

LOWELL BOARD OF ZONING APPEALS MEETING
June 11th, 2020

President Frausto called the meeting to order at 6:01pm. The Pledge of Allegiance was recited. Recording Secretary Dianna Cade called the roll. Members answering the roll call were, Shane Lawrence, Jim Konradi, Will Farrellbegg, and Manny Frausto. Tom Cogdill was absent. Also present was, Nicole Bennett, Town Legal Counsel and Rich Oman Director of Planning and Building.

Mr. Frausto read the GUIDELINES FOR PARTICIPATION:
BZA Public Meeting Participation Guidelines

1. Meeting participants, staff and Commission members shall practice social distancing guidelines including hand washing, wearing face masks, cough and sneeze etiquette and distancing.
2. The meeting room will be limited to 25 occupants at any time including Board members, staff, petitioners and audience.
3. The petitioner shall be limited to two persons. One shall be the owner or the owner's representative.
4. Because of the meeting room limitation, audience members wishing to witness a petitioner's presentation or comment about the petition may be required to take turns listening/speaking then leaving the meeting room to allow others to listen/speak. All those wishing to comment will be heard.
5. To conserve space in the meeting room, the Board members suggest that audience members limit their participation to the petition they are interested in to allow others to occupy the meeting room.
6. Audience members wishing to comment publicly should address Board members only and keep their comments concise, courteous and constructive.

APPROVAL OF MINUTES:

Mr. Lawrence made a motion to approve the April 9th, 2020 regular meeting minutes, seconded by Mr. Farrellbegg and carried by roll call vote of all ayes.

NEW BUSINESS:

BZA # 20-006 - 797 W. COMMERCIAL AVE. - An application for a variance from developmental standards of the terms of the Town of Lowell Zoning Ordinance §155.104 (A)(b)(6) Permanent Sign Standards, front setback has been filed by MCA MP 797 LLC 801 E. Main St., Griffith, IN 46319 for property located at 797 W. Commercial Ave., Lowell, IN, Parcel #45-19-27-201-018.000-038. The petitioner is requesting to erect a tenant sign that is closer to the right of way setback than is allowed by the above-mentioned ordinance.

Carrie Austgen stated she was here to address the Board in regards to the petition for a variance on the requested tenant sign at 797 W. Commercial Ave. Mrs. Austgen stated

the tenant sign will be located closer to the right a way setback than the Town allows. Mr. Oman stated that the sign will be completely outside the right of way line. He referenced the site plan that was submitted by the petitioner, he indicated to the Board exactly where the sign would be located at. He stated that this is the only place they could put the sign which is between the sidewalk and the right of way. He continued by stating that the ordinance calls for 10' off the right of way. If the sign is located there it would put it in the building. He stated the sign would not be in the INDOT right of way.

Mr. Frausto opened the public hearing no remonstrances were heard.

Mr. Frausto stated for the record, staff's recommendation is to approve. As part of the staff report are the considerations as set forth by the state statue for the Findings of Fact.

Mr. Farrellbegg made a motion to approve the variance from §155.104 (A)(b)(6) for a tenant sign to be allowed in the 10' setback from the right of way, with the condition that the sign meets developmental approval by the building department, seconded by Mr. Lawrence and carried with a roll call vote of all ayes.

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

BZA #20-007 - 797 W. COMMERCIAL - consider a variance from developmental standards of Town of Lowell Zoning Ordinance §155.104 (A)(a)(b)(1) for property located at 797 W. Commercial Ave Unit 2. Petitioner is requesting to exceed the amount of the total square footage of allowed wall signage. Petition has been filed by Singh Bros LLC d/b/a Handy Spot Liquor, 424 Fort Hill Dr. suite 102, Naperville, IL. This petition is for part of Parcel #45-19-27-201-018.000-038. This property is owned by MCA MP 797 LLC.

Mr. Nick Singh, President of Handy Spot Liquors, stated that he is requesting a variance for signage. He has many stores in Indiana and would like them all to have the same signage in that it represents his franchise.

Mr. Frausto opened the public hearing, no remonstrances were heard.

Mr. Konradi asked for clarification on the total signage variance requested. Mr. Oman stated there is a multi-tenant sign that he will be on along with his own wall signage. The total signage he is requesting is 128 sq. ft. The total variance would be for 53 sq. ft. Attorney Bennett discussed what constitutes the building frontage and the maximum allowed square footage of signage. Discussion followed. Mr. Lawrence stated since this is a multi-tenant building how will this variance affect future tenants. Mr. Oman stated they will be allowed square footage based on the frontage of their suite. Attorney Bennett stated that is a consideration for the Board, all future tenants have the same right to seek a variance for signage which could result in increasing the total signage for the entire building. Mr. Frausto asked how the Town's allowed square footage signage code compares to other municipalities. Discussion followed.

