

REGULAR MEETING OF THE MISHAWAKA COMMON COUNCIL

March 20, 2023

Be it remembered that the Common Council of the City of Mishawaka, Indiana met in the Council Chambers of the New Mishawaka City Hall and via telephone on Monday, March 20, 2023 at 7:00PM. The meeting was called to order by Council President Gregg Hixenbaugh. All were asked to stand for the Pledge of Allegiance, led by Troop 122, one of the local scouting groups.

Members attending virtually do so by WebEx. Public that attend can participate by WebEx or observe meetings by YouTube or Facebook live. The Council meetings are also streamed live on Michiana Access on Comcast/AT&T U-verse Channel 99.

Clerk Block called the roll.

Roll Call.

Present: Mr. Hazen (P), Mr. Bellovich (P), Mr. Mammolenti (P), Mr. Banicki (P), Mr. Emmons (P), Mrs. DeMaegd (P), Mr. Compton (A), Mrs. Voelker (P), Mr. Hixenbaugh (P)
P: Present E: Electronically Participating A: Absent

Others Present: Clerk Block, Mike Trippel, Council Attorney

Minutes for the Regular Meetings of March 6, 2023 were approved as received from the Clerk's Office.

Clerk Block read the following appeals and petition by title from the Board of Zoning Appeals and City Plan Commission meetings on March 14th.

Appeal No. 2023-04	An appeal submitted by Vineyard Church Inc requesting a Use Variance for 702 E Twelfth St, Mishawaka, Indiana, to allow provide educational, social and faith support services in the R-2 Two Family Residential District.
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The Board, with a vote of 4-0, recommended approval.

Appeal No. 2023-06	An appeal submitted by ALC Holdings requesting a Use Variance for 3607 Grape Road, Mishawaka, Indiana, to allow microblading as a use inside an existing salon.
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The Board, with a vote of 4-0, recommended approval.

Petition No. 2023-04

A petition submitted by 1635 Ironwood LLC requesting to amend the Northwest 12th & Capital Planned Unit Development to add drive thru restaurant as a permitted use.

The Commission, with a vote of 8-0, recommended approval subject to the attached conditions.

Pursuant to I.C. 36-7-4-605 the Mishawaka Plan Commission hereby certifies to the Mishawaka Common Council the attached proposed ordinances regarding the above matters.

Clerk Block read the following proposed ordinances by title and assigned committee.

PROPOSED ORDINANCE NO. 2023-11

AN ORDINANCE AMENDING CHAPTER 137 OF THE MUNICIPAL CODE OF THE CITY OF MISHAWAKA, INDIANA, AS FROM TIME TO TIME AMENDED, COMMONLY KNOWN AS “THE ZONING ORDINANCE OF 1966” OF THE CITY OF MISHAWAKA, INDIANA.

**PUD Amendment to allow Drive-Thru Restaurant (Scooter’s Coffee) – NW Corner of 12th Street/Harrison Road & Capital Avenue
(Assigned to Land Use Planning Committee)**

PROPOSED ORDINANCE NO. 2023-12

**AN ORDINANCE CONCERNING THE CONSTRUCTION OF ADDITIONS AND IMPROVEMENTS TO THE SEWAGE WORKS OF THE CITY OF MISHAWAKA, THE ISSUANCE OF REVENUE BONDS TO PROVIDE THE COST THEREOF, THE COLLECTION, SEGREGATION AND DISTRIBUTION OF THE REVENUES OF SAID WORKS, THE SAFEGUARDING OF THE INTEREST OF THE OWNERS OF SAID REVENUE BONDS, OTHER MATTERS CONNECTED THEREWITH, INCLUDING THE ISSUANCE OF NOTES, AN ANTICIPATION OF BONDS AND REPEALING ORDINANCES, INCONSISTENT HERewith
Mishawaka Sewage Works Bond
(Assigned to Public Improvements Committee)**

Mr. Hixenbaugh added for the benefit of the public and those in attendance that given that this proposed matter could lead to the issuance of some bonds on the part of the city of Mishawaka, in order to provide the council and the public with more information regarding the matter, the council would be conducting a special informational session on this topic on Wednesday, March 29th at 6PM in the Council Chambers and there would be a remote viewing capability for that meeting as well.

Clerk Block read the following resolutions by title and opened the public hearing.

RESOLUTION R2023-04

A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF MISHAWAKA, INDIANA APPROVING A PETITION OF THE MISHAWAKA BOARD OF ZONING APPEALS FOR THE PROPERTY LOCATED AT: 702 EAST 12TH STREET Use Variance to allow Educational, Social & Faith Support Services in R-2 Residential Zone Property – 702 E. 12th Street

The chair entertained a motion to postpone the public hearing on **RESOLUTION R2023-04** until their next regularly scheduled council meeting until the petitioner made it known she was in the crowd and apologized not knowing this was her matter. The council did not object to the reopening of the public hearing on **RESOLUTION R2023-04**.

