

PLYMOUTH BOARD OF ZONING APPEALS
NOVEMBER 6, 2019

The Plymouth Board of Zoning Appeals met in regular session at 124 North Michigan Street, Plymouth, Indiana on November 6, 2019 at 8:08 p.m. Board President Art Jacobs called the meeting to order for Board Members Mark Gidley, Keith Wickens, and John Yadon. Board Member Alan Selge was absent.

Board Members Gidley and Wickens moved and seconded to approve the minutes of last regular meeting of October 1, 2019, as presented. The motion carried.

The following legal notice was advertised in the Pilot News on October 25, 2019:

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**NOTICE OF
PUBLIC HEARING**

The Board of Zoning Appeals of the City of Plymouth, Indiana will hold a public hearing on November 6, 2019 at 7:30 p.m. in the Council Chambers of the City Building, 124 N. Michigan St. (Garro St. entrance), Plymouth, Indiana on the following matters:

BZA 2019-23: Jaime Fonseca, 1030 W. Jackson ST., Plymouth, IN 46563: A Variance of Use to have a tattoo shop located at 100 S. Michigan ST., parcel

50-32-93-103-359.000-019, zoned C-2, Downtown Commercial District.

BZA 2019-24: Susan Kessler, 5235 N. Fairfax CT., South Bend, IN 46614: A Variance of Use to have a yarn and textile shop with a retail gift shop at 825 N. Center St., parcel 50-42-92-303-229.000-019, 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-Treasur-

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er'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.

Abby Collins, Recording Secretary, Board of Zoning Appeals, October 25, 2019

October 25, 2019 PN306565 lispaidp

BZA 2019-23: Jaime Fonseca, 1030 W. Jackson ST., Plymouth, IN 46563: A Variance of Use to have a tattoo shop located at 100 S. Michigan ST., parcel 50-32-93-103-359.000-019, zoned C-2, Downtown Commercial District.

Plan Consultant Ralph Booker reviewed the findings of fact and the request from the applicant. He said this same request was approved by the board several months ago and now the applicant is looking to relocate his business. Booker read aloud the letter in the application:

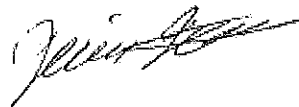
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To whom it may concern:

September 25, 2019

I am requesting to move my tattoo shop from its current location at 212 N. Michigan St to 100 S. Michigan St. On September 17th I walked into my shop to see the ceiling tiles had fallen due to a leak in the upstairs apartment. The landlords had stopped by and had said it was possibly due to an overflowing toilet. There was no plumber called. I replaced the tiles that were ruined, and since then it is still leaking. I also have leaks in the piercing room due to a bad roof. I promise to only bring positive changes to downtown Plymouth. I will make sure that I oversee all clientele that is coming in and out as well as myself and only myself will be doing any hiring of any additional artists. I will at all times withhold the ordinance levels. I value downtown Plymouth and I have been successful in my Argos location for the last 4 years and the past 6 months at my current location in Plymouth. The new building is in better condition and more spacious to be able to provide a better experience for clients. I can assure you that my clients and employees will not be loitering out front, as I do not have that issue now at my current Plymouth location or before at my Argos location. I ask that if there would be anything that were un savory about my operation that I would be more than willing to accommodate and repair whatever had been done. I am looking to bring a positive vibe to downtown Plymouth as well as it benefiting local bars and restaurants. All I can do is promise you that I will give it my best to make it a clean, safe business and something that I am proud of. I take my business serious and I will do my very best to follow all of the rules, all of the laws and everything the State of Indiana Health Department requires.

Thank you,



Jaime Fonseca
Owner of Ink Style Studio

Gidley asked if the previously approved variance would stand and allow another tattoo studio to function out of 212 N Michigan Street. Building Commissioner Hammonds said no, another variance of use would need to go before the board to have that type of business at 212 N Michigan Street.

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Applicant, Jaime Fonseca, was present to discuss his request and answer questions. He noted that due to the maintenance issues at his current location, he has had to turn business away, reschedule customers, and he has seen work and money he has invested in the space ruined. Fonseca said the leaking issues look bad on his business and are not up to his professional standards. He also said that business has been good over the last 6 months and the new proposed space is larger and can accommodate more people.

