

**MINUTES OF THE REGULAR MEETING OF THE
BOARD OF ZONING APPEALS
TUESDAY, June 9, 2009**

The Michigan City Board of Zoning appeals met in a regular meeting in the Common Council Chambers, City Hall Building, 100 East Michigan Boulevard, Michigan City, Indiana, on Tuesday, June 9, 2009, at the time, date and location for holding of said meeting.

A pre-meeting was held by the Board at 6:30 p.m. in the Planning Department's conference room, first floor, City Hall Offices.

Board President Przybylinski called the meeting to order, and upon roll call, the following answered present:

Don Przybylinski, Al Whitlow, John Morse, Wallace Hook and Tom Wilson;

Also present: Steven A. Hale, Counsel for the BZA; Joe Siegel, Zoning Administrator; and, Marilyn M. Jones, court reporter.

Next was approval of the minutes from the February 10, 2009, meeting. It was moved and seconded that the minutes be approved.

With a voice vote of all ayes and no nays, motion carried, and the minutes were approved.

The first item of business:

President Przybylinski called for the first petition.

Petition B-101-09 of Tony & Corey Rodriguez requesting a Use Variance to operate a used car sales lot at 1203 East Second Street (held over from the May meeting).

Mr. Siegel noted for the record that a written request for withdrawal dated 6/8/09 of Corey and Tony Rodriguez had been received. ***Petition B-101-09 withdrawn.***

Next item on the agenda was called as:

Petition B-103-09 of Trevor Johnston requesting a two-part Development Standard Variance for the construction of a new garage structure at 124 West Homer Street.

Mr. Johnston approached the lectern, introduced himself to the board, and explained his request for a new garage structure, size of the building, depth of the lots, et cetera. Board members asked questions.

There being no further questions from the board, public portion of the meeting was opened.

There being no public comment, the public portion of the meeting was closed.

Mr. Siegel read departmental reports into the record, and made his department's recommendation verbally. Each report is attached hereto.

It was moved and seconded that Petition B-103-09 of Trevor Johnston be approved as submitted.

With a voice vote of all ayes and no nays, *motion carried* and petition B-103-09 was *granted*.

Under Old business, the Board finalized findings and orders from the prior meeting.

There being no further old business to come before the Board, new business was called. *No new business*.

There being no further public comment, the meeting was adjourned.


Board Secretary

6/8/09

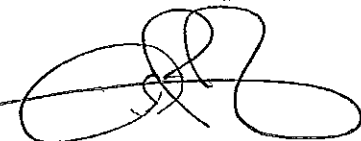
MR. SIEGEL,

WE DO HEREBY WITHDRAW OUR REQUEST
FOR ZONING VARIANCE FOR PROPERTY LOCATED
ON US Hwy 12 IN Mich. GA City, IN.

SIGNED

CRAIG AND TONY RODRIGUEZ

X Craig Rodriguez

X 

**REPORT ON THE PETITION OF
TREVOR JOHNSTON B-103-09**

Water Department: R. E. Russell, Superintendent, had no objections.

Sanitation Department: Al Walus, General Manager, had no objections.

Fire Department: Kyle Kazmierzak, Fire Marshal, had no recommendations at this time.

Planning Department: The Petitioner is requesting a two-part Development Standard Variance for the construction of a new garage structure at 124 W Homer Street.

Board members will note that the Petitioner requires relief from 160.013(D)(1) which calls for a 10' distance between the accessory structure and the principle building (Petitioner is requesting a 7'-8" distance) as well as relief from 160.013(D)(2)(b) that the structure not cover more than 30% of the rear yard. The Petitioner is requesting a 24 x 30 (720 s.f.) structure which covers approximately 45% of the rear yard.

The Petitioner will be removing a dilapidated garage and building new. The Petitioner is flexible as to the size of garage but would prefer the larger 24 x 30 so as to afford additional workbench and shop area. The Petitioner has remaining yard area to the east of the residence.

The Petitioner's request appears reasonable and the Department would recommend approval subject to findings and orders.

Back yard 32 x 50 = 1600⁺ s.f.

$$24' \times 24' = \frac{576}{1600} = 36\%$$

$$24' \times 30' = \frac{720}{1600} = 45\%$$

Petition No. B-103-09
Trevor Johnston
Attorney's Observations

Petitioner Trevor Johnston is proposing to tear down an existing garage and build a new larger garage in its place.