Kathy Smarrella, Vineyard Church 16219 Jackson Road, spoke in favor of **RESOLUTION R2023-04**. Mrs. Smarrella stated they had a community center in the Barbie Creek neighborhood that they had been running for about 2 and a half years and that seemed to be going well, they had a lot of city support and this house would be an extension of that. Mrs. Smarrella stated they brought it before the Zoning Appeals Board to see if they could get the R-2 zoning status changed to a use variance and they planned to use it for social, educational and religious uses.

Mrs. Voelker stated she was curious about the work they were doing now and asked if it was a health clinic they were doing the work in. Mrs. Smarrella stated no, it was in Barbie Creek where they rented the building from the Mishawaka Housing Authority. Mrs. Voelker asked if they were doing what they wanted to so in the rented space. Mrs. Smarrella stated this would just be an extension of that, because they had run out of room and hoped to expand because they could not use their space for more than one thing at a time and they had the opportunity to do other things that they thought were helpful. Mrs. Voelker asked if she could tell them how many people they were currently serving and what she thought they would be able to do with the expansion. Mrs. Smarrella stated they served about 100 people weekly in that community and their hope was to use the house for smaller groups of 15 or so people, since it would not be very big. Mrs. Smarrella stated this group would be used for smaller group meetings, mentorships and those kinds of things. Mrs. Voelker asked if it was primarily religious activity. Mrs. Smarrella stated yes and they also helped with education, they provided food and things like that. Mrs. Smarrella stated they partnered with Health Link, Goodwill, Excel Program and associations like that.

Mr. Emmons asked if the property at 702 East 12th Street was residential. Mrs. Smarrella stated that was correct. Mr. Emmons asked if that person or people who lived in that house if it was sold to her or the church. Mrs. Smarrella stated there was a gentleman who owned it and he rented it out and so he contacted them to ask them if they wanted to purchase the house. Mr. Emmons asked if she talked to the neighbors about with the potential of many cars being there and potential parking issues with that. Mrs. Smarrella stated they had talked to the city about potential parking possibilities over there. Mr. Emmons again asked if she had talked to the neighbors about what they wanted to do in that space and if they were all in favor of what was planned on being done. Mrs. Smarrella stated they had shared it with the neighbors that were coming to their community center. Mr. Emmons stated he was talking about the neighbors next

to this house. Mrs. Smarrella stated she believed letters were sent out. Mr. Emmons stated she was kind of evading the question. Mrs. Smarrella stated she was not trying to. Mr. Emmons then asked if anybody had come to them and told them if they were in favor of what they were doing or not in favor of it. Mrs. Smarrella stated only the ones they knew in Barbie Creek had done that and not the next door neighbors. Mr. Emmons asked if anybody had objected to the potential 15 to 20 cars coming. Mrs. Smarrella stated there would not be that many cars, because everyone that came from the neighborhood walked and it was a walking neighborhood. Mrs. Smarrella stated the only cars would be their volunteers' which would just be two or three.

Mr. Bellovich asked if there would be anyone residing in the house. Mrs. Smarrella stated there would not be.

Mrs. Voelker commended Vineyard Church for their commitment to the community and for the work they had done over the last couple of years and she looked forward to hearing how it went as they expanded their services.

Question was called for at 7:14PM for **RESOLUTION R2023-04 Motion carried by unanimous roll call vote (summary: Yes = 8).**

Yes: Mr. Hazen, Mr. Bellovich, Mr. Banicki, Mrs. DeMaegd, Mrs. Voelker, Mr. Hixenbaugh. The proposed resolution passed 8-0.

RESOLUTION R2023-05

A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF MISHAWAKA, INDIANA APPROVING A PETITION OF THE MISHAWAKA BOARD OF ZONING APPEALS FOR THE PROPERTY LOCATED AT: 3607 GRAPE ROAD Use Variance to allow Microblading inside existing salon – 3607 Grape Road

Monica Leg, 3607 Grape Road and permanent makeup artist, spoke in favor of **RESOLUTION R2023-05**. Mrs. Leg stated they were hoping to get their approval on this so they could properly move into the salon.

Mr. Banicki asked how long had the business been at this location. Christina Clark answered Mr. Banicki's question. Mrs. Clark stated they opened in early December, on December 12th to be exact. Mr. Banicki stated he owned a business across the street and noticed that it was new. Mr. Banicki asked now that they moved in there, did they come from somewhere else or was this a new start. Mrs. Clark stated she and her business partner both came from Sola Studios in Granger and they opened this up in December.

Mrs. Voelker welcomed them to the neighborhood.