Wickens asked if he has looked through the new building and checked the electric. Fonseca said yes, he has spoken with the landlord and tenants that live on the second floor of the building.

There were no additional comments or questions from the board.

Board Members Wickens and Yadon moved and seconded to open the public hearing. The motion carried.

Booker read the following correspondence into the record:

November 6th 2019

Board of Zoning Appeals
Plymouth City Hall
124 N. Michigan St.
Plymouth IN 46563

Subject: Notice Sent 10/25/2019 by BZA Plymouth, Indiana re: case number BZA 2019-23 (Variance of Us to have a tattoo shop located at 100 S. Michigan ST.)

Dear Members of the Plymouth Board of Zoning Appeals,

Thank you for sending me your notice dated 10/25/²⁰¹⁹~~2018~~ regarding case BZA 2019-23. I am writing in response to the subject notice in order to formally express my comments in writing.

Over the past several years Downtown Plymouth seems to have experienced an overall downward trend. While some businesses attract local residents, business people, and tourists with their goods and services offerings, there are other commercial spaces which do not seem to be contributing to the vitality of Downtown Plymouth.

Businesses such as the Brass Rail, ASK Flowers, French Press, Opie's Office, the Post Office, Plumlee Dentistry, the Rees Cinema project, and Plymouth Public Library among a few others are doing what they can to attract customers that make the downtown scene something to be proud of.

These businesses contribute to the vitality of Downtown Plymouth **by repeatedly offering goods and services at regular intervals** that keep parking spaces filled, taxes paid and could have an impact on increasing local revenues (at the county level) via property taxes.

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I do not see Ink Style as a business that provides regular, repeated services.

I have reviewed the Plymouth Zoning Ordinance regarding property classified as C-2 in Plymouth's Downtown Commercial District. Page 36 states:

"Care must be taken to preserve the historic form and function of the Downtown area while maintaining its commercial vitality. Downtown Plymouth should provide an active and diverse focal point for the community, providing an array of goods and services that generate both local and regional interest."

While the language is vaguely worded, it provides a framework to work within. There are two (2) pieces of text that I would like to provide some extra definition for:

1. preserve historic form and function - means that property located in downtown Plymouth should be maintained to the same standard as when they were originally constructed. I'd like to also add that they should be visually attractive.
2. maintain commercial vitality - means that if a property's Permitted or Special Use is for commercial purposes, then the business of that property should attract local residents a large portion of local residents (both on foot and automobile traffic), travelling businessmen, or curious tourists.

With respect to these expanded definitions, I would like to propose alternate solutions for Mr. Fonseca and his tattoo parlor business.


- A. work with the City of Plymouth's Building Commissioner or other local authority to get the building where he currently rents up to code. There are standards for C-2 classified properties and there are authorities whose roles are to maintain those standards.
- B. find a place where there is lots of traffic already which might be more suitable for a tattoo parlor. Local areas include the shopping area near Walmart, the shopping area near TSC, the strip mall area near Dairy Queen, the strip mall area near the Vape Store across from ALDI.
- C. create a plan and present it to all business operators who run businesses on Plymouth's main downtown street (i.e. Michigan St.) in order to demonstrate how a tattoo parlor has a positive impact on currently established businesses.

I believe that Plymouth can have downtown scenes on the level of Warsaw, Valparaiso, Culver, and even smaller towns like Rochester.

Before making exceptions to current Permitted and Special Uses for C-2 class properties which are limited in availability in downtown Plymouth, there are several other types of businesses which I believe could be invited to ~~join~~ join the downtown business community and have a visible impact on the vitality of downtown Plymouth.

I am asking that the board **disapprove the request for Variance of Use (BZA 2019-23) or** at the very least **table the request** in order to provide an opportunity to attract businesses whose Uses, either Permitted or Special, have already been approved.

Thank you for your consideration,


Linda J. Myers

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Fonseca said he frequently has repeat customers that are coming to Plymouth from out of town and spending their money in this city.

