

Town of Griffith
Board of Zoning Appeals
June 15, 2020

The Board of Zoning Appeals meeting was called to order at 6:00p.m. by Chairman John Mowery with members, Carl Kus, Ray Elbaor, and Tom Wichlinski. Also present was Attorney; Bob Schwerd, Town Council Liaison; Larry Ballah, and Building Commissioner; Steve McDermott. Absent was member Theresa Rivas.

The minutes from the May 18, 2020 meeting were approved as written.

OLD BUSINESS

Item #1 Bruder's Inc.; 1827 W. Glen Park Ave. Public Hearing to have outdoor dining and customer use. Property is currently zoned B3; General Business.

Mr. Todor Trivunovic appeared before the Board. Mr. Mowery asked if the legal requirements were in order. Attorney Schwerd stated all documents were in order. Mr. Mowery then opened up the Public Hearing portion of the meeting. Mr. Trivunovic stated he is asking permission to have an enclosed outdoor dining area with landscape at the west of the business' front entrance. Mr. Mowery asked if the structure will be affixed to the building. Mr. Trivunovic stated it will be. He then distributed renderings of the proposal. Mr. Mowery asked how big it will be. Mr. Wichlinski stated the drawings show it at 22'5" deep x 25' wide. Mr. Trivunovic stated the width might be a little smaller than shown. Mr. Mowery asked how many tables there would be. Mr. Trivunovic stated the interior of that space is about 8x10. Mr. Wichlinski asked if it will only be used for dining. Mr. Trivunovic stated they will have dining and possibly a dart board. Mr. Mowery asked if the windows are screened during the summer months. Mr. Trivunovic stated the vinyl windows can open. Mr. Wichlinski asked if the space is heated. Mr. Trivunovic stated it is not, it is only a 3 season room.

Ms. Ellen Miller; 1724 W Ash St. appeared before the Board with concerns about loud music and business hours.

Mr. Trivunovic stated he will not have any music, but there are plans to install 4 t.v.'s. Business hours will be until 3:00a.m., but will shut down earlier if they are not busy. Mr. Wichlinski asked how far this business is from Shades of Time (located in the same mall area). Mr. Trivunovic stated he is 3 businesses away from them. Mr. Wichlinski stated it appears to be 150' away.

Ms. Holly McCain; 1910 W Ash St. appeared before the Board with concerns about loud music, and the lights on the back of the building shining onto the residents' properties.

Ms. Suzanne Benak; 1856 W. Ash St. appeared before the Board with concerns about noise.

Ms. Colleen L. Hansen; 1918 W. Ash St. appeared before the Board with concerns about noise.

Mr. Mike Pajdzik; 1900 W. Ash St. appeared before the Board with concerns about noise.

Ms. Joanne Wandell; 1840 W. Ash St. appeared before the Board with concerns about noise.

Mr. Wichlinski asked if Mr. Trivunovic is a new business owner there. Mr. Trivunovic stated he has owned the business since 2003. Mr. Wichlinski asked about leaving the back door open during business hours. Mr. Trivunovic stated they have done extensive renovations, and the issues with circulation have been addressed, there will not be a need for that any longer and there will not be any smoking allowed. Mr. Mowery asked Mr. Trivunovic if he has ever been approached by homeowners about noise or other concerns. Mr. Trivunovic stated he is aware that 2 residents have previously complained to police and the property owner. Mr. Kus asked if he has ever received citations for noise. Mr. Trivunovic stated he has in the past. Mr. Kus stated he is also concerned with noise and suggested the Board consider regulations on business hours. Mr. Wichlinski asked if there are plans for music in the new addition. Mr. Trivunovic stated there are no plans for music, but they are planning to install 4 t.v.'s. Mr. Wichlinski stated the BZA has in the past, heard similar requests for outdoor dining and the Board has included stipulations. No further remonstrators appeared before the Board. Mr. Mowery then closed the Public Hearing portion of the meeting. ***Mr. Elbaor made a favorable recommendation*** to the Town Council approving a request for outdoor dining and customer use to Bruder's Inc.; 127 W. Glen Park Ave. with the contingencies that the outdoor space is closed down at 11:00 p.m. Sunday's thru Thursday's and 12:00a.m. Friday and Saturday's. There shall be no live music outdoors, no speakers, only t.v.'s are allowed. Attorney Schwerd stated some remonstrators spoke about the noise created by trash removal and occasional parking at the rear of the building. Attorney Schwerd asked if the motion will include restrictions on the time of day trash can be disposed of, or rear parking. Mr. Elbaor included in his motion that trash should not be taken out to the dumpster past 12:00 a.m. and there shall be no patron parking at the rear of the building. ***Mr. Kus seconded the motion. All favored, motion carried. Mr. Wichlinski made a motion*** allowing Attorney Schwerd to prepare findings of fact and Chairman Mowery shall sign them on behalf of the Board once completed. ***Motion seconded by Mr. Kus. All favored, motion carried.***

