

MINUTES
COLUMBIA CITY BOARD OF ZONING APPEALS
REGULAR MEETING
SEPTEMBER 5, 2023
7:00 P.M.

WHITLEY COUNTY GOVERNMENT CENTER
MEETING ROOM A/B, LOWER LEVEL

MEMBERS PRESENT

Cathy Gardner
Jon Kissinger, Chairman
Dennis Warnick

MEMBERS ABSENT

Stacey Dumbacher
Anthony Romano, Vice Chair

STAFF

Nathan Bilger
Amanda Thompson

ATTORNEY

Dawn Boyd

(E)lectronic participant

AUDIENCE MEMBERS

Fifteen of the visitors at the meeting signed the Guest List. There were no attendees on the webcast. A Guest List is included with the minutes of this meeting.

CALL TO ORDER/ROLL CALL/INTRODUCTIONS

Mr. Kissinger called the meeting to order at 7:00 P.M. Ms. Thompson read the roll with members present and absent listed above.

CONSIDERATION OF PREVIOUS MEETING MINUTES

Mr. Warnick made a motion to approve the July 5th meeting minutes, and Mr. Kissinger seconded. The Board voted 2-0-1, with Ms. Gardner abstaining due to having been absent from the July meeting. It was the consensus of the Board to table consideration of the July minutes to their next meeting.

ADMINISTRATION OF OATH

Mr. Bilger administered the Oath to visitors planning to speak at the meeting.

OLD BUSINESS

There was no old business.

NEW BUSINESS

1. 23-C-VAR-3 / 23-C-SE-5

Mr. Kissinger announced that Superior Auto's Variance request and Special Exception request would be considered at the same time.

Superior Auto requested approvals for a Variance of the Parking Code and for a Special Exception for outdoor storage at 533 N. Line Street. Mr. Bilger summarized his Staff Report (which covered both cases). He explained that the outdoor storage was for the display of

vehicles for sale, and the Variances requested were for 0' parking setbacks; 5' side, landscaping buffers; and a gravel parking area behind the building. Mr. Bilger displayed the proposed site plan and stated the landscaping plan was compliant other than the buffer width. He listed five suggested conditions of approval.

Mr. Warnick asked if a dumpster was planned. Mr. Bilger noted there was none shown on the plan and stated the previous tenant of the property had a dumpster on the south side of the building, where the future tenant proposes a gravel driveway. There were no further questions for Mr. Bilger, and Mr. Kissinger requested to hear from the petitioner.

John MacDougall introduced himself to the Board as Superior Auto's real estate director. Mr. MacDougall stated that Superior Auto had been in business in Columbia City for at least 20 years. He described that their property had been obtained by another entity, in order to make room for a new development, and Superior Auto had selected the Line Street property for their new site. Mr. MacDougall said that the proposed parking layout offered more spaces than were necessary for the 15-20 cars planned for sale on the lot. He clarified that the gravel area would be used for non-display vehicles, such as those that have been repossessed. In addition to being more cost effective, he stated that gravel surface material would allow better drainage than pavement, as the site slopes to the street and water could otherwise become trapped behind the structure.

Mr. MacDougall confirmed for Mr. Warnick that there would be some detailing work done here, but there would be no vehicle servicing and no chemicals or etc. at this location. Mr. MacDougall answered other questions from the Board, stating that the parking lot is connected to the neighboring parking lot to the south and cosmetic repairs to the building and landscaping were already underway; Superior Auto would be leasing the property from its current owner, and they would likely obtain a residential dumpster or, if needed, a commercial size to be placed on the gravel. He stated the business hours were 9:00 A.M. - 6:00 P.M., Monday through Friday and 9:00 A.M.- 4:00 P.M. on Saturday. Exterior lighting and construction details of the parking lot areas were also discussed. Ms. Gardner considered the number of parking spaces on the plan and questioned the need for spaces along Line Street, which might impact visibility for drivers attempting to turn onto the street from adjacent properties. Mr. MacDougall pointed out that the street right-of-way is wider on the subject property than on those to the south. For comparison, he stated that Superior Auto's lot would be approximately 24 feet from the sidewalk whereas Dollar General customers (at 527 N. Line Street) park in spaces that are 15 feet from the sidewalk. There were no further questions for Mr. MacDougall, and Mr. Kissinger asked if anyone else wished to speak.

