

PLYMOUTH BOARD OF ZONING APPEALS

December 6, 2022

The Plymouth Board of Zoning Appeals met in regular session in the Council Chambers of the City Building, 124 North Michigan Street, Plymouth, Indiana on December 6, 2022, at 7:30 p.m. Board President Art Jacobs called the meeting to order for Board Members Mark Gidley, Brandon Richie, Alan Selge and Paul Wendel. Alternatives Fred Webster and Linda Secor were in attendance but not needed. Others present were Plan Consultant Ralph Booker and City Attorney Sean Surrisi.

Board Members Gidley and Richie moved and seconded to approve the minutes of November 1, 2022. The motion carried.

The following legal notice was advertised in the Pilot News on November 23, 2022:

**116
Legals**

BZA 2022-26: Richard and Sharon Styka, 1100 E. Jefferson St., Plymouth, IN 46563: A Variance of Development Standards to reduce the side yard setback from the required ten (10) feet to five (5) feet to construct an attached garage at 1100 E. Jefferson St., on parcel 50-32-04-202-068.000-019, zoned R-3, Traditional Residential District.

Information on these matters may be obtained at the office of the Clerk-Treasurer, 124 N. Michigan St., Plymouth, IN, and telephone #574-936-2124. Written objections to the proposal filed at the Clerk-Treasurer's office will be considered and oral comments will be heard. The hearing may be continued from time to time as may be found necessary. If you are disabled and need special accommodations, please call the ADA Coordinator at 574-936-2948. Kyle Williams, Recording Secretary, Board of Zoning Appeals, November 23, 2022
November 23, 2022 PN340921 hpa/xlp

BZA 2022-26: Richard and Sharon Styka, 1100 E. Jefferson St., Plymouth, IN 46563: A Variance of Development Standards to reduce the side yard setback from the required ten (10) feet to five (5) feet to construct an attached garage at 1100 E. Jefferson St., on parcel 50-32-04-202-068.000-019, zoned R-3, Traditional Residential District.

Plan Consultant Booker reviewed the findings of fact and the request from the applicant. He read the applicant's letter aloud. See attached letter below.



Key:
American Legion Property – Blue
Styka Residence – Red

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LETTER OF INTENT

Please Let This Letter Serve as Notice to Request a Variance To Reduce The Side Yard Set Back From the Required 10'0 to 5'0 on the West Property Line.

This Variance will Permit the Construction of a Single Bay (1) Car Attached Garage to the Existing Structure on a Residential Zoned Parcel.

The Addition will be Conventional Post Framed Type Construction and will Cosmetically Match the Existing Structures Roof Lines and Appearance on the Exterior.

The Main Reason for the Request of Variance is Because of the Narrow Size of our Lot. We Have The Narrowest Lot in our Immediate Area. Furthermore, We Feel This Addition will not Impose any Hardships on any Adjoining Properties as they are Either Privacy Fenced, Landscaped or Not in the Site Line of the Proposed Addition.

Additionally, The American Legion Post 27 has Recently Purchased the Adjoining Lot to the West of our Parcel. We do not Know What Their Future Intentions Might Be.

The Main Use of the Addition will be to Park (1) Vehicle and Store Lawn Equipment in the Space.

The Existing Structure is Built to Residential Specifications with Poured Concrete Walls, Concrete Floors, Frame Construction, Insulated, Heated and Air Conditioned.

This Existing Space will be Utilized as a Staging Area Due to our Age, and will be Compatible with our Hobbies as my Wife and I are Avid Art and Antique Collectors.

The New Addition will have (2) 8'0 x 8'0 Overhead Doors on The North / South Elevations Which Will Allow Easy Access to All 4 Sides of the Property.

In Addition, This Addition Does Not Adversely Affect the Comprehensive Plan.

This Property is Serviced by City and Public Utilities.

No Easements are Apparent.