Item #2 Rosalinda Villarreal; 804 W. Miller St. Public Hearing on a Developmental Variance of a rear yard setback.

Mrs. Villarreal appeared before the Board. Mr. Mowery asked if the legal requirements were in order. Attorney Schwerd stated all legal documents were in order. Mr. Mowery then opened up the Public Hearing portion of the meeting.

Mr. Ken Hathaway; 336 N. Ernest Ave. appeared before the Board to inquire if his parkway will be effected by any heavy machinery brought in. Mr. Dave Galocy; petitioner's home builder appeared and stated that all machinery will be in dropped at curbside in front of the Villarreal's property.

Mrs. Joyce Hathaway; 336 N. Ernest. appeared before the Board to inquire what type of home will be built. Mrs. Villarreal stated she plans to build a 2 story home.

No further remonstrators appeared before the Board. Mr. Mowery then closed the Public Hearing portion of the meeting. *Mr. Wichlinski made a motion* granting a 3' rear yard setback on a Developmental Variance to Rosalinda Villarreal; 804 W. Miller St. *Motion was seconded by Mr. Kus. All favored, motion carried.*

Item #3 DKG Homes, Inc. by David Galocy. 1248 Glenwood Ave. (three lots). Public Hearing on a Developmental Variances on lot widths.

Mr. David Galocy appeared before the Board. Mr. Mowery asked if the legal requirements were in order. Attorney Schwerd stated all legal documents were in order. Mr. Mowery then opened up the Public Hearing portion of the meeting. Mr. Galocy stated the lots widths proposed are 55' wide.

Ms. Kathy Zaragoza; 1222 N Glenwood Ave. appeared before the Board to state her concerns with current water drainage issues and if the addition of new homes will increase the problem or if the developer will address the issues and correct them. Mr. Galocy stated the properties will be properly graded and they will tie the sump into the town sewers. Mr. Wichlinski asked if the problem is a sewer issue or drainage. Mr. Galocy believes the issue to be with the sewers. Mr. Mowery asked Mr. McDermott for his input on the water issue. Mr. McDermott stated the lots in question are buildable lots, but he will have to look into the drainage issue. Mr. Galocy stated he has done soil testing on the land and it is mostly sand.

Ms. Edra Parker; 1313 N Oakwood appeared before the Board questioning the address given and agreed that there are water issues that need to be dealt with.

Ms. Suzanne Gillette; 1236 N. Glenwood appeared before the Board stating her concerns with water and mud. Mr. Galocy stated the lots will be cleared and cut down as he progresses with the properties. They will sit 2' above what they currently are, which will be similar to what is existing in the neighborhood.

Ms. Jane Golubiewski; 1246 N. Glenwood appeared before the Board questing if the trees will be removed. Mr. Galocy stated they will be.

Mr. Darrin Robbins; 1220 N Wheeler appeared before the Board stating that the storm dead ends where water issue is and installing a drain cover may help with the water between Glenwood and Wheeler.