Andy Philipsborn stated that he owns the neighboring, multi-tenant shopping center to the north (539-545 N. Line Street). He expressed concern regarding the overall drainage of the site and stormwater flow, considering the amount of parking area proposed. He also wondered what was planned for the grassy area and if a fence would be installed to separate the property from the apartments to the west. Mr. Philipsborn asked why vehicles would be parked behind the building and if there would be security lighting and additional fencing around this area. Mr. Kissinger referenced the site plan and recalled that the gravel area was intended for the parking of employee vehicles and repossessed vehicles and would be illuminated by two security lights. Mr. Bilger confirmed that drainage would be subject to the City's MS4 (Municipal Separate Storm Sewer Systems). He displayed an aerial image of the

site and pointed out the western, grassy portion of the property, stating that the petitioner had not indicated any use for this area. Mr. Philipsborn had no further questions.

Mr. Kissinger asked if anyone else wished to speak. Hearing none, he closed the public portion of the hearing. Ms. Gardner commented that the landscaping proposal seemed adequate. Mr. Warnick made a motion to approve 23-C-SE-5 with the conditions suggested in the Staff Report but modifying #3 to defer pavement of the west parking area for three years. Ms. Gardner gave the second; motion passed 3-0. Mr. Warnick made a motion to approve 23-C-VAR-3 as presented. Ms. Gardner gave the second; motion passed 3-0.

2. 23-C-VAR-4

Columbia City Church of the Nazarene requested Variance approval for the height of a sign proposed on their property at 506 N. Main Street. Mr. Bilger explained the Church's plan to construct a new sign, reusing the base of the existing sign. He compared the Ordinance's requirements for commercial ground signs (being that the property is zoned General Business) and for church signs, which are listed in the residential section of the Sign Code. Mr. Bilger displayed images of the existing sign and proposed sign and summarized the Review Criteria in the Staff Report, outlining several practical difficulties for the Board to consider.

Mr. Warnick asked Mr. Bilger how the proposed sign compared to the Methodist Church's sign that the Board had approved several years earlier (19-C-VAR-4). Mr. Bilger replied that the Methodist Church's sign was larger and that their Variance was for the EMC component; their Residential zoning allowed them a taller sign as a church. Mr. Bilger confirmed for Mr. Kissinger that the petitioner's proposed sign would be 8" taller than their current sign.

Andrew Schulenburg of the Baldus Company was present on behalf of the petitioner. He explained that the Church wanted to update their sign but reuse the existing base. Mr. Schulenburg described that the location of the sign was recessed, so the "black portion" of the sign (the part that will sit on the base) would be near street level. He said the lower grade of the site created the need for the taller base, which is what causes the sign's overall height to exceed the Code's requirement. He clarified that the existing sign is 106" tall and the proposed sign will be 116". There were no questions for Mr. Schulenburg, and Mr. Kissinger asked if anyone else wished to speak. Hearing none, he closed the public hearing. Ms. Gardner made a motion to approve 23-C-VAR-4, as presented. Mr. Warnick gave the second; motion passed 3-0.

3. 23-C-VAR-5

Bowen Health Clinic requested a Variance of the Sign Code for a freestanding sign proposed to be located at 1259 E. State Road 205. Mr. Bilger referred to the Staff Report and compared the proposed sign with the standards described in the Zoning Ordinance. He cited the need for Variances for the sign's height, total sign area, and size of the electronic message center. Mr. Bilger noted that the proposed location was compliant and was planned with regard to potential changes to the highway and/or intersection. He added that the intended sign was similar in size to a sign located on the property to the south. Mr. Bilger summarized the Review Criteria. There were no questions for Mr. Bilger, and Mr. Kissinger invited the petitioner to speak.

