planning and Building.

APPROVAL OF MINUTES:

Mr. Lawrence made a motion to approve the May 12th, 2022, regular meeting minutes, seconded by Mr. Cartwright and carried by voice vote of all ayes.

OLD BUSINESS: NONE

NEW BUSINESS:

BZA #22-004 -204 N. VIANT ST - Variance from Developmental Standards from the requirements of Ordinance 155.090 (B) has been filed by Lavawn Daugherty Souther, 204 N Viant St., Lowell, IN Parcel #45-19-24-301-017.000-008 to erect a fence that is more than three feet (3') in height in the front yard

Lavawn Daugherty Souther, 204 N Viant St., Lowell. This is a corner lot. She stated that when the new sidewalk went in on Harrison St., the landscape berm they had planted years ago was torn out. These various shrubs acted as a barrier between their pool and Harrison St. She stated they received a variance 20 years ago to put the pool in the back corner near Harrison. She stated they would like to put a 6' fence in this area for safety and privacy.

Mr. Oman using the GIS map on the monitor indicated where the pool was on the property and discussed the proposed fencing location. He discussed the location of the new sidewalk in relation to their pool. He discussed the stipulation that the ordinance puts on the corner lot for fencing. He stated they are allowed a 3' fence by ordinance. Mrs. Souther stated they need a 6' fence because 3' is not high enough. Discussion on the location of the proposed fence. The variance is needed for the Harrison side of the property. The Viant side is within the requirement.

Mr. Regan opened the public hearing.

Mr. Oman read an email that was sent to him from Melanie Csepiga who owns the property in which her daughter resides at 1116 Harrison St., Lowell, IN. The email was a favorable recommendation. (a copy of the email is in the public file for review).

No other public comments in person or on-line were heard.

Attorney Bennett asked if there was an obstruction with the visibility triangle. Mr. Oman stated the line-of-sight triangle in a subdivision is 10' x 10'. He stated this would be outside the visibility triangle requirement and discussed the measurements.

Mr. Lawrence made a motion to approve the variance for the requested additional 3' in height for a fence in a front yard, seconded by Mr. Cartwright and carried with a roll call vote of all ayes.

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

BZA #22-005 -1554 NORTHWOOD DR - Variance from Developmental Standards from the requirements of Ordinance 155.090 (B) has been filed by Edward Castillo, 1554 Northwood Dr., Lowell, IN Parcel #45-19-25-327-001.000-008 to erect a fence that is more than three feet (3') in height which is not allowed as stated in the above-mentioned Ordinance. Variance requested is 3' in height.

Edward Castillo, 1554 Northwood Dr. This is a corner lot. He stated he has an existing chain link fence that was put up years ago by a previous owner and it is to the sidewalk. He indicated on the GIS map that was on the monitor where he would like to install the new privacy fence. He stated he would be taking down the chain link and put up a privacy fence.

Attorney Bennett stated it is her understanding that the legal notice did run in the newspaper however, the adjacent property owners' legal notices were not sent. Legally this will need to be reset over by the Board so that the petitioner can send out the legal notice to the adj neighbors and the newspaper notice will still qualify.

Mr. Lawrence made a motion to table BZA 22-005 to the regularly scheduled meeting on July 14th, 2022, seconded by Mr. Clemons and carried with a roll call vote of all ayes.

BZA #22-006 -426 JOE MARTIN RD - PARCEL #45-19-25-153-008.000-008. Kevin & Peggy Sierzputowski –variances from developmental standards of Town of Lowell Zoning Ordinance
§155.075 (A)(a) - rear quarter of the property; and
§155.075 (B)(1)(a) - total of 3 accessory structures (Allowed is 2); and
- total Sq ft. requested is 1488'. (Allowed is 400'); and
155.031 (B) - height accessory structure. (Allowed is 16' requested is 19')

Peggy Sierzputowski, 426 Joe Martin. Mrs. Sierzputowski stated they would like to erect a 30x40 pole barn. She stated they currently have 2 smaller movable sheds. Their yard is 1.3 acres. She stated they are willing to take down one of the sheds it is in bad shape and was there when they moved in. The other one is a plastic shed. She stated the neighbor to the south has a pole barn and they would line it up with theirs. Mr. Oman showed the Board the property on the county GIS.

Mrs. Sierzputowski stated there is an easement in the middle of their yard for a town storm drain. She discussed the location of the easement.

Mr. Oman stated if the garage is put in the rear qtr. the driveway would be 400'. Staff is okay with the placement of the proposed accessory structure. The petitioner stated they could not do that the driveway would be over the town's easement. Discussion on removing one of the sheds. Mrs. Sierzputowski stated they could take one of the sheds down if the Board wanted them to. Attorney Bennett stated the public hearing was set forth with one of the variances requested for total number of accessory structures. She stated the petitioner would have to withdraw her request for variance. She asked the petitioner what her intention was to tear down one of the sheds or ask the Board for approval on her initial variance request. Mrs. Sierzputowski stated they would like to keep both sheds and proceed with the petition as it was submitted. Mr. Oman stated their lot is yard there is no coverage issue. He stated the setbacks comply with the ordinance as does the separation. The Board discussed the height of the structure.