Richard Styka (1100 E. Jefferson St., Plymouth, IN 46563):

Styka states that their proposal is what was described in their letter of intent. He explains that unfortunately they have one of the smallest lots in that area and that they are tucked in there. He states that you can see that his wife's car sits outside right now and that is a problem for them. He states that this is including the whole structure as there are no eaves on that side of the building and that is the maximum they would go. He states that he thought the 5 ft. setback for would be enough to ask for.

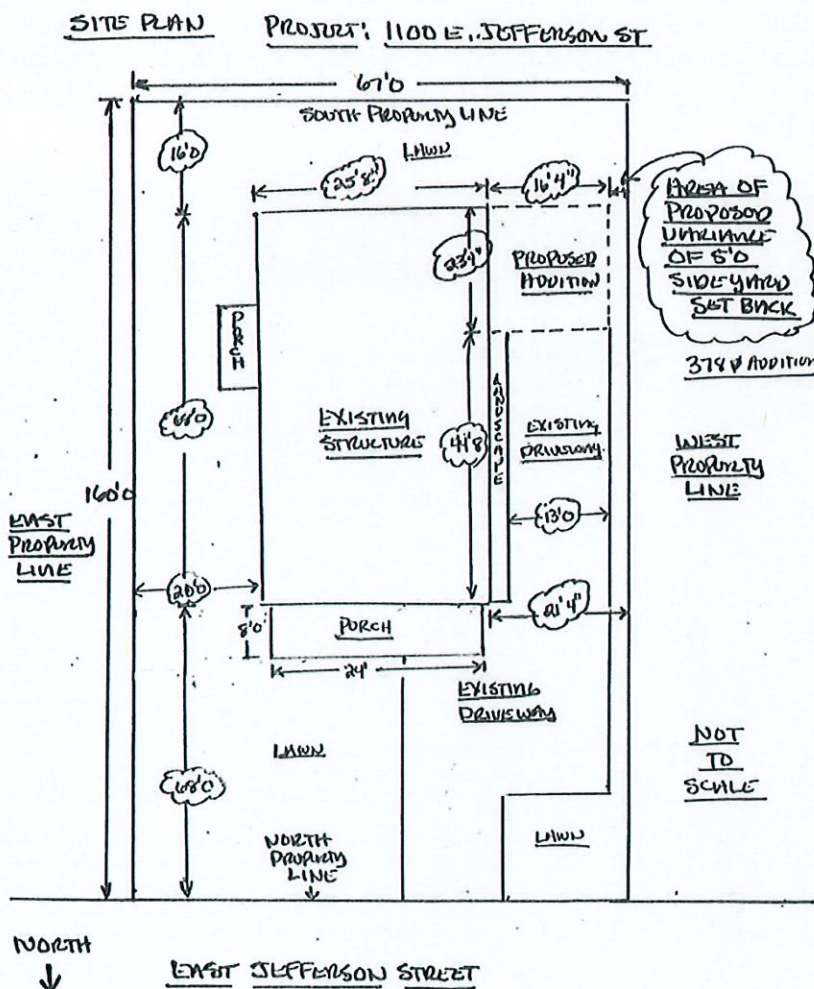
Wendel states that if you are looking from the front of the house, the driveway goes to the right side. He asks if the five feet would go beyond where the asphalt is.

Styka responds by stating that he was trying to spot the property line stake in the pictures the Plan Consultant provided but explains that it will actually be within the asphalt that is currently already there.

Wendel asks if they have spoken to the American Legion in regards to this.

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Booker responds by stating that it is.



Board Members Selge and Richie moved and seconded to open the public hearing. The motion carried.

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There were no comments at this time.

Board Members Selge and Wendel moved and seconded to close the public hearing. The motion carried.

Board Members Wendel and Gidley moved and seconded to approve BZA 2022-26 as presented. The motion passed by roll call vote.