Diana Chambers of Commercial Signs was present on behalf of Bowen Health Clinic. Ms. Chambers said Commercial Signs would be installing the sign. She described that the lower

elevation of the property caused the need for a larger sign, so that the sign would be visible to the highway traffic. Ms. Gardner expressed that the site was well developed and seemed apparent from the highway; she considered that the sign might not need to be as large as was requested. Ms. Gardner asked what content the message center would display. Ms. Chambers replied that the clinic would be announcing their own community programs. She added that the speed of the traffic was another component that had factored into the size of the sign. Ms. Chambers stated that the sign would not look so large once it was installed, considering the lower elevation and the speed of the traffic. Mr. Kissinger agreed with Ms. Chambers and added that the neighboring property's sign would likely seem larger because it sits on higher ground. There were no further questions for Ms. Chambers, and Mr. Kissinger asked if anyone else wanted to speak.

The General Contractor for the site, Troy Wilcoxson with W. J. Cary Construction, confirmed that the location of the sign was chosen with respect to the plans that had been released showing the potential expansion of the highway and intersection. He explained that the sign is also designed such that it can be relocated in the future, if that should become necessary; the proposed location does not interfere with storm drainage, but some storm pipe would need rerouted if the setback were increased. There were no further questions for Mr. Wilcoxson. Mr. Kissinger asked if anyone else wished to speak; hearing none, he closed the public hearing. Mr. Warnick made a motion to approve 23-C-VAR-5 as submitted. Ms. Gardner gave the second; motion passed 3-0.

4. 23-C-SE-6

Martin Safety requested approval of a Special Exception for outdoor storage at 555 N. Line Street. Mr. Bilger described the request for two 40' shipping containers to be placed on the south side of the building for additional storage. He stated this is a usual practice for temporary commercial storage and listed several other businesses that utilize container storage seasonally. Mr. Bilger clarified that containers intended for permanent storage would require a building permit. He stated that the petitioner's proposed time frame of 8-24 months would be considered "temporary storage," but he felt the use of storing storage containers should be reviewed by the Board as outdoor storage. He suggested two conditions of approval. Ms. Gardner asked if the easement between the shopping center and the subject property was a recorded easement and if the agreement listed restrictions. Mr. Bilger replied that the easement was recently platted. He didn't recall what restrictions were included, but, knowing that the shopping center owner, Mr. Philipsborn, was present, Mr. Bilger suggested Mr. Philipsborn may be able to answer Ms. Gardner's question. There were no further questions for Mr. Bilger, and Mr. Kissinger requested to hear from the petitioner.

Mark Higby of Martin Supply explained that the container storage was needed for empty 55-gallon drums. He said the barrels are currently being stored inside the building, so there would be no additional traffic caused by this use; they just need more space inside for other things. Mr. Higby described for Mr. Warnick that Martin Supply is a distributor of safety supplies and metal working products. He requested approval to store the containers for 24 months, and he added that Martin Safety is already looking for other storage locations with the intention of being able to remove the containers prior to the deadline. Mr. Kissinger asked if the containers would sit on a stone base. Mr. Higby replied that they intended to set them directly on the ground, but they were open to whatever the Board would require. Ms. Gardner asked how the containers would be brought to the site. Mr. Higby stated they

would be transported on a semi-trailer and a crane would place them behind the building. He added that they would not be moved again until they were being permanently removed. There were no further questions for Mr. Higby.

Andrew Philipsborn, owner of Columbia Plaza shopping center, described the recorded easement and the properties it services. He stated that there is no shared maintenance agreement, and the upkeep is quite costly, so any additional wear and tear on the driveway would be his only concern. He questioned whether the use for the new space inside the building would be generating traffic.

No one else wished to speak, and Mr. Kissinger closed the public hearing and requested Board discussion or a motion. Ms. Gardner asked Mr. Higby if any increase in traffic was anticipated. He stated that because the barrels are already on-site, the only traffic would be the containers being brought in one time and then leaving one time. He added that there will be more product coming in due to the new space, but UPS and FedEx deliveries are already regular events, so an increase, if any, is not expected to be noticeable.