Mr. Hixenbaugh thanked the two of them for being there that evening and they appreciated the information and wished them good luck with their new venture. Mr. Hixenbaugh stated as they discussed in the past in press of other business that they had to deal with in light of the frequency in which they had heard these type of requests, when they had an opportunity to comprehensively look at their zoning ordinances, he thought it made sense to try to incorporate

this within zoning itself so that what had never, in his opinion, been a controversial matter could be a recognized use without the special use variance process but they had a lot of things they were working on. Mr. Hixenbaugh stated hang tight and they would get to it when they could.

Question was called for at 7:18PM for **RESOLUTION R2023-05 Motion carried by unanimous roll call vote (summary: Yes = 8).**

Yes: Mr. Hazen, Mr. Bellovich, Mr. Banicki, Mrs. DeMaegd, Mrs. Voelker, Mr. Hixenbaugh. The proposed resolution passed 8-0.

Clerk Block read the following proposed ordinance by title and opened the public hearing.

PROPOSED ORDINANCE NO. 2023-10

AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF MISHAWAKA, INDIANA AMENDING TITLE III, CHAPTER 34 OF THE MISHAWAKA MUNICIPAL CODE

Amending the Municipal Code Personnel Policies – Call to Active Military Duty

Mr. Hixenbaugh stated based upon a meeting that he and Mr. Bellovich participated in that afternoon with members of the administration by agreement of all involved, at that time the chair entertained a motion to postpone second reading on **PROPOSED ORDINANCE NO. 2023-10** indefinitely in order to allow some further review of the ordinance to take place and then to add it to the agenda at a subsequent meeting. The motion was made and seconded, thus a voice vote was held. The matter was postponed indefinitely.

PRIVILEGE OF THE FLOOR

Brett McNeil, 2121 Wynn Place, spoke under **PRIVILEGE OF THE FLOOR**. Mr. McNeil stated he was there to speak about the incident with Joe Wood and he wanted to share a couple of thoughts with the council. Mr. McNeil stated he did not see Mayor Wood or Chief Witkowski in attendance that evening. Mr. McNeil stated he saw recently on one of the local TV stations said that this issue was now under administrative review and he wanted to share his concern about that as a citizen. Mr. McNeil stated the people that would be responsible for that administrative review had five months to take it up before the news broke about it. Mr. McNeil strongly encouraged the council as a body to contemplate asking that a third party, the Indiana State Police or somebody else, being a credible outside agency or authority investigate this. Mr. McNeil stated he thought it was important that whatever happened there passed the smell test publicly. Mr. McNeil stated rumors hovered over this and he really thought if he were sitting in their seats, he would really want other eyes on this and would want whatever happened here to be above board as possible. Mr. McNeil stated this episode suggested from the outside that there were problems or suggestions of problems inside of the police department. Mr. McNeil stated they were all actively negotiating with the FOP and they were short staffed and South Bend just recently got at full complement. Mr. McNeil stated they were offering signing bonuses and other things to get the Mishawaka police department up to full complement but under these circumstances, what qualified applicant would be interested in taking a job here. Mr. McNeil

stated that was a real concern of his and he had lived in the city now for 4 years from Illinois and they were there to stay. Mr. McNeil stated if they were looking to recruit the best, he believed they had to answer that question in a way to not only satisfy people like him, but the candidates they wanted representing them and the police department on the streets in Mishawaka.

Mr. Hixenbaugh stated for the record that Mr. McNeil was right in saying that it was not uncommon for Mayor Wood to attend the meetings but it was also not uncommon for both the Mayor and the Police Chief as their duties and responsibilities otherwise call for, for them not to be there as well so in fairness he just wanted to state that. Mr. Hixenbaugh appreciated the concerns and sensed that everybody on the council could appreciate the concerns, but he went on record to say he did have faith in their police department and he had faith in their ability to be able to look at issues in an even-handed manner. Mr. Hixenbaugh stated so while he appreciated the concerns, he wanted that to be on record as well and thanked him for his comments and his attendance that evening.

NEW BUSINESS

Mr. Hixenbaugh announced a need on the part of the council due to some scheduling conflicts to reschedule their meeting that was currently scheduled for April 10th, 2023 to a date where the maximum number of council people can participate and a suggestion had been made that a better date would be Monday, April 24th, 2023, which would then make their meeting schedule in April Monday, April 17th and Monday, April 24th. The chair entertained a motion to reschedule their meeting currently scheduled for April 10th, 2023 until Monday, April 24th, 2023 at 7PM in the council chambers. The motion was made and seconded, thus a voice vote was held. The motion passed and the meeting was rescheduled.

Mr. Hixenbaugh announced the West End Neighborhood Watch would once again be conducting their meeting at City Hall on April 5th, 2023 at 7PM in the Mayor's Youth Council area. Mr. Hixenbaugh stated they looked forward to that meeting and as he understood it, their guest speaker would be one or two representatives from Code Enforcement.

ADJOURNMENT 7:26PM

Deborah S. Block /s/
Deborah S. Block, IAMC, MMC, City Clerk

Gregg A. Hixenbaugh /s/
Gregg A. Hixenbaugh, President