



CITY OF KNOX BOARD OF ZONING APPEALS

101 WEST WASHINGTON STREET

KNOX, INDIANA 46534

574-772-5445

Regular Meeting: October 18, 2021, 5:00 pm

Meeting Location: Knox City Hall

Members Present: Mike Skinner, Jeff Houston, Darlene Dulin, Mark Simpkins, Dave Metz

Members Not Present: N/A

Staff Present: Todd Wallsmith,

Staff Not Present: Kenny Pfof

Members of public present: Matthew Ohime, Linda Wolfenbarger, Linda R. Bailey, Peggy Shidaker, Michael Gallenberger

The October 18, 2021 Board of Zoning Appeals meeting, held at the Knox Community Center, with COVID-19 restrictions in place (masks and social distancing required), was called to order at 6:00pm by President Mike Skinner. The Pledge of Allegiance was conducted, and Roll Call performed.

President Skinner asked for approval to the agenda. Legal Council Todd Wallsmith stated the agenda needed to be adjusted to reflect the 5pm "Special Session" with the proper Indiana Code and not an "Executive Session." Secretary Dulin stated she would get the information from Kenny Pfof and correct the agenda. Vice President Houston made a motion to change the agenda item from "Executive Session" to "Special Session." Member Simpkins seconded. The motion carried 5-0.

President Skinner asked for approval of the September 20, 2021 minutes. Secretary Dulin stated a change needed to be made in the "Members of the Community Present" as there were two persons named David and the last name of one was not legible. Mr. Ohime clarified the attendees were David Weinberg, and David Johnston. Vice President Houston made a motion to approve the minutes with the change of David

Johnston added to the “Members of the Community Present.” Secretary Dulin seconded. Motion carried 5-0.

OLD BUSINESS

6:05 pm: President Mike Skinner re-opened the public hearing for the Special Use request on the following:

Notice is hereby given that there will be a public hearing at Knox City Hall on Monday, October 18, 2021, at 6:00pm (Central Time) located at 101 West Washington Street, Knox, Starke County, Indiana. The purpose of the hearing is for a Special Use request to allow the properties to be used for a thrift store in an area zoned as Residential, located at Ross 2nd East 54 feet of Lots 98 & 103, Ross 2nd West ½ Lot 97, and Ross 2nd West ½ Lot 104, commonly known as 503 East Lake Street, Knox, Starke County, Indiana. The property is owned by the Starke County Resource Center.

Kenny Pfost/City of Knox Board of Zoning Appeals Administrator

Public Hearing open. Mr. Ohime stated he is grateful to have the opportunity for the possibility of opening the thrift store and is happy with the restrictions his group has submitted show a real effort that they are trying to help the community. Public hearing closed at 6:07pm.

Board Discussion: Member Metz states he is opposed to any parking on Lake Street an feels the street was not designed for parking. Questions if property has parking. Vice President Houston states he thinks parking is allowed on the north side of Lake Street. Legal Council Todd Wallsmith states he is unaware if on the east side of 35 parking is only allowed on one side of the street. He further noted that on the west side of 35, parking is allowed on both sides of Lake Street. Member Metz questions parking on the street since trees have been cleared off the property and an area of that property has been designated as parking. Mr. Ohime clarified that removal of the trees was due to roofing and plumbing issues along with overall improving the property. He further stated the idea of parking on the street was more for persons with disabilities so they would have a shorter distance to the entrance. He further stated they are only asking for three spaces and they “want to be as accommodating as possible to the community they serve.” President Skinner questions if this is a decision for the Board of Public Works. Legal Council, Mr. Wallsmith states the Board of Zoning Appeals could put a condition on the issuance of a “Special Use” of limiting the parking to ‘handicap’ and the Board of Public Works would decide if parking was even permitted. Member Metz questions if three handicap spaces are even needed or if one space would be enough. His concern is for the general public dealing with congestion on the street including fire trucks, ambulances, and police vehicles. Mr. Ohime clarified they are requesting “up to three.” so they may start with one space and add up to three if needed.