Mr. Konradi made a motion to approve the variance request from the Town of Lowell Land Use and Development Code of 52.667 square feet from the maximum total signage allowed and 58.333 square feet from the maximum wall signage allowed, to permit erection of 3 wall signs and a sign on the multi-tenant entrance sign at 797 W. Commercial Ave., totaling 128.667 square

feet, of which 116.667 square feet is wall signage, subject to: staff approval of construction plans, seconded by Mr. Lawrence and carried with a roll call vote of all ayes.

Mr. Farrellbegg 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.

BZA # 20-008 - 1101 E. COMMERCIAL - An application for a special use as identified in the Town of Lowell Zoning Ordinance §155.039 TC District – Institutional uses - small scale and §155.043 land matrix definition – Institutional uses small scale has been filed by Traci and Dan Moldenhauer, 166 W. Main St., Lowell, IN 46356 to use property located at 1101 E. Commercial Ave., Lowell, IN, Parcel #45-19-23-480-011.000-008 as a day care center. This property is currently zoned Town Center District.

Tracey Moldenhauer, of 166 W. Main, Lowell, IN stated she is the founder of Mommy's Haven. She stated last year they built a house for pregnant mothers in need. During this time, they have discovered that daycare is in limited supply with most facilities having waiting lists. She is seeking special use for the property at 1101 E. Commercial Ave., to open a daycare facility.

Mr. Frausto opened the public hearing, no remonstrances were heard.

Mr. Oman stated this property is zoned TC (Town Center) which is the zoning for our downtown district. This property has no access to the Town's public parking areas. The TC district does not require parking however, this facility will need to accommodate for parking. Mr. Oman stated he has spoken with the petitioner about this and suggested that the B1 parking standards be utilized for this facility. He is suggesting that this should be a condition on approval if the Board grants the special use. The other issue would be signage. The current sign is legal non-conforming. A new owner would change that status to illegal. He stated he has no problem with the current sign. It is a pole sign. They are not allowed anymore. He is suggested that if the sign is allowed to stay on the premise, he would like to see the pole painted. He also stated since this property is zoned TC the Board should also consider the hours of operation.

Discussion followed on the original zoning of the property. Mr. Frausto asked about rezoning the property. Mr. Oman stated no; he is suggesting conditions be put on the special use. Discussion followed on parking spaces needed. Attorney Bennett stated this would be a recommendation to the Town Council. She stated a site plan would be required for approval by the Plan Commission before any construction takes place. She stated Mr. Oman's conditions are viable and need to be considered. If the special use is granted without conditions the criteria falls to the TC zoning standards. Attorney Bennett discussed the existing pole sign. Attorney Bennett stated that the BZA has the authority to put conditions on the approval.

Attorney Bennett asked how many children she was planning on having at the facility. Mrs. Moldenhauer stated she is waiting for the civil engineer to let her know how many parking spaces she could fit on the property. She stated she has been discussing with the architect a square footage of 2700 feet add on. She thinks that with the square footage she

is looking at she could accommodate approximately 90 kids. She stated she also needs a playground area. Discussion followed on parking, accessory structures and play equipment. Attorney Bennett stated by applying the B1 standards it helps out the Town but it also gives the petitioner less restrictive zoning. Mr. Frausto stated that the sign is a safety issue, it blocks the view exiting Prairie onto Commercial Ave. Mr. Oman stated is it the sign or the bushes that are the hindrance? Mr. Frausto stated that he has gotten a lot of complaints on the sign and he would like it addressed. Discussion followed. Attorney Bennett asked the petitioner if her intention was to keep the sign. Mrs. Moldenhauer stated she was meeting with a sign company tomorrow. Mr. Frausto stated the sign needs to be higher. Mr. Oman said that would not work it is legal non-conforming. Discussion followed on the legal non-conforming status of the sign and the site plan approval. Mrs. Moldenhauer stated her proposed hours of operation are 6am-6pm. Mrs. Moldenhauer asking is fencing was allowed in the front yard. Discussion followed on fencing with the discussion on the parameters of what is allowed for a corner lot. Mrs. Moldenhauer stated she was meeting with a code compliance specialist for daycares next week and one of the items to be addressed was what the fencing requirement is for a daycare.

Mr. Konradi made a motion to send a favorable recommendation to the Town Council with the conditions that:

- parking are addressed
- existing pole sign is addressed
- hours of operation are addressed
- site plan approved by the Plan Commission, seconded by Mr. Farrellbegg and carried with a roll call vote of all ayes.

Mr. Farrellbegg 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.

PUBLIC COMMENT: NONE

ANNOUNCEMENTS: Mr. Frausto stated the next regularly scheduled meeting is on July 9th, 2020 at 6pm.

ADJOURNMENT:

With no further comments or questions, Mr. Farrellbegg made a motion to adjourn the meeting at 6:45pm, seconded by Mr. Lawrence and carried with a voice vote of all ayes.

Manny Frausto, President

Thomas Cogdill, Secretary