

**HIGHLAND BOARD OF ZONING APPEALS**  
**Minutes of the Meeting of**  
**July 27, 2022**

The Highland Board of Zoning Appeals met in the meeting room of the Highland Municipal Building, 3333 Ridge Road, Highland, IN 46322 on July 27, 2022. Mrs. Murovic called the meeting to order at 6:30 p.m. The meeting opened with the Pledge of Allegiance led by Mr. Martini.

**ROLL CALL:** Present were Board Members Mr. Thomas, Mr. Martini, Mr. Helms and Mrs. Murovic. Also present were Building Commissioner/Zoning Administrator, Mr. Ken Mika, BZA Town Attorney, Mr. John Reed and Town Council Liaison Toya Smith. Absent was Mr. Grzymski.

**MINUTES:** The Minutes of the June 22nd, 2022 meeting were approved as posted.

**ANNOUNCEMENTS:** The next meeting of the Board of Zoning Appeals is to be held on August 24th, 2022.

**COMMUNICATIONS:** None

**Old Business: Approval of Findings of Fact for Sursee Improvements, LLC, 565 Taxter Road, 4<sup>th</sup> Floor, Elmsford, NY,** requesting a Use Variance for a Personal Storage Facility at 8401 Indianapolis Boulevard. {HMC 18.45.030} Permitted uses in a B-3 District do not include Storage Facilities.

Mr. Helms motioned to approve the Findings of Fact for Sursee Improvements, LLC 8401 Ind. Blvd. Mr. Martini seconded and the motion passed with a 4 – 0 roll call vote.

**Old Business: Approval of Findings of Fact for Price Point Builders, PO Box 1343, Crown Point, IN,** requesting a Variance at the location of 2741 41<sup>st</sup> Street, Highland, IN 46322 for minimum lot size for SFR regarding lot square footage, lot width and reduced main floor area for a 2-story home. {HMC 18.15.060} (C) (1) Minimum Lot Size in an R-1 Residence District. Minimum lot size requirements for an R-1 district are as follows: Every one-family detached dwelling hereafter erected and every transitional use permitted in this zoning district hereafter established shall be on a zoning lot having a minimum area of 7,200 square feet, a minimum width of 60 feet at the building line and a minimum lot depth of 120 feet. A lot of record existing on the effective date of the ordinance codified in this title which is less than 7,200 square feet in the area, less than 60 feet in width, or 120 feet in depth, may only be improved by a variance for the Board of Zoning Appeals. {HMC 18.15.060} (D) Minimum Floor Area in an R-1 Residence District. No dwelling may be established, erected, or changed so that its floor area, exclusive of basements, terraces, unenclosed porches and garages in square feet is less than prescribed below. Two Story: 1,400 square feet (first floor minimum: 1,000 sq. ft.).

Mr. Thomas motioned to approve the Findings of Fact for Price Point Builders at 2741 41<sup>st</sup> Street. Mr. Helms seconded and the motion passed with a 3 – 1 roll call vote.

**Old Business: Approval of Findings of Fact for Misbah Suboh, 3441 Grand Boulevard, Highland, IN,** requesting a Variance to build a fence beyond the building 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.

Mr. Thomas motioned to approve the Findings of Fact for Misbah Suboh at 3441 Grand Boulevard. Mr. Helms seconded and the motion passed with a 4 – 0 roll call vote.

**New Business: Public Hearing for Manuel Sahagun, 3147 Glenwood Street, Highland, IN,** requesting a Variance to build a fence beyond the building 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

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Mrs. Murovic confirmed with Mr. Reed that the Proof of Publication was published correctly. Mr. Reed stated that it was and Mr. Mika confirmed the sign was posted correctly and in a timely manner.