Petitioner's application for two development standard variances appears to be in appropriate form. Petitioner appears to have identified the two pertinent standards that he needs relief from; namely:

- (1) A permitted, detached structure cannot be closer than 10 feet from the nearest wall of the principal building per Section 160.013(D)(1).

The garage is currently 12.2 feet; the proposed garage would be 7.8 feet.

- (2) A permitted detached structure cannot cover more than 30% of the rear yard area per Section 160.013(D)(2)(b).

I calculate 30% of rear yard to be approximately 450 sq. ft. The Petitioner requests approval of a 24' x 24' (576 sq. ft.) or 24' x 30' (720 sq. ft.) garage.

Detached garages are permitted, but must conform to the above rules, among others, so a variance is required. The standards for a development standard variance are found at Section 160.124(B)(4)(q).

**MICHIGAN CITY BOARD OF ZONING APPEALS
FINDINGS AND ORDERS – DEVELOPMENT STANDARD VARIANCE**

The application of **Trevor Johnston**

Public Hearing on Findings and Decision held the **9th day of June, 2009**

Public Hearing on Findings and Decision closed the **9th day of June, 2009**

Findings and Orders Determined the **14th day of July, 2009**

WE THE MEMBERS OF THE MICHIGAN CITY BOARD OF ZONING APPEALS NOW FIND:

1. That the Petitioner/Property Owner is Trevor Johnston, 124 W. Homer Street, Michigan City, Indiana.
2. That the Petitioner is requesting a two-part Development Standard Variance for the construction of a new 24' x 30' garage structure at 124 W. Homer Street to replace an existing dilapidated garage.
3. That the Petitioner requires relief from Chapter 160.013(D)(1) of the Michigan City Comprehensive Zoning Ordinance which requires a 10' distance between the accessory structure and the principle building – Petitioner is requesting a variance to allow a distance of approximately 7' - 8'.
4. That the Petitioner also requires relief from Chapter 160.013(D)(2)(b) of the Michigan City Comprehensive Zoning Ordinance which requires that the accessory structure not cover more than 30% of the rear yard – Petitioner's proposed 24' x 30' (720 s.f.) garage will cover approximately 45% of the rear yard.
5. That Petitioner submitted photos of old garages as an exhibit item.

FURTHER, that preliminary findings as required for Development Standard Variance approval were submitted by petitioner, and after review and discussion by the Board, a final determination is as follows:

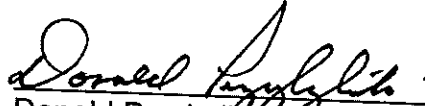
- a) **That the Development Standard Variance requested in the petition will not be injurious to the public health, safety, morals, and general welfare of the community because of the facts as follows:** That the building of the garage in the requested location would be set back further from the alley centerline, actually making it safer. There appear to be no adverse effects to the community that would result from the proposed new garage.
- b) **That the Development Standard Variance requested in the petition will not affect the use and value of the area adjacent to the property included in the variance in a substantially adverse manner because of the facts as follows:** That the building of the garage should have no effect on adjacent properties – it in

turn should increase the value of Petitioner's property as well as adjacent properties. That replacing the old garage will not adversely affect the neighborhood, it will enhance the safety and aesthetics of the immediate area.

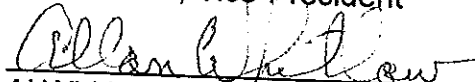
- c) That the Development Standard Variance requested in the petition, will by the strict application of the terms of the Zoning Ordinance, result in practical difficulties in the use of the property because of the facts as follows: That to build a new garage in the allowable yard area would require relocation and variance relief from code as well as existing garage is dilapidated and too small for auto storage. The Petitioner's platted lot in an older section of the city is too small to accommodate a garage of modern day dimensions and the requested variances in this particular case address this issue without adverse effects upon the community.

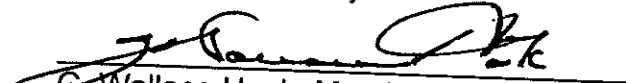
The BOARD NOW DECIDES that Petition B-103-09, BE AND IS HEREBY GRANTED based on the above listed findings.

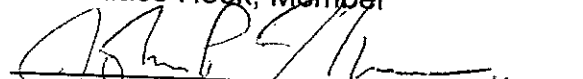
Approved this 14th day of July, 2009, after proper notice and public hearing.


Donald Przybylinski, President

Tom Wilson, Vice-President


Al Whitlow, Secretary


G. Wallace Hook, Member


John P. Morse, Member