Yes: Gidley, Richie, Selge, Wendel and Jacobs
No: None
Absent: None

Plan Consultant Booker states that on the agenda is the Reconsideration for BZA 2022-25 from Marcy Prochaska. He explains that he and the Building Commissioner spoke on this and came to the conclusion that you cannot hold a public hearing tonight as there was no notice sent. He states that the Board can listen to the applicant and see whether or not there are enough new facts to have a public hearing in January. He read aloud the grounds for reconsideration in the Zoning Ordinance that are listed below.

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070 Approval Expiration and Termination [cont.]

E. Re-Consideration of Applications

Either the petitioner or any interested party may seek the reconsideration of any variance, special exception, or administrative appeal by submitting a written request to the Zoning Administrator within thirty (30) days of the date of Board action on the request. A variance, special exception, or administrative appeal may be reconsidered by the Board of Zoning Appeals under the following procedure.

1. Public Hearing

Upon receipt of the written request for reconsideration by the Zoning Administrator the matter shall be placed on the Board of Zoning Appeals agenda for a public hearing. At the public hearing the Board shall only consider whether or not sufficient grounds for reconsideration are present, but shall not take any new action on the petition. If sufficient grounds are present, the Board shall place the petition on the agenda for its next regularly scheduled meeting at which time the petition shall be reconsidered and subsequent action taken.

2. Grounds for Reconsideration

At the public hearing the Board shall determine whether or not the variance, special exception, or administrative appeal shall be reconsidered.

a. The Board may reconsider the application if a finding is made that the entity seeking the reconsideration is able to provide substantial new information or clarified facts that were not known or available at the initial hearing on the petition and such new information or facts is directly related to the decision criteria established by this Ordinance.

b. In no instance shall a reconsideration be granted to allow a petitioner to modify their application.

3. Time Limitation

In no case shall the Board hear more than one (1) request for reconsideration for any single petition.

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PLYMOUTH, INDIANA

Appellant (Please Print)

Address

Marcy Pochaska

800 N Center St

Phone Number 574 767 1188

Plymouth IN 46563

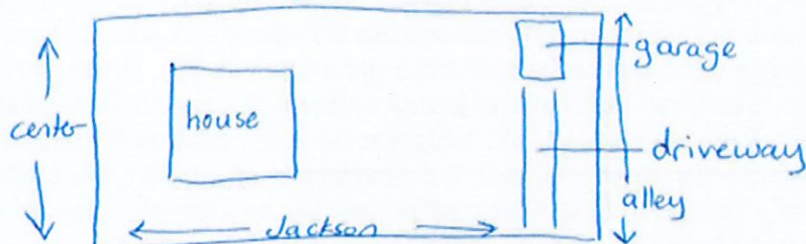
TO BOARD OF ZONING APPEALS, FOR THE CITY OF PLYMOUTH, INDIANA

I hereby appeal from the decision of the Building Commissioner and/or Zoning Board of Appeals for the reasons stated below and attach hereto drawings showing location, etc:

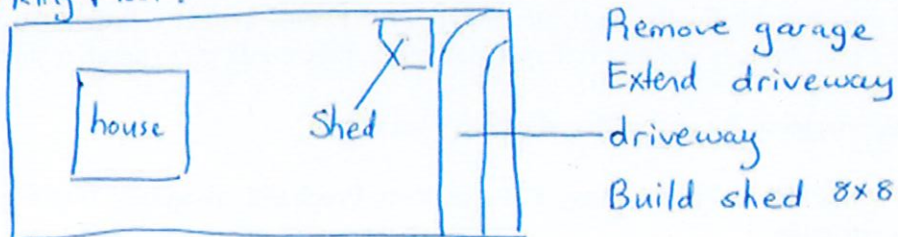
Per the procedure outlined in the Zoning Ordinance p251,
I'm asking the BZA to reconsider the case regarding
the special use exception for Little Way Montessori
School to operate at my home 800 N Center St.
New information includes a plan for traffic flow
during drop off and pickup, ^{and} for employee parking.
I have also gathered signatures on a community
petition and statements of support from neighbors.