In reference to a letter (see attached) from the Starke County Resource Center (SCRC), President Skinner states he sees five key points (conditions):

1. SCRC would commit to only use the space for a not-for-profit thrift store and would not use the building for purposes other than what is essential for efficient operation of the store;
2. SCRC would commit to the purchase and display of clear signs for parking and donation drop offs, and to the encouragement of the public to park in the grass lot next to the building when patronizing the store and off the alley near the overhead door when making drop off donations;
3. SCRC would request the ability to create up to three handicapped parking spaces on the street immediately in front of the current building;
4. SCRC would commit to never provide a donation drop box of any kind on the premises and would only accept in-person donations at certain times during the store's business day.
5. SCRC would commit to limiting maximum store hours of operations for the public. The store would not be open for business any day before 8 AM nor remain open any day after 5 PM local time. The store would also never open to the public on Sundays. The only other operations that may happen outside of these times concern personnel matters and emergency appointments with clients.

President Skinner asked legal council, Mr. Wallsmith if anything outside of the above five points is needed. In reviewing notes from the Special Session, Mr. Wallsmith stated from the special session, wording should include "the facility shall not be used as a homeless shelter." Mr. Ohime clarified "this facility would not be used as a homeless shelter" and asked "if the BZA would get in trouble by eliminating that special use option when it is stated clearly the facility will only be used as a thrift store?" Legal Council, Mr. Wallsmith stated his legal advice to the board would be to "include wording that the facility would not be used as a homeless shelter since the provision doesn't adequately address that issue." He further explained that should the building change hands, a new owner would need to come back before the Board should they want to open a homeless shelter (in the building) and given the conversations that have been had, the request would most likely not be granted.

Per legal council, wording of the five conditions should change as follows with the addition of a sixth condition::

1. ~~SCRC would commit to only use the~~ **This store may only be operated as** for a not-for-profit thrift store and ~~would~~ **shall** not ~~be~~ used ~~the building~~ for purposes other than what is essential for efficient operation of the **thrift** store.
2. SCRC would commit to the purchase and display of clear signs for parking and donation drop offs, and to the encouragement of the public to park in the grass lot next to the building when patronizing the store and off the alley near the overhead door when making drop off donations.

3. SCRC would request the ability to create up to three handicapped parking spaces on the street immediately in front of the current building.
4. ~~SCRC would commit to never provide a~~ No donation drop box of any kind **shall be permitted** on the premises and ~~would only accept~~ in-person donations **shall be permitted** at certain times during the store's business day.
5. ~~SCRC would commit to limiting maximum store hours of operations for the public.~~ The store would not be open for business any day before 8 AM nor remain open any day after 5 PM local time. The store would also never open to the public on Sundays. The only other operations that may happen outside of these times concern personnel matters and emergency appointments with clients.
6. **These lots shall not be used as a homeless shelter.**

Legal Council advised the Board to first determine if this matter is appropriate for a Special Use Exception consideration. If affirmative, determine if it meets the three part criteria. If it is determined that the three part criteria are met, then vote on the Special Use exception subject to the six restrictions.

Vice President Houston made a motion that the matter was appropriate for consideration as a Special Use. Member Simpkins seconded. Motion carried 4-1. Member Metz voted against the Special Use.

Member Metz voiced concern that the content of the building is a huge combustible load (clothing, other items) and is worried the building isn't up to code. Mr. Ohime states Mr. Pfof has already done inspections and the following has been repaired: electrical issues, new electrical box, and the addition of two ground wires. It was noted that four exits are available in the building as well. Legal council also advised the Board to consider if the location of this thrift store was convenient for the people of the City of Knoxville.

Vice President Houston made a motion that the matter does meet the three standards under Title XVIII Special Uses. Member Simpkins seconded. Motion carried 4-1. Member Metz voted against the motion.

Vice President Houston made a motion to approve the Special Use subject to the following conditions, Member Simpkins seconded. Motion carried 5-0:

1. ~~SCRC would commit to only use the~~ **This store may only be operated as** for a not-for-profit thrift store and ~~would~~ **shall not be** used ~~the building~~ for purposes other than what is essential for efficient operation of the **thrift** store.
2. SCRC would commit to the purchase and display of clear signs for parking and donation drop offs, and to the encouragement of the public to park in the grass lot next to the building when patronizing the store and off the alley near the overhead door when making drop off donations.