Mr. Manuel Sahagun came forward, introduced himself, stated his address and that he would be representing himself at his hearing. He explained that he was requesting a Variance for a fence to be placed beyond the building line of his home. He stated that when he bought the home, the size of the yard was a big factor with him choosing the home for his family. He continued that he would lose 950 square feet of his yard if he placed the fence where the ordinance required. He continued to say that the old fence was leaning badly and needed to be replaced because they felt that it was a safety issue. He explained that he had chosen a contractor to install the fence and the contractor had told him that they had obtained a permit with the Town to do the work and that it was all taken care of. He went on to say that he didn't find out until the contractor had actually installed the fence and was almost finished, that the contractor had not renewed his license with the Town or obtained a permit to do the work. He found this out when the Town's Code Enforcement Officer stopped by and issued the contractor a Stop Work Order, because they did not have a permit, or a current contractor's license. He also pointed out that his property was right next to a public park and parking lot. He added that the fence was an important separation between the public property and his private property. Without the fence, the public would have a difficult time staying off of his property during events such as the 4<sup>th</sup> of July fireworks and similar occasions. Mr. Sahagun went on to say that the size of the yard was very important for them because their youngest daughter had a medical condition which prevents her from sweating, so their pool is an important part of their yard in order to keep her cool. They need as much area around the pool as possible, so the children will have room to run around and play.

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

Mr. Helms pointed out that the Board had never approved a fence variance request with the fence being placed right at the sidewalk. It was usually contingent upon a setback of anywhere from 3' – 6' and often involved 45 degree angles at the driveway, due to safety concerns. Mr. Martini stated he felt the petitioner should be allowed to install the fence with a 2' setback, along with the 45 degree angles at the driveway because he could recall instances in the past where petitioners had been granted setbacks of 2'. Mrs. Murovic added that the petitions were reviewed case by case and most of the Board members were concerned about the fact that there was a public parking lot butting up to the property and

there may be more cars in the area, so safety was a large concern with this particular property. Mr. Sahagun stated that he felt a 4' setback would be significantly better than the 25' the ordinance would require.

Mr. Thomas motioned that the Board grant the fence variance, contingent upon the fence being setback from the sidewalk 4' and that there be two 45 degree angle cut outs at the larger driveway for added visibility. The smaller driveway could keep the gate, setback 4' and would not require additional 45 degree angle cut outs.

Mr. Helms seconded and the motion passed with a 3 – 1 roll call vote.

**New Business: Public Hearing for RPS Capital Investments, LLC, c/o Jared Tauber, 1415 Eagle Ridge Drive, Schererville, IN,** requesting a Use Variance to remodel a vacant building into an auto body collision repair center at 8333 – 8357 Indianapolis Boulevard. {HMC 18.55.050} (C) (d) Permitted Uses Restricted in Indianapolis Boulevard Zoning Overlay District: (d) Auto Repair Centers.

Mrs. Murovic asked Mr. Reed if the Proof of Publication was in order. Mr. Reed confirmed that it was and Mr. Mika confirmed the sign was posted correctly.

Mr. Jared Tauber, representing the petitioner RPS Capital Investments, LLC, introduced himself, stated his address. He continued to hand out a packet to each of the Board members, presenting the petition. He added that the petitioner had over 65 years of successful real estate experience and that they had purchased a few of the buildings just north of the old Ultra property approximately 2 years ago. He added that he felt RPS had done a great job of improving the properties since they had purchased the buildings. They now have an intent to purchase this additional building slightly south of the other properties, which has been vacant for nearly 2 years, in the hopes of obtaining the Use Variance so it could house an Auto Body Collision Repair Center. Mr. Tauber went on to say that RPS had a contract to purchase this building from DLC Management, the building's current owner; however, it is contingent upon their ability to get a tenant that has expressed interest in the space. Mr. Tauber then stated that they had found their tenant, who would be Caliber Collision. He went on to explain all the attributes that Caliber Collision would offer, including that they were a very desirable tenant in that they were America's leading automotive services company and had grown to over 1,400 locations nationwide. All the service work would be done inside the building and the building would be renovated, inside and out, at an estimated cost of 1.5 – 2 million dollars. He continued to say that the center would not adversely affect neighboring property owners, would bring more traffic to the area, would create more jobs for the area and the Town and it would increase property sales tax revenue for the Town.

Mrs. Murovic opened the meeting to the public for discussion. Mr. John Werner, 9200 Spring Street, asked if there would be an environmental impact to the area, such as fumes or gases. The RPS representative, Mr. Travis Walker, 2915 W. Bayshore Ct., Tampa, FL, responded that there would be no oil changing or transmission repairs and that it would mostly be panel repairs and they would be done inside the building.

Mrs. Murovic closed the meeting to the public and brought the discussion back to the Board.

