

HIGHLAND BOARD OF ZONING APPEALS
Minutes of the Meeting of
October 23, 2024

The Highland Board of Zoning Appeals met in the meeting room of the Highland Municipal Building, 3333 Ridge Road, Highland, IN 46322 on October 23rd, 2024. Commissioner Thomas called the meeting to order at 6:30 p.m. The meeting opened with the Pledge of Allegiance led by Commissioner Thomas.

ROLL CALL: Present were Commissioners Helms, Smith, Wright, and Thomas. Commissioner Murovic was absent. Also present were the Building Commissioner/ Zoning Administrator, Ken Mika, and the Town Attorney, John Reed.

MINUTES: The minutes of the August 28th, 2024, meeting were approved as posted.

ANNOUNCEMENTS: The date of the next Board of Zoning Appeals meeting will be December 11th, 2024, combining both November and December's meetings, due to the upcoming holidays.

COMMUNICATIONS: None.

Old Business: None.

New Business: Public Hearing for David and Marybeth Lubarski, 9022 Parrish Avenue, Highland, IN, requesting a Use Variance for a Tattoo Studio located within an existing business at 8830 Kennedy Avenue, Highland, IN 46322. {HMC 18.40.030} Listed Permitted Uses in a B-2 zoned district do not include Tattoo Studios.

Commissioner Thomas asked Mr. Reed if the Proof of Publication for this hearing had been advertised correctly. Mr. Reed confirmed that it had, and that it had been published on October 3rd, 2024. Mr. Mika also confirmed that the sign had been posted on the property correctly.

Commissioner Thomas then asked if there was anyone to present the petition for Use Variance. Mrs. Marybeth Lubarski stepped forward and introduced herself and her husband, David, and stated that they were the owners of the property at 8830 Kennedy Avenue. She then passed out a survey of the property to each of the Board Members. She proceeded to introduce the other family members present, which were her son David, who helped them out at the Art House, her son Zachary, who was the tattoo artist, and Zachary's wife, Brie. Marybeth continued to say that she and her husband had purchased the property in 2015 with the intent of turning it into an art gallery with an apartment upstairs for their three children, who were all artists. She continued to say that it has now become a gallery for the community, and it is used in quite a few different ways. She then asked that her son, David, continue to explain the ways the gallery, called Promise

You Art House, is used. David stated that they describe it as an eclectic hub for art and art services where they support local art groups. He added that they were part of the Highland Arts Council, the Highland Neighbors for Sustainability and other local environmental groups. They also host field trips for local youth activities, offer Boy Scout and Girl Scout badge activities, and they invite local musicians and artists often to support them and their art. They also have book readings and other community events. Mrs. Lubarski then explained that the reason they were here tonight was to ask that their son, Zachary, could join them at the Promise You Art House by using one of the rooms upstairs as a Tattoo Studio. She added that David had passed out a floor plan, showing where they would like to add the studio. She then asked her son, Zachary, to continue by explaining his plans. Zachary stated that his goal was to open up a private tattoo studio upstairs in the Promise You Art House. He added that it would be different than a typical tattoo studio in that he would be the only artist working in the studio and there would be only one client at a time. He stated he had been doing tattoos for seven years and that he kept everything very professional. His clients ranged from pastors to veterinarians and all types of different people. He said he strives to make people feel comfortable and welcome, which is in keeping with the Promise You Art House, so he'd like to join in on that with his expertise and what he does.

Commissioner Thomas opened the meeting to the public. Hearing no remonstrance, he closed the public meeting and brought the discussion back to the Board.

Commissioner Helms pointed out that because this hearing was a Use Variance request, the Board of Zoning Appeals would only be giving a recommendation to the Town Council this evening and would not actually be deciding the outcome. Mr. Reed added that this was a positive or negative recommendation and then the Town Council would take over the decision. Mrs. Lubarski asked if they would have to give the same presentation to the Town Council at their meeting. Mr. Reed stated that they would have the opportunity to make comments and answer questions at the Town Council meeting, but generally it would not be as involved as the BZA meeting presentation. Mr. Mika added that Attorney Reed would be preparing Findings of Fact that would have to be approved at the next BZA meeting on December 11th, then their Use Variance petition would be added to the next Town Council meeting, which would likely be the last meeting of December.

Commissioner Helms asked if the upper floor was used as a residential area any longer. Mrs. Lubarski said that it was not and hadn't been used in that way for a year. Mr. Mika asked if they had been using the upstairs for anything else as it pertains to their commercial business. Mrs. Lubarski replied that they were not using it for anything else at this time.

Commissioner Thomas asked Zachary if he was a licensed tattoo artist in the State of Indiana. Zachary replied that he was, through the licensed tattoo shops that he has been working at. In order to be on his own, he said he will have to go through the State to obtain a license for his shop, also. Commissioner Thomas asked them about the parking situation and where his future clients would be parking. Zachary responded that they

would be using the street parking and if the art house was closed, they would also be utilizing the driveway. Commissioner Thomas asked how many parking spaces they had now. Mr. Lubarski responded that they currently have 5 – 6 parking spaces on the driveway. Commissioner Wright asked if they were planning any build-out for the studio, or if they were keeping the space, which was a bedroom, the same as it is now. Mr. Lubarski replied that it would be kept the same, and that they didn't want to make any drastic changes in case it may need to be utilized as an apartment in the future. Mr. Mika stated, in this zoned district, this would be allowed legally.

Commissioner Thomas asked what the business hours would be for the tattoo studio. Zachary replied that they did vary, because of the fact that he had private sessions, but his typical hours were 10 – 4, or 10 – 6 p.m. He added that he liked to get home by six or earlier to spend the evening with his family; they had a two-year-old and another baby on the way. Commissioner Wright asked Mr. Mika if there was any additional fire protection that was required on the second floor. Mr. Mika replied that in this case, because they are changing from a residential use to a commercial use in a building that was built in 1910, they would have to hire a design professional (architect) to put plans together and file them with the State of Indiana, for what is referred to as a Construction Design Release because they are changing the occupancy from a residential use to a commercial use. Commissioner Wright asked if there would be anything else required from an ADA standpoint. Mr. Mika replied that they may have to get into that with the State when they apply for the CDR and that he couldn't say at this point that it wouldn't be necessary. The design professional would have to evaluate the whole project.

Mrs. Lubarski mentioned that they were lifelong residents of Highland and wanted to stay in Highland and make their business a family run business. She continued to say that the rental income would help them support the art house and they would, in turn, be helping out a family member by providing a space for his art and livelihood. She also pointed out that their hardship was the fact that they were not collecting the income from the apartment any longer, and the income from the rental of the studio would help them financially to keep the Promise You Art House thriving, and to pay their taxes.

Commissioner Helms motioned to give a favorable recommendation to the Town Council with the conditions/restrictions that there be standard hours of operation, so as to not interfere with neighboring residents activities; that there be customers by appointment only; that once it was determined to be a tattoo studio, the entire property becomes only a business and there will be no residential use of the second floor; that they obtain the necessary licensing for the tattoo studio and the Construction Design Release from the State, due to the change of occupancy. Commissioner Wright seconded, and the motion passed unanimously with a 4 – 0 roll call vote.

BUSINESS FROM THE FLOOR: None.

ADJOURNMENT: Motion: Mr. Helms Second: Mr. Wright Time: 6:54 p.m.