3. SCRC would request the ability to create up to three handicapped parking spaces on the street immediately in front of the current building.
4. ~~SCRC would commit to never provide a~~ No donation drop box of any kind **shall be permitted** on the premises and ~~would only accept~~ in-person donations **shall be permitted** at certain times during the store's business day.
5. ~~SCRC would commit to limiting maximum store hours of operations for the public.~~ The store would not be open for business any day before 8 AM nor remain open any day after 5 PM local time. The store would also never open to the public on Sundays. The only other operations that may happen outside of these times concern personnel matters and emergency appointments with clients.
6. **These lots shall not be used as a homeless shelter.**

NEW BUSINESS

No new business.

ANY OTHER BUSINESS THAT MAY COME BEFORE THE BOARD

None.

Member Simpkins made a motion to adjourn the meeting. Vice President seconded the motion. The motion carried 5-0. The meeting adjourned at 6:50pm.

We, the Starke County Resource Center Board of Directors, believe that the key rationale for granting a special use permit to use the property in question as a thrift store centers on the belief that the request meets the criteria for both intended purposes and standards as set forth in local municode. Before even arriving at the special use criteria, we believe the considerations for such a service in the community would easily pass the tests of intended purposes within a residential area.

"TITLE V. - R-1 SINGLE-FAMILY DISTRICT

Section 1. - Intended purposes.

The general character of this residential district is to consist of single-family detached dwellings, set on large building lots. Nonresidential uses would be restricted to those community facilities which:

- A. May appropriately be located in residential areas to serve educational needs or to provide other essential services for the residents; or
- B. May appropriately be located in residential areas to provide recreational, religious, health, and other essential services for residents; or
- C. Can perform their activities more effectively in a residential environment, unaffected by adjacent industrial or general service uses; and
- D. Do not create significant objectionable influences in residential areas."

The list that follows in Section 2:b is neither exhaustive nor comprehensive enough to dismiss our reasonable, presented request. Furthermore, Starke County Resource Center expressly has a director and holds partnerships with churches, non-profits, and philanthropic efforts which are directly related to and are necessary services within our district, city, and/or county.

In regard to the standards for compliance, the municode of the city of Knox also reads:

"TITLE XVIII. - SPECIAL USES

Section 4. - Standards.

No special use shall be granted by the board of zoning appeals unless the special use:

1. Is deemed necessary for the public convenience at that location;
2. Is so designed, located, and proposed to be operated that the public health, safety, and welfare will be protected; and
3. Will not cause substantial injury to the value of other property in the neighborhood in which it is located."

Per these standards, Starke County Resource Center intends to offer essential services, including basic clothing and household items to the public. There currently does not exist such a convenience in the county. In addition, it would be a hardship to the organization to host the store in another location as it would be considered cost prohibitive; Starke County Resource

Center has already improved and maintained the property to both increase public health and safety and to increase the impact on the value of the property for all the parties which reside in the neighborhood in which it is currently located.

As a goodwill gesture, Starke County Resource Center (referred to later in this document as SCRC) would concede to the following restrictions given the approval of a special use permit to utilize 503 E. Lake Street, Knox, IN, and the adjacent lots for a thrift store and parking for its activities:

SCRC would commit to only use the space for a not-for-profit thrift store and would not use the building for purposes other than what is essential for efficient operation of the store.

SCRC would commit to the purchase and display of clear signs for parking and donation drop offs, and to the encouragement of the public to park in the grass lot next to the building when patronizing the store and off the alley near the overhead door when making drop off donations.

SCRC would request the ability to create up to three handicapped parking spaces on the street immediately in front of the current building.

SCRC would commit to never provide a donation drop box of any kind on the premises and would only accept in-person donations at certain times during the store's business day.

SCRC would commit to limiting maximum store hours of operations for the public. The store would not be open for business any day before 8 AM nor remain open any day after 5 PM local time. The store would also never open to the public on Sundays. The only other operations that may happen outside of these times concern personnel matters and emergency appointments with clients.