Mr. Warnick made a motion to approve 23-C-SE-6 with the two conditions suggested in the Staff Report. Ms. Gardner gave the second; motion passed 3-0.

5. 23-C-SE-7

S & K Stuff, LLC, requested approval of a Special Exception to revise the previously approved outdoor storage at 205 E. Swihart Street. Mr. Bilger described the request to extend the usage by the tenant, Vector, throughout the site and to remove usage designated for AllPro Towing. He explained that Vector utilizes the property for equipment storage and staging of highway traffic management equipment and vehicles, as well as for employee vehicles, and they also requested to be approved for a maximum of two office trailers. Mr. Bilger reviewed the conditions of the previous approval (20-C-SE-5). He noted that the first two conditions had been satisfied. Mr. Bilger stated that he had not been made aware of any concerns regarding the lighting, but he had received a complaint about the hours of operation. He displayed the proposed site plan and pointed out Vector's plan to locate equipment on the north side of the property, nearer to the neighboring commercial properties. Along with the site plan, the petitioner had submitted a list of operational information, which Mr. Bilger read through. Mr. Bilger stated there was a comment letter received from the Railroad, and they expressed concern regarding the possibility of encroachment into their right-of-way. He suggested six conditions of approval in the Staff Report.

Mr. Warnick suggested that the Board need not address potential trespassing on the railroad property. Ms. Gardner concurred, and Ms. Boyd also advised that it would not be necessary. Ms. Gardner pointed out that the site plan had reversed labels for "east" and "west," so discussion could be confusing if one referred to a direction. Mr. Bilger suggested referring to street names instead. There were no further questions for Mr. Bilger, so Mr. Kissinger requested to hear from the petitioner.

Steve Smith of S & K Stuff referred to the site plan and said the "lay down area" is currently used by AllPro at all times, for wrecked "big trucks." He stated these trucks usually stay on-site for two months. Mr. Smith pointed out that the sidewalk had been installed, and he felt he had satisfied the conditions of the previous approval. He said Vector's Director of Operations, Darnell Cheeks, had reviewed the site and suggested the relocation of employee parking to allow more room for turning equipment, eliminating some traffic sounds and back

up beepers currently caused by trucks that are unable to easily maneuver within the current space. Ms. Gardner asked if AllPro would continue using the “lay down area” or not. Mr. Smith replied that they are currently using it but could discontinue if the Board felt that was necessary. Mr. Warnick voiced that he did not feel AllPro’s use of the “lay down area” was problematic, and neighbors may need to be understanding of the, hopefully, infrequent late night traffic of transporting a wrecked vehicle. Mr. Smith said his perception was that the zoning already accounted for the traffic, but that the consideration was needed for the storage. He said, for example, the property could be used for a gas station, which would have significantly more traffic than the current use. There were no questions for Mr. Smith, and Mr. Kissinger asked if anyone else wished to speak.

Darnell Cheeks, Jr., Director of Operations for Vector Services, told the Board that Vector is a disabled veteran owned company that specializes in underground utilities, hydrovac, traffic control, and sewer camera work. He said he reviewed the site and was able to identify some changes that could be made to help address the concerns that had been brought to his attention. He felt that relocating the employee parking area would be most beneficial. Mr. Cheeks added that the second job site trailer they had proposed would no longer be needed because they had been able to secure a local office space. He also explained that the Department of Transportation requires their trucks complete an inspection checklist prior to operation, so each morning, typically between 5:00-7:00 A.M., they need to verify the hazard lights, horn, backup buzzers, and etc. are operational. Mr. Cheeks said that because they work with emergency situations, in some instances, these checks need to be completed at non-ideal times. He suggested that outside of business hours, they could use their parking lights instead of headlights to maneuver through the site, and they could perform their inspections on the neighboring gas station’s property. Mr. Kissinger stated that he appreciated Mr. Cheeks’ effort towards easing the neighbors’ concerns.