Marcy Pochaska
Appellant

Existing :



① Parking Plan :



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② Traffic Flow:

3 cars can fit along the property on Center.
4-5 on Jackson.
3 more can pull onto the property along the alley,
leaving the alley clear.
This is sufficient for 10-11 families at a time.
Two shifts would be sufficient for our maximum
capacity of 20 children.

③ Petition and support statements to be presented
at the December meeting.

Booker explains that if the Board believes that there are enough facts to reconsider then they can put it on the docket for the next meeting in which she will have to pay an application fee again and in turn notify the same people within 300 feet of the property.

Marcy Prochaska (800 N. Center St., Plymouth, IN 46563)

She states that her address has changed and she is now at 800 N. Center Street and she does believe that they have new substantial information for the case. She states that they can fit 3 cars along the property on Center Street, another 4-5 on Jackson Street, and 2-3 more can pull onto the property along the alley leaving the alley clear. She adds that there is enough space to not block the alley. She states that would be enough cars to serve the number of students they have currently and if they were to do two shifts, that would be able to serve 20 children for their maximum capacity with the staffing that they currently have. She restates that this will not encroach on anyone else's property and not affect the use of the alley. She states that another concern that had been brought up was parking for herself and her employee. She states that she did find that they can fit two cars in that little driveway and if that is not sufficient for the Board that they do have a plan in place where they can knock down the garage, extend the driveway and build a small shed to store what they would be storing in the garage. She states that she also has an online petition with 150 signatures and a paper petition that she has not counted yet. She adds that the paper petition is not as large as the online petition. She states that there are also 5-6 statements of support from others in the neighborhood so that is a change from last time when they had two people stand up against the proposal. She states that she has quite a bit of support at this time.

Wendel asks for clarification that she can go up to twenty students. Prochaska agrees. He asks if she stated that she was at 8 and if they added more, they could go to another shift.

Prochaska responds by stating that she didn't have 8.

Wendel states that he heard her say 8 at one point. Prochaska disagrees. Wendel asks if she has 20 students currently.

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Prochaska responds by stating that they have 11 students currently.

Jacobs asks how many parking spots they had when they add up all those parking spots.

Prochaska responds by stating between 7 or 8.

Richie asks if any of those students are siblings.

Prochaska responds by stating that not at this time but not everyone is dropping off and picking up at the same time. She corrects her prior statement of 7 or 8 and states that she added them up incorrectly and that it would be 11 actually.

Gidley asks for clarification on what she meant by pulling into the alley. He asks if she meant out of the alley.

Prochaska responds by stating that if they were coming south through the alley that there is some space on the edge of their property where they could pull over onto that property so as not to completely obstruct the use of the alley.

Jacobs states that it easily looks like they could fit four cars in that driveway.

Wendel states that it is not that long.

Prochaska agrees with Wendel and states that it is too narrow and that you can fit two cars one in front of the other.

Jacobs states that he was thinking side by side.

Prochaska states that they could pull onto the property like that but then her and her employee would not have a place to park. She adds that she was not able to get a completely straight answer on this either but there is gravel two lines between her house and the house to the north. She states that at first her realtor told her that was a city easement but then she stated that it was not. She explains that she has not been able to get confirmation of whether there is an easement there or not. She states that if potentially there is they could use that for parking as well and they would be able to vacate it as the city would need them to.

Gidley asks if that is a one-way alley or not.

Prochaska states that she is not sure.

Surrisi states that he is unsure but believes that most of them in that area are two ways.

Jacobs says that it depends on who is going first.

Prochaska agrees that it is not wide enough and that you would have to pull over to the side if someone was coming from the other way.

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Richie asks for clarification on the seven to eight parking spots.

Prochaska responds by stating there are three on Center Street, four or five on Jackson Street, and then three or four pulled over from the alley.

Selge asks for clarification on that in the circumstance that the garage is gone.

Prochaska responds by stating that there is enough room for them to pull over next to the garage. She states that it does not look like it from that picture.

Jacobs asks about the ordinance on not parking in the grass.