No further remonstrators appeared before the Board. Mr. Mowery then closed the Public Hearing portion of the meeting. *Mr. Wichlinski made a motion* granting 15' Developmental Variances for all three of the lot widths to DKG Homes, Inc. by David Galocy for the properties at 1248 Glenwood Ave. *Motion was seconded by Mr. Elbaor. All favored, motion carried.*

NEW BUSINESS

Item #1 Araceli & Daniel Kuipers; 816 W. Miller St. Requesting permission for a Public Hearing on a Developmental Variance of a rear yard setback.

Mrs. Kuipers appeared before the Board. Mrs. Kuipers stated she has recently purchased the lot next to the second person listed on tonight's agenda (Villarreal). Mr. Kuipers will also be requesting a Developmental Variance on a 3' rear yard setback. *Mr. Wichlinski made a motion* granting permission to Araceli & Daniel Kuipers; 816 W. Miller St. to advertise for a Public Hearing on a Developmental Variance. *Motion was seconded by Mr. Elbaor. All favored, motion carried.*

Item #2 Crossroads Young Men's Christian Association, Inc.; 600 N Jay & 1345 N. Broad St. by Attorney James Weiser. Public Hearing on a Use Variance to operate a not-for-profit preschool, daycare, infant and young child care, with a fitness center.

THIS ITEM HAS BEEN POSTPONED TO THE JULY 20, 2020 MEETING.

Item #3 Crossroads Young Men's Christian Association, Inc.; 600 N Jay & 1345 N Broad St. by Attorney James Weiser. Public Hearing on a Use Variance to operate a not-for-profit business on N. Broad St.

THIS ITEM HAS BEEN POSTPONED TO THE JULY 20, 2020 MEETING.

COMMUNICATIONS

None.

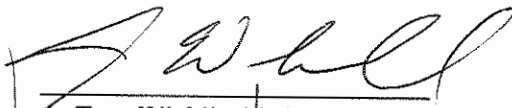
BILLS AND EXPENDITURES


Mr. Wichlinski made a motion to approve a claim for the meeting held May 18, 2020 in the amount of \$35.00 *seconded by Mr. Kus. All favored, motion carried.*

ADJOURNMENT

There being no further business to come before the Board of Zoning Appeals, a motion was made and seconded to adjourn. The meeting was adjourned at 7:13p.m.

Respectfully Submitted


Tom Wichlinski, Secretary


Veronica L. Horka, Recording Secretary

**TOWN OF GRIFFITH
BOARD OF ZONING APPEALS**

APPLICATION OF BRUDER'S INC, 1827 W. GLEN PARK AVE., FOR A VARIANCE OF
USE TO HAVE OUTDOOR DINING AND CUSTOMER USE, IN A ZONED B-3; GENERAL
BUSINESS DISTRICT

FINDINGS OF FACT

1. On June 15, 2020 Mr. Todor Trivunovic on behalf of Bruder's Inc, appeared before the Board for a Public Hearing on a Variance of Use Application to have outdoor dining and customer use. The property is currently zoned B-3, General Business. Attorney Robert Schwerd advised the Board that the Petitioner had complied with all of the legal notice requirements. Chairman, Mr. Mowery, opened the Public Hearing.
2. The meeting was then opened to remonstrators.
Ms. Holly McCain; 1910 W Ash St. appeared before the Board with concerns about loud music, and the lights on the back of the building shining onto the residents' properties.
Ms. Suzanne Benak; 1856 W. Ash St. appeared before the Board with concerns about noise.
Ms. Colleen L. Hansen; 1918 W. Ash St. appeared before the Board with concerns about noise.
Mr. Mike Pajdzik; 1900 W. Ash St. appeared before the Board with concerns about noise.
Ms. Joanne Wandell; 1840 W. Ash St. appeared before the Board with concerns about noise.
Mr. Wichlinski asked if Mr. Trivunovic is a new business owner there. Mr. Trivunovic stated he has owned the business since 2003. Mr. Wichlinski asked about leaving the back door open during business hours. Mr. Trivunovic stated they have done extensive renovations, and the issues with circulation have been addressed, there will not be a need for that any longer and there will not be any smoking allowed. Mr. Mowery asked Mr. Trivunovic if he has ever been approached by homeowners about noise or other concerns. Mr. Trivunovic stated he is aware that 2 residents have previously complained to police and the property owner. Mr. Kus asked if he has ever received citations for noise. Mr. Trivunovic stated he has in the past. Mr. Kus stated he is also concerned with noise and suggested the Board consider regulations on business hours. Mr. Wichlinski asked if there are plans for music in the new addition. Mr. Trivunovic stated there are no plans for music, but they are planning to install 4 t.v.'s. Mr. Wichlinski stated the BZA has in the past, heard similar requests for outdoor dining and the Board has included stipulations. No further remonstrators appeared before the Board.
3. There being no further remonstrators, the Chairman then closed the hearing to public comment.
4. To obtain a Use Variance, petitioners are required to show the following as set out in the Town Code of the Town of Griffith §86-283 and Indiana Code §36-7-4-918.4:

- a. The approval will not be injurious to the public health, safety, morals, and general welfare of the community;
 - b. The use and value of the area adjacent to the property including in the variance will not be affected in a substantially adverse manner;
 - c. The need for the variance arises from some condition peculiar to the property involved;
 - d. The strict application of the terms of this chapter will constitute an unnecessary hardship if applied to the property for which the variance is sought; and
 - e. The approval does not interfere substantially with the Master Plan.
5. As set out in the Town Code of the Town of Griffith §86-283, the Board must make a recommendation to the Town Council by issuing a favorable, unfavorable, or no recommendation to grant the requested Special Use Variance. Board Member Mr. Elbaor moved for a **FAVORABLE** recommendation to the Town Council, with the following conditions:

- a. That the outdoor space is closed down at 11:00 p.m. Sunday's thru Thursday's and midnight Friday and Saturday's.
- b. There shall be no recorded or live music outdoors, no speakers, only t.v.'s are allowed.
- c. Trash shall not be removed from the building and placed in or near the dumpster after midnight.
- d. There shall be no patron parking in the rear of the building.

The Motion was seconded by Board Member, Mr. Kus.

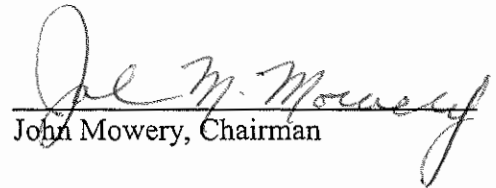
6. A vote was taken and Motion was passed on this 15th day of June, 2020.
7. Mr. Wichlinski made a Motion that the following findings of fact be adopted. The Motion was seconded by Mr. Kus. A vote was taken and the Motion carried.
- a. The Petitioner has shown that approval of a Use Variance allowing for the operation of a business outside of an enclosed building on the property located at 1827 W. Glen Park Ave., Griffith, Indiana in a B-3 Zoning District **WILL NOT** be injurious to the public health, safety, morals, and general welfare of the Griffith community because the restrictionS placed on the Petitioner and agreed to by the Petitioner and the fact this Variance will be revoked if Petitioner violates the restrictions.
 - b. The Petitioner has shown that the use and value of the area adjacent to the property that is the subject of this Use Variance **WILL NOT** be affected in a substantially adverse manner because the restrictions placed on the Petitioner and agreed to by the
-

Petitioner and the fact this Variance will be revoked if Petitioner violates the restrictions.

- c. The Petitioner has shown that the need for a Use Variance **DOES** arise from some condition that is peculiar to the property; because the taste of customers is changing and now customers are wanting to be outside during warm weather and therefore requires the business to operate outside of the enclosed building.
- e. The Petitioner has shown that a strict application of the Town Code of the Town of Griffith § 86-104(c), which governs B-3 Zoning Districts, **WILL** constitute an unnecessary hardship if applied to the property for which the Use Variance is sought because the property needs outdoor space to accommodate the wishes of its customers.
- f. The Petitioner has shown that approval of the Special Use Variance **does not** substantially interfere with the Master Plan since the operation of a business outside of an enclosed business is merely incidental to the uses allowed in a B-3 Zoning District by the Master Plan and in furtherance of the Town's goal of having a vibrant community.