Deb McClurg asked if the fence would be relocated. Mr. Smith replied that no change was planned for the fence location. She also asked if they were just reorganizing items already on-site or if any chemicals would be brought onto the property. Mr. Smith confirmed the reorganization and stated there would be no chemicals.

Angie Poor told the Board that she can see most of the property from her home, and Vector is already occupying the entire site. She expressed that traffic on Swihart Street had been better since Vector relocated their employee vehicles from the street to an area on the property. However, she is still awakened each time they arrive prior to 4:00 A.M. Ms. Poor stated that no one wants Vector here, and it would be different if they were a local business, referencing that because they merely store equipment here and work elsewhere, their hours of operation are excessive in order to accommodate their drive time to other communities. She stressed that this use was not appropriate for a property adjacent to a residential neighborhood and that the neighbors felt tricked when they had considered the rezoning request. Ms. Poor said she understood that Vector’s office staff may not be able to control the actions of their employees. She then requested that Vector remove their office trailer and port-a-pot since they had an off-site office. Ms. Poor stated that she also speaks on behalf of Eric Smith of Courtesy Properties, who owns three properties on Swihart Street, facing the S & K Stuff property. Mr. Kissinger asked Mr. Steve Smith if he could comment on this request. Mr. Smith said the port-a-pot is on-site for the employees and is necessary as they drive long distances and need to have access to a restroom; the port-a-pot keeps people from urinating

on the street. Ms. Poor suggested the employees use the gas station's restroom. Mr. Kissinger stated that the subject property is zoned for business, so these items are permitted. Ms. Poor replied that the employees' port-a-pot hijinks are inappropriate, that the office needs to be removed, and that other neighbors agree but are too afraid to say anything and are intimidated because they live on the south side of town and feel the Board doesn't listen to them. She offered other sites she felt were better suited for Vector's use. Mr. Kissinger thanked Ms. Poor for her comments.

Ben Metzger was concerned that new vacuum trucks on the site were used for sewer work, and he voiced not wanting sewer trucks near his home. He wondered how many more trucks would be added to the site. Mr. Metzger said lights and beepers are going off on the property at 4:00 A.M., and the trucks return well after dark. He referenced the condition of approval for the hours of operation and wondered what it meant since the company has not been held to those hours. Mr. Bilger responded that his office is complaint based, and the only complaint received was Mr. Metzger's. Mr. Metzger asked if Mr. Bilger needed more complaints and clarified that this occurs Monday through Friday. Mr. Metzger also reported that someone on an ATV sprayed weeds between the railroad property and the fence, including grass on his property, and they left the area when he came out to speak with them. He said it was not a railroad employee and that he has permission from the railroad to use the affected area. Mr. Metzger summarized the history of the property and zoning. Mr. Kissinger clarified that the current case for the Board to consider consisted of ideas proposed in hopes of bettering the relationship between the tenant and the neighbors, and previously approved cases were not going to be overturned at this meeting. Mr. Metzger said he could provide more complaints, but he didn't know if that would be a benefit because it seemed the conditions were not being enforced.

Ms. Gardner responded to Mr. Metzger and stated that the property is zoned commercial and has been for many years. She stated that a Special Exception case for Whitley Environmental was considered in 2020, where the Board listened to the neighbors' concerns, and conditions with respect to those concerns were assigned to the approval of that request. She said in 2022, the Board reviewed a Special Exception for the use of the property with Vector as a tenant, and again, the concerns of the neighbors were part of the consideration of that case, and conditions were again assigned to the approval. Since that time, Ms. Gardner stated, the petitioner had removed the unsightly tarp from the fence, installed slats in the entirety of the fence, asphalted the entrance, put in a sidewalk, rectified improperly placed lighting, and kept the property mowed and well maintained. Ms. Gardner confirmed that as a commercially zoned property, a gas station would be a permitted use as well as many other listed permitted uses that would be able to operate on this property without any input from the neighbors. She stated that the neighbors have had the opportunity to voice concerns and that the Board has listened and communicated those concerns to Mr. Smith and Vector who have also listened and tried very hard to resolve the problems that have been brought to their attention and to be conscientious of the neighbors. She applauded Mr. Smith and Vector for their efforts. Mr. Warnick added that the neighbors should take their concerns directly to Mr. Smith or to Vector. Mr. Metzger restated his concern about the sprayed grass. Mr. Smith replied that neither he nor Vector had any involvement with the spraying. Mr. Warnick suggested that Mr. Metzger contact the police to investigate. Mr. Metzger asked if the large trucks were used with sewer work and cited health concerns. Mr. Warnick replied that sewer trucks do not hold hazardous material. Mr. Metzger voiced that he had no further questions.