Surrisi responds by stating that it did not pass.

Selge asks if she plans on adding more pavement.

Prochaska responds by stating that she has not planned to unless they need to knock the garage down in which she would extend the driveway.

Richie asks about behind the garage.

Prochaska responds by stating that she believes the garage goes right up against the property line. She adds that if that easement is there then it could possibly be used.

Surrisi states that he does not believe an easement is there but if one was it would probably only be small enough for a pipe or something going through there. He states that it would not be something similar to an alley easement.

Wendel states that it looks like that is owned by the next-door neighbor.

Prochaska adds that the street parking is fairly generous with space so there is enough room to get a stroller through.

Jacobs asks for clarification that they are just dropping kids off and they won't have a need for parking.

Prochaska agrees and states that it would only be between the times of 7:45 am – 8:00 am in the morning and then 11:30 am – 11:45 am as well.

Richie asks if it is possible for the grassy area between the driveway and the alley for that to be paved or graveled to have people pull into there.

Prochaska responds by stating that is something that she had looked into and explains that what she found was 45-degree angle parking that takes up the least width when parking vehicles.

Richie states that she could probably get four cars in there so that is two for her and her employee, and two for people dropping off. He states that there is then the Center Street and the Jackson Street.

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He states that the issue however is impeding traffic and that it wasn't just the cars parked there. He states that during drop off time that it was a high traffic time with cars parked on both sides.

Wendel states that the concern there was that it would be backed up on Michigan Street.

Prochaska states that what they did with Lake Avenue was that they could inform parents that if the area around the house is full that instead of just sitting there and blocking traffic that they could go around the block and come back.

Wendel states that if they are blocking traffic on Michigan Street that they would not be blocking it long as someone would take them out.

Prochaska explains that she is not totally clear on this process but at this point they are just deciding whether or not there is enough information to consider this at the next meeting. The Board agrees.

Richie states that there is a possibility of having a max of twenty kids and currently there is eleven. He states that by chance if all eleven cars drop off at the exact same time, the exact same day, how that would impede onto Michigan Street.

Prochaska responds that at their current enrollment they would not. She states that if they were to do two shifts that it would not.

Richie asks with twenty cars if it is even going to stretch out onto Michigan Street.

Selge states for clarification that she said she may tear her garage down and have that area in the back as parking.

Prochaska agrees but states that she would rather keep the garage, even though it does need some repair, but if that is what they need to do in order to get the application approved that they are willing to do that.

Richie asks what the other complaints were aside from just the impeding of traffic.

Prochaska responds by stating the tranquility of the neighborhood.

Wendel states that it was just two neighbors.

Prochaska states that she does have plenty of support.

Wendel states that not unless they are within 300 feet of that house that they do not matter.

Prochaska states that she does have some that are in the area.

Wendel states that she does not have 136 people.

Prochaska agrees but she states that it is more than two.

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Wendel states that they do matter but as far as this goes it involves those within a 300-foot radius.

Selge asks when the recess time is.

Prochaska responds by stating that they play outside for 15-20 minutes each day.

Jacobs asks if there is any fencing for the kids.

Prochaska responds by stating not at this time as it depends what the board recommends. She states that the licensing standards for childcare require a minimum of 4 feet. She states that the zoning ordinance forbids anything higher than 42 inches in a front yard.

Selge asks if that is considered front yard.

Prochaska states that she assumes since she has frontage on both streets that it would be considered front on both sides but she is open to correction on that.

Jacobs states that he believes frontage would be in front of the house and that he would not consider side yard frontage.

Surrisi states that by setback standards at least that it would count as two front yards.

Booker states that the ordinance states that you have to have a lower fence along the front yard so with that being said if she wanted to have a higher fence that would have to be approved.

Jacobs states that is dependent on if she would want to have a bigger fence.

Gidley asks if HIS Small Wonders by KFC has a fence that is 6 foot high on their side yard. He wonders if they had received a variance for that or not.