Mr. Regan opened the public hearing, no remonstrances were heard in person or on-line. The public hearing was closed.

Mr. Lawrence made a motion to grant the variance request for shed not located in the rear quarter of the property, §155.075 (A)(a), seconded by Mr. Clemons and carried with a roll call vote of all ayes.

Mr. Lawrence made a motion to grant the variance request for §155.075 (B) (1)(a) Allowing 3 total accessory structures and the total square footage request of 1088 sq. ft., seconded by Mr. Clemons, and carried with a roll call vote of all ayes.

Mr. Lawrence made a motion to grant the height variance request of §155.031 (B) 19' in height for the structure, seconded by Mr. Clemons and carried with a roll call vote of all ayes.

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

BZA # 22-007 - 17151 – 17247 MORSE - variance of use and a variance from developmental standards to operate a contractor's office/business. 17151-17247 Morse, Parcel #45-19-14-200-011.000-008 has been filed by Ronald VanWalker 2109 Vanklaker Dr., Crete, IL 60417

Petitioning the following Zoning Ordinances:

***Use Variance:**

§155.040

***Variance Developmental Standards:**

§155.075 (B)(1)(b)(A)(a) – accessory structure, larger than 900 and not in rear quarter of lot.

§155.090 (B) – fence height. (Allowed 6') petitioning for 8'.

Mr. Ron Valker, 2109 VanKalker Dr., Crete, IL 60417. He stated the parcel is located at 171st and Morse. He stated they are a small construction company and have done a lot of work in Lowell over the last 20 years. He stated they are in Crete and want to move the operation to Lowell. They purchased 120 acres which they sectioned off into 5 parcels. Mr. Oman showed the Board where the parcels were located at. Mr. VanKalker stated the business would be on lot 2 which is a 14-acre parcel that is right by the high-tension wires. Mr. VanKalker stated currently the parcel is a vacant parcel that is partially farmed, and the rest is wetlands that are unbuildable. Mr. Vankalker discussed the conservation areas. Mr. Oman discussed the recently platted lots. Mr. Oman stated there are 5 lots the other 4 would be single family homes for his family members. Mr. Oman discussed the flood plain areas and buildable areas. Mr. Oman stated due to the topo of these parcels a large development would not work here. This makes good use of these vacant parcels. Mr. Oman stated the parcels are zoned R1. That zoning will work for the family homes, but the business office is not contemplated therefore needing a variance of use. Mr. Vankalker stated from what he understood 20 years ago a rezone was done from AG to R1 at that time there was a concept for a subdivision. But it never came to fruition. Mr. Oman discussed with the Board the proposed site plan concept for the business lot. Mr. Vankalker stated the doors for the building would not be visible from Morse. He stated he plans on also building a berm for more concealment.

Mr. Regan asked where the fence would be located at. Discussion. The ordinance does not allow an 8' fence. The fence would meet all the other town requirements except for the height. Mr. Vankalker stated this would be used for screening if the landscape screening does not work. He prefers to use only the berm. Mr. Lawrence asked Mr. Oman if the petitioner builds a berm can he fence the top of the berm. Mr. Oman stated in the front it could only be a 3' fence. Attorney Bennett discussed the legalities.

Mr. Cartwright asked about the 8' fence limit. Mr. Oman stated not higher than 6' is allowed by ordinance. Mr. Oman stated an 8' fence would also trigger a building permit and following of building codes which would require post holes to be inspected. A 6' fence does not require a permit or inspection.

Mr. Regan opened the public hearing.

Jason VanKalker, 337 Woodbridge Dr., Lowell, IN. He stated he supports this new business.

No remonstrances are on-line. Public hearing is closed.

Mr. Oman stated there would be an accessory structure on the property that would house the materials of their business. The petitioner is requesting the size to be larger than 900' and not in the rear of the property. The size requested by the petitioner is 1600'. Mr. Oman indicated on the site plan displayed on the monitor the location of the proposed structure. Discussion.

Mr. Regan opened the public hearing again for this variance request. No remonstrance's were in person or on-line. Public hearing was closed.

Mr. Lawrence made a motion to forward a favorable recommendation to the Town Council for a variance of use, seconded by Mr. Clemons and carried with a roll call vote of all ayes.

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

Mr. Lawrence made a motion to grant the variance request for an accessory structure larger than 900' and not in the rear quarter of the property, seconded by Mr. Clemons and carried with a roll call vote of all ayes.

Mr. Lawrence made a motion to approve the variance of 2' allowing an 8' high fence, seconded by Mr. Clemons and carried with a roll call vote of 4 ayes, and 1 nay. Mr. Cartwright voting nay.

Mr. Clemons made a motion to accept the staff report as the Findings of Fact, seconded by Mr. Lawrence, and carried with a roll call vote of 4 ayes and 1 nay. Mr. Cartwright voting nay.


PUBLIC COMMENT: NONE

ANNOUNCEMENTS: Next regularly scheduled meeting is on, July 14th, 2022.

ADJOURNMENT:

With no further comments or questions, Mr. Lawrence made a motion to adjourn the meeting at 6:50pm, seconded by Mr. Clemens and carried with a roll call vote of all ayes.


Dave Regan, Chairman


Tom Cartwright, Secretary