These Findings of Fact are approved and adopted this 20th day of July, 2020.

TOWN OF GRIFFITH
BOARD OF ZONING APPEALS


John Mowery, Chairman

**TOWN OF GRIFFITH
BOARD OF ZONING APPEALS**

APPLICATION OF ROSALINDA VILLARREAL REQUESTING A DEVELOPMENTAL
VARIANCE FOR A RESIDENTIAL LOT IN AN R-2 DISTRICT LOCATED AT 804 W.
MILLER ST. GRIFFITH, INDIANA.

FINDINGS OF FACT

1. On June 15, 2020, Rosalinda Villarreal, (the "Petitioner") appeared before the Board for a Public Hearing on her Petition for a Variance requesting a Developmental Variance for a 3 foot reduction from the 35 foot rear setback requirement in an R-2 Zoning District. The house plans specifications are 40 feet deep causing the need for a Developmental Variance of 3 feet thereby permitting a 32 foot setback. Attorney Schwerd advised the Board all legal notices were in order.

2. After hearing Petitioner's plans for the property and her request for the 3 foot variance on the rear setback line Chairman, Mr. Mowery, opened the Public Hearing to remonstrators.

Mr. Ken Hathaway; 336 N. Ernest Ave. appeared before the Board to inquire if his parkway will be effected by any heavy machinery brought in. Mr. Dave Galocy; petitioner's home builder appeared and stated that all machinery will be dropped at curbside in front of the Villarreal's property.

Mrs. Joyce Hathaway; 336 N. Ernest. appeared before the Board to inquire what type of home will be built. Mrs. Villarreal stated she plans to build a 2 story home.

3. No further remonstrators appeared before the Board, the Chairman, Mr. Mowery, closed the hearing to public comment.
4. To obtain a Developmental Variance, petitioners are required to show, as set out in the Town Code of the Town Of Griffith § 86-284 and under Indiana Code §36-7-4-918.5, the following:
 - a. The approval will not be injurious to the public health, safety, morals, and general welfare of the community;
 - b. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner;
 - c. The strict application of the terms of the Zoning Code will result in practical difficulties in the use of the property.
5. The Board then made the following Findings of Fact:
 - a. It has been shown approval of the Developmental Variance allowing a reduced rear yard setback of 3 feet and **WILL NOT** be injurious to the public health,

safety, and general welfare of the community because it is a minor reductions of the setback requirements.

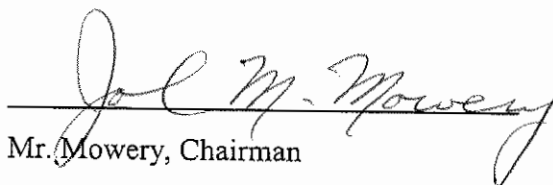
- b. It has been shown that the use and value of the area adjacent to the property included in the Variance **WILL NOT** be affected in a substantially adverse manner because the granting of a reduction of the 3 foot setback reduction will not be noticeable.
- c. It has been shown that the strict application of the Ordinance **WILL** result in practical difficulties in the use of the property because the reduction is so minor to not grant the Variance, would result in a smaller house being built on the lot, which would not be in the interest of the public.

A Motion was made by Mr. Wichlinski to grant the rear 35 foot setback to be reduced by 3 feet to 32 feet. The Motion was seconded by Board Member, Mr. Kus. A vote was taken and the Motion passed this 15th day of June, 2020.

These Findings of Fact are approved and adopted this 20th day of July, 2020.

TOWN OF GRIFFITH

BOARD OF ZONING APPEALS


Mr. Mowery, Chairman

**TOWN OF GRIFFITH
BOARD OF ZONING APPEALS**

APPLICATION OF DKG HOMES, INC, BY DAVID GALOCY, REQUESTING A
DEVELOPMENTAL VARIANCE REDUCING THE ORDINANCE REQUIREMENT OF 70
FOOT WIDE RESIDENTIAL LOTS IN A R-2 DISTRICT DOWN TO 55 FOOT LOTS.