Tim Pletcher, 12448 Meadow Drive, said he is not for or against the request. He wanted to know why the ongoing issues at the current building have not been addressed. Building Commissioner Hammonds said that under the state's statute, it is not considered an unsafe building at this point in time.

Board Members Wickens and Yadon moved and seconded to close the public hearing. The motion carried.

Gidley asked if there are any code violations as a result of the leak. Hammonds said no. There was additional discussion about whether the building is a fire hazard and if something can be enforced through the fire department. Jacobs said the fire department does not have any enforcing rights in Plymouth.

Motion: Approve the variance as presented and limit the variance at 100 S Michigan Street to this applicant only.

Moved by John Yadon, **Seconded by** Keith Wickens.

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 4).
Yes: Mark Gidley, Keith Wickens, John Yadon, Art Jacobs.

BZA 2019-24: Susan Kessler, 5235 N. Fairfax CT., South Bend, IN 46614: A Variance of Use to have a yarn and textile shop with a retail gift shop at 825 N. Center St., parcel 50-42-92-303-229.000-019, zoned R-3, Traditional Residential District.

Plan Consultant Ralph Booker reviewed the findings of fact and the request from the applicant. He read aloud the letter in the application:

October 10, 2019

To Whom This May Concern:

This letter of intent is to describe the details of our proposed plan for a variance of use for the property at 825 N. Center Street, Plymouth, Indiana.

The structure has only been used as an office or storefront, never as a residence. Our plan is to use it as a yarn and textile shop, including a gift shop area. Included in the yarn shop, we plan to have a "sit and stitch" area, and we plan to offer textile art classes to the public.

Parking will not be a problem as there are several places in front of the building, and additional space in the back if necessary. This will be a very quiet business and we believe an asset to the area and community.

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We plan to improve the outside of the building as well as the landscaping making it more presentable in the neighborhood...again a positive addition to the immediate area.

Any further questions can be directed to me at 574-261-3178. Thank you for your consideration.

Susan Kessler

There was discussion regarding the parking. According to the zoning ordinance, the applicant would be required to have 4 or 5 parking spaces. There is parallel parking along Harrison Street. The concrete cutout is out of the right-of-way and appears to have been there for quite some time. There was question about whether this area should be green space, whether or not it is grandfathered-in, and with restricted parking along Harrison Street would it be legal to parallel park in this area.

Building Commissioner Hammonds stated that he does not feel the property could be used as a residence and the only use would be commercial. City Attorney Surrisi noted that since the concrete along Harrison Street appears to have been there for quite some time, he would think that it is grandfathered-in.

Susan Kessler, 5235 N. Fairfax Ct, South Bend, was present to discuss her request. She said there is a shed in the back of the property that could be torn down and used for parking if it was required. Ms. Kessler said the property only has a half bath, so it could not be used as a residence and they plan is to put a new roof on the structure. She reviewed the nature of the business she is proposing and noted that it is a quiet business that would fit in nicely with the residential area.

Gidley said he likes the idea of the proposed business, but is concerned with parking. He feels that she should not rely on the parking on Center Street because there are so many neighbors that share this on-street parking. He would like to see the applicant tear down the shed in the back and use some of that backyard for parking.

Yadon noted that there is a concrete pad in the back of the property, probably used as a delivery area when the building was a grocery store. Gidley said that it would be the applicant's responsibility to stripe the parking area for parallel spaces.

Jacobs asked if there would be handicap-accessible parking on the property. Kessler said yes, her contractor has already designed the area with handicap-accessible parking spaces.

Board Members Gidley and Yadon moved and seconded to open the public hearing. The motion carried.

Odette Husband, 822 N Walnut Street, spoke in favor of the variance.

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Board Members Gidley and Wickens moved and seconded to close the public hearing. The motion carried.

Motion: Grant the variance and require the applicant to use the Harrison Street parking as parallel parking only and at least two parking spaces behind the building for employee parking.

Moved by Mark Gidley, **Seconded by** Keith Wickens.

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 4).

Yes: Mark Gidley, Keith Wickens, John Yadon, Art Jacobs.

Board Members Yadon and Wickens moved and seconded to adjourn the meeting. The motion carried and the meeting adjourned at 8:50 p.m.



Abby Collins – Recording Secretary