Mr. Martini asked if there would be any painting done at the center, since it was collision repair. The petitioner responded that there would painting, but it would be enclosed in a paint booth and that booth would be inside the building. Mr. Mika pointed out that any operation such as this presented environmental concerns that would be addressed through code standards. Paint booths would have to have adequate ventilation and their own suppression system within. He continued that other concerns would be oil separators both inside the building and outside, if in fact there are going to be cars stored outside. He concluded that all of these issues would have to conform to the Town Code and pointed out that this proposed use was light industrial and it was being introduced into an area that is largely retail. Some other discussion ensued regarding noise concerns. Mr. Tauber pointed out that there had been a sign posted on the property for over 10 days advertising tonight's meeting and they had not heard a thing from any neighboring property owners or anyone else in the Town, expressing any concerns or questions. He also pointed out that the building could sit for many years vacant if this use is not approved. The petitioner representatives stated they felt the business would beautify the property considerably and would be a great addition to the Town.

Mr. Reed asked if the petitioners would have any objection that there be a stipulation that any cars awaiting repair would be parked in the rear of the property. The petitioner representatives stated that was their plan, they would be parked in the rear in a fenced in area. Mr. Thomas asked what the hours of operation would be. They responded that the hours would be 7:30 a.m. to 5:30 p.m.

Mr. Helms motioned that the Board give a favorable recommendation to the Town Council, with the condition that any damaged cars waiting for repair be parked in the back of the building and that the Use Variance be for Caliber Collision only and no other future tenants should Caliber Collision leave the property.

Mr. Martini seconded and the motion passed unanimously with a 4 -0 roll call vote.

**New Business:** Public Hearing for Garber Realty, Inc., c/o Jared Tauber, 1415 Eagle Ridge Drive, Schererville, IN, requesting a Use Variance for a portion of vacant land to be developed into a parking lot at the location of 9227 US41/9224-92 Spring Street/9232 Spring Street. {HMC 18.55.050} (C) (u) Permitted Uses Restricted in Indianapolis Boulevard Zoning Overlay District. (u) Long-Term surface parking or off-site parking. {HMC 18.20.020} Permitted Uses in R-2 Single and Two Family Residence District. {HMC 18.45.030} Permitted Uses in B-3 General Business District.

Mrs. Murovic asked Mr. Reed if the Proof of Publication was in order. Mr. Reed confirmed that it was and Mr. Mika confirmed the sign was posted correctly. Mr. Jared Tauber, 1415 Eagle Ridge Drive, Schererville, IN, introduced himself and stated he would be representing Garber Realty during this petition. Mr. Craig Blackledge, 9700 Indianapolis Blvd., Highland, IN one of the owners of Garber Chevrolet, was also present to contribute to the hearing. Mr. Tauber stated they were present this evening to

request a Use Variance to install an off-site, over flow parking lot for Garber on one of 3 lots that Garber Realty was under contract to purchase. The lot located at 9227 Indianapolis, which was in a B-3 General Business District, would become the parking lot and the other two lots on Spring Street would be subdivided and used to build two single family homes, although the property was zoned as R-2, which was for either single or two family residences. He continued that the commercial lot was in a floodway, which made it virtually impossible to build any structure on and that was the reason these lots had remained vacant for quite some time. Mr. George Georgeff, 2251 Oakdale Avenue, Highland, IN, confirmed that the lots had been for sale for at least 5 years and added that the two residential lots had not been sold either, because the current owners refused to separate the 3 lots and the commercial property had to be included in the sale of the two residential lots as a whole. Mr. Tauber then stated that they were very cognizant of the fact that the nearby residents on Spring Street would not want lights from the parking lot shining into their properties at night and that they had measured the distance the lights would be from the nearest homes would be 132'. He added that there had been a problem in the past with another car dealership adding a parking lot which had nearby homes and the lights became a problem for those residents. In that case, there had only been a 20' to 30' distance from the homes to the lights and he pointed out that the 132' was a very significant distance, so there would not be the same problems in this situation. He continued that the parking lot would be attractive, with extensive landscaping and privacy fencing installed along the back to separate the lot from the nearby Spring Street residences. He then explained that the lighting should not bleed into the neighboring properties past a very small portions of the back of their lots, which was approximately 20 to 30 feet and was shown on a grid he provided in the presentation packet. Mr. Tauber explained that if they were to get a favorable recommendation for the Use Variance at this meeting, it would only be the first step and there would be much work ahead, including with IDEM regarding the floodway and the Plan Commission for rezoning and sub-dividing the property. He then stated that if they were to get an unfavorable recommendation from this Board, they were done. He added that Garber had outgrown their site at US41 and 45<sup>th</sup> Streets, which is why they were seeking this Use Variance. Building on this land was not possible, due to the Spring Street ditch running under it. A parking lot or similar use is all that it could be used for. He went on to say that this use would actually have the least impact on neighboring properties and would impact them much less than another building or business would. It would be attractive and there would be no additional noise or adverse effect to the area or neighboring properties. Mr. Tauber also pointed out that the improvements and landscaping would be a tax benefit to the Town and much more appealing than just a vacant lot remaining there, also the two new homes proposed to be built on Spring Street would be value adding.