Surrisi states that HIS Small Wonders has actually been in the Old Firehouse for the past couple years.

Prochaska states that those are two separate organizations. She states that there is still a Small Wonders on Center Street by KFC.

Gidley states that they have three, one out at the Baptist Church in the Summer, one at Argos Schools, and the one by KFC.

Selge adds that the fence on Center Street only extends from the edge of the house to the next property.

Gidley asks if they have a fence there that is 6 foot high.

Selge states that they do but they have some type of platform that allows the kids to poke their little heads over. He restates that the fence however does not extend past the front of the house and stays even with the building.

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Richie states that if she went even from her house to her garage off the back of the house that it would still be considered back yard.

Gidley states that it would still be a front yard but he believes that it would still require a variance.

Booker states that if this gets reconsidered that a fence can be included, similar to the number of employees, number of children, etc.

Surrisi asks what the height of the existing fence is at their existing facility.

Prochaska responds by stating 30 inches.

Gidley states that she told them that it was not a permanent fence though. Prochaska agrees. He asks if she said it was a fold up fence.

Prochaska responds by stating that it is not a fold up fence but rather a push in fence.

Gidley clarifies that it is not a permanent fence. Prochaska agrees.

Jacobs asks for clarification on what the law was.

Prochaska states that it is 48" for the licensing standards. She explains that she is a legally licensed exempt provider so she does not have to abide by that but that is what the standard is.

Gidley asks when they granted her the variance on Lake Avenue, what she believed her enrollment was going to be.

Prochaska responds by stating she was anticipating 15 children.

Gidley remembers that too. He asks between the time they approved that and they were operating there changed that they needed to move. He states that they had already granted her a variance to operate.

Prochaska responds by stating that it was not that the enrollment numbers changed but in order to have to school at that property she had to move her family out into an apartment which is expensive. She adds that the space in the building was also a little cramped for them.

Gidley asks how many she had when it was cramped.

Prochaska states that she believes she also started this year with 11 enrolled.

Selge asks if it is possible to move that garage.

Booker states that he does not believe that it is moveable.

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Doug Feece from the audience adds that he does not believe that it is moveable either. He states that garage has been crooked for so many years. He states that he thinks that eventually the wind is going to blow it down one day.

Prochaska states that she believes that it is sturdy but it is just sunk in that one corner.

Feece states that they used to park their car in there religiously.

Prochaska explains that she does not feel comfortable enough to do that yet.

Jacobs states that if they agree to reconsider this that it does not mean they will get it at the meeting. He states that he wants to be clear about that. He asks the rest of the Board if they believe there is enough information that they would feel comfortable reconsidering it.

Selge states if she is willing to get rid of that garage.

Prochaska states that they cannot decide that at this meeting.

Jacobs agrees and asks again if they believe there is enough new information for her to resubmit her application. He states that he was not at the meeting where it was declined so he is asking them.

Gidley references what Wendel said earlier about the 150 online petitioners. He states that his 300-foot measurement is legitimate. He explains that if someone La Paz or Culver then that means they aren't from Plymouth. He agrees that they may support your school but this Board has never been opposed to your school. He states that they may have had to decide where it might go but they're not opposed to a Montessori School. He adds that he does not think anyone in here would say that. He states that they represent the people in the City Limits and those within the two-mile zone and specifically in this case the people within 300 feet of that area. He states that what it boils down to is that they are not going to do a head count. He states that they are not going to say there is 150 in favor and two against and 150 overrides two. He states that this isn't how this works.

Selge states this is the type of situation where if someone disagrees that you can try to work something out with them.

Board Members Richie and Selge moved and seconded to Reconsider BZA 2022-25 on the basis that there is enough new information to hear the case again.

Yes:	Gidley, Richie, Selge, Wendel and Jacobs
No:	None
Absent:	None

There being no other business, Board Members Selge and Gidley moved and seconded to adjourn the meeting. The motion carried and the meeting adjourned at 8:07 p.m.



Kyle Williams— Recording Secretary