Mr. Cheeks clarified that the trucks are hydro excavation trucks, which use water to cut through dirt to get to utility lines; they are not sewer trucks. He further explained that sewer trucks are always cleaned on the job site, so sewage material goes back into the sewer and is never left on a truck; the hydrovac trucks work only with mud and are cleaned elsewhere, not on the Swihart Street property. Mr. Cheeks encouraged the neighbors to speak with him and stated that he did immediately resolve the issues that Mr. Metzger had discussed with him previously, and he stated that Mr. Metzger had thanked him for doing so. Mr. Cheeks expressed that Vector's goal is to be a good neighbor. He further explained that the company has a 4:00 A.M. to 10:00 P.M. schedule, Monday through Thursday, but they are active on the site when an emergency arises. He addressed Ms. Poor's statement that the company is not local and said that Vector employs 60 individuals from the Columbia City area.

Ms. McClurg asked if the property ownership had changed. Mr. Warnick and Mr. Smith clarified that S & K Stuff has owned the property since 2020. Mr. Smith stated that since then, he did buy out his partner and is now the sole owner of S & K Stuff.

There was some discussion regarding the meeting notices mailed to neighbors. Mr. Bilger described how Staff determines who receives a notice. Mr. Kissinger added that a sign is placed on-site to help inform interested parties. Ms. Poor replied that the sign is too small and cannot be read while watching for traffic. Mr. Kissinger encouraged the neighbors to speak with Mr. Cheeks after the meeting and obtain his contact information. Ms. Poor asked the Board to consider that the use of this site affects the entire neighborhood and that people who have lived here for decades are now miserable.

No one else wished to speak, and Mr. Kissinger closed the public hearing. Mr. Warnick made a motion to approve 23-C-SE-7 with the conditions listed in the Staff Report. Ms. Gardner gave the second; motion passed 3-0.

OTHER BUSINESS

There was no other business.

ADJOURNMENT

There being no further business, Ms. Gardner made a motion to adjourn. Mr. Warnick gave the second, and the meeting was adjourned at 8:59 P.M.

GUEST LIST

1. Deb McClurg 808 S. Whitley Street, Columbia City
2. David Hunter 325 Wallace Avenue, Columbia City
3. John MacDougall 6642 Saint Joe Road, Fort Wayne
4. Mark Higbee 8141 Gatewood Court, Fort Wayne
5. Caleb Hunter 325 Wallace Avenue, Columbia City
6. Steve Smith 1820 S. 475 West, Columbia City
7. Jason Lowe 305 E. Swihart Street, Columbia City
8. Darnell Cheeks, Jr. 305 E. Swihart Street, Columbia City
9. Don Langeloh 660 W. Park Street Ext., Columbia City
10. Diana Chambers 404 E. Hawthorne Street, Fort Wayne
11. Andrew Philipsborn 205 W. Randolph Street, Ste. 1010, Chicago
12. Troy Wilcoxson P.O. Box 534, South Whitley
13. Ben Metzger 302 E. Chicago Street, Columbia City
14. Angie Poor 218 E. Swihart Street, Columbia City
15. Andrew Schulenburg 440 E. Brackenridge Street, Fort Wayne

GUEST LIST (WEBCAST)

16. None.