Mrs. Murovic opened the meeting to the public for discussion. Mr. Bob Duran and Mrs. Laurie Duran, 9220 Spring Street asked about the distance of the parking lot from their home and the amount of lighting that will be shining on their property. Mr. Blackledge responded that the distance from the end of the lot to their home would be 132' and there would only be approximately 20' to 30' of the lighting bleeding to their property at the very end of their lot. He added that there would also be a 6' privacy fence at the bottom to further minimize any view of the lot and it would be much improved from what it

currently looks like, with landscaping. Laura Weber, 9231 Spring Street, asked about the proposed project's impact to property values and what steps will be taken to minimize the light pollution, because they had a bedroom that faces that direction. Mr. Blacklidge assured her that the lighting would have zero impact, due to the distance of her home from the lot and that the two new homes being built would increase the value of her home because the value of the two new homes would far exceed the value of what her home would sell for. Mr. Tauber added that the value of the homes in the whole neighborhood would increase with the two new homes rather than empty lots. Lastly, Laura Weber asked Mr. Blacklidge if he would live across the street from this proposed lot. Mr. Blacklidge replied that he absolutely would. Marc McKinley, 9128 Spring Street, asked if the two new proposed homes would definitely be single family homes and not duplexes. Mr. Blacklidge replied that they would only be single family homes. Vicky Crook, 9132 Spring Street, asked how far back, or north, they were going to go, as she was 5 houses north of the proposed project. Mr. Blacklidge explained that they were going to use the entire "L" shaped lot. Mr. Tauber again stated that there would be 132' from the end of the parking lot to the nearby residences on Spring Street. Mr. Ken Moore, 9208 Spring Street, asked about drainage for the parking lot. Mr. Mika replied that, as Mr. Tauber had stated, this was the first step only. The petitioners had much work to do after this and would have to comply with the Town's drainage ordinance and would be required to have a drainage pond, per ordinance. Bill Hamilton, 9218 Spring Street, asked how the petitioners will guarantee that the two Spring Street lots would only have single family homes built on them. Mr. Mika added that legally, the property was an R-2 that would allow both SFR's and duplexes. Mr. Reed suggested that there be a covenant proposed with the recommendation stating that fact. John Werner, 9200 Spring Street, asked if there would be any future use for this lot that would be different than simply a parking lot for cars. Mr. Blacklidge replied that this was all that was planned. Mr. Reed added that another covenant could be proposed that the lot use would be specific to passenger vehicles and that it could not house trucks or other vehicles or equipment. Rose Marie Werner, 9200 Spring Street asked if Mr. Blacklidge was going to live on their block. Mr. Blacklidge replied that he would certainly be happy to do that, as it was a very well taken care of street and he thought they deserved only well-built single family homes on the two Spring Street lots to match the rest of the street.

Mr. Helms motioned to grant a Favorable Recommendation to the Town Council, adding the following covenants: 1) The two Spring Street lots could house no duplexes and only single family homes could be built on them. 2) The commercial lot at 9227 US41 could not be used for trucks and could only be used to park passenger vehicles.

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

**BUSINESS FROM THE FLOOR: None**

**ADJOURNMENT: Motion: Mr. Martini Second: Mr. Thomas Time: 8:14 p.m.**