FINDINGS OF FACT

1. On June 15, 2020, DKG Homes, Inc., by David Galocy, (the "Petitioner") appeared before the Board for a Public Hearing on his Petition for a Variance requesting a Developmental Variance for a proposed lot width of 55 feet for three (3) proposed lots, instead of the ordinance requirement of 70 feet. Attorney Schwerd advised the Board all legal notices were in order.
2. After hearing Petitioner's plans for the property and his request for a proposed lot width of 55 feet for three (3) proposed lots, instead of the ordinance requirement of 70 feet, Chairman, Mr. Mowery, opened the Public Hearing to remonstrators.

Ms. Kathy Zaragoza; 1222 N Glenwood Ave. appeared before the Board to state her concerns with current water drainage issues and if the addition of new homes will increase the problem or if the developer will address the issues and correct them. Mr. Galocy stated the properties will be properly graded and they will tie the sump into the town sewers. Mr. Wichlinski asked if the problem is a sewer issue or drainage. Mr. Galocy believes the issue to be with the sewers. Mr. Mowery asked Mr. McDermott for his input on the water issue. Mr. McDermott stated the lots in question are buildable lots, but he will have to look into the drainage issue. Mr. Galocy stated he has done soil testing on the land and it is mostly sand.

Ms. Edra Parker; 1313 N Oakwood appeared before the Board questioning the address given and agreed that there are water issues that need to be dealt with.

Ms. Suzanne Gillette; 1236 N. Glenwood appeared before the Board stating her concerns with water and mud. Mr. Galocy stated the lots will be cleared and cut down as he progresses with the properties. They will sit 2' above what they currently are, which will be similar to what is existing in the neighborhood.

Ms. Jane Golubiewski; 1246 N. Glenwood appeared before the Board questing if the trees will be removed. Mr. Galocy stated they will be.

Mr. Darrin Robbins; 1220 N Wheeler appeared before the Board stating that the storm dead ends where water issue is and installing a drain cover may help with the water between Glenwood and Wheeler.

3. No further remonstrators appeared before the Board, the Chairman, Mr. Mowery, closed the hearing to public comment.

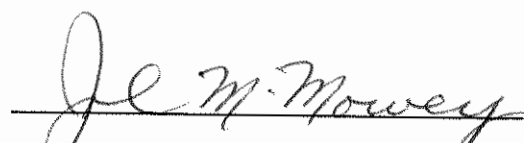
4. To obtain a Developmental Variance, petitioners are required to show, as set out in the Town Code of the Town Of Griffith § 86-284 and under Indiana Code §36-7-4-918.5, the following:
 - a. The approval will not be injurious to the public health, safety, morals, and general welfare of the community;
 - b. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner;
 - c. The strict application of the terms of the Zoning Code will result in practical difficulties in the use of the property.
5. The Board then made the following Findings of Fact:
 - a. It has been shown approval of the Developmental Variance allowing a 15 foot Developmental Variances for all three of the lot widths to DKG Homes, Inc. for the properties at 1248 Glenwood Ave. **WILL NOT** be injurious to the public health, safety, and general welfare of the community because 55 foot lots would be consistent with the neighborhood.
 - b. It has been shown that the use and value of the area adjacent to the property included in the Variance **WILL NOT** be affected in a substantially adverse manner because 55 foot lots are consistent with the lot size in the neighborhood and will not decrease the property value of adjacent homes, nor lead to additional congestion of the neighborhood.
 - c. It has been shown that the strict application of the Ordinance **WILL** result in practical difficulties in the use of the property because the property can not be economically developed with out the reduction of the lot sizes.

A Motion was made by Mr. Wichlinski to grant the 15 foot Developmental Variances for all three of the lot widths to DKG Homes, Inc. for the properties at 1248 Glenwood Ave., thereby reducing the lot widths to 55 feet each. The Motion was seconded by Board Member, Mr. Elbaor. A vote was taken and the Motion passed this 15th day of June, 2020.

These Findings of Fact are approved and adopted this 20th day of July, 2020.

TOWN OF GRIFFITH

BOARD OF ZONING APPEALS


Mr. Mowery, Chairman