

**BOARD OF ZONING APPEALS
MINUTES
January 26, 2026**

The Warsaw Board of Zoning Appeals met for a regular session on Monday, January 26, 2026 at 7:00 p.m. in the City Council Chambers, 102 S. Buffalo Street, Warsaw, Indiana. The following members were present or excused:

PRESENT:

Leah Parker (Assistant City Planner) Rick Keeven, Duane Huffer, Scott Reust, Zach Tucker, Tammy Dalton, Amber Utter (Recording Secretary).

ABSENT:

Max Maile

CALL TO ORDER:

Dalton called the meeting to order.

APPROVAL OF MINUTES

The minutes of the regular session held on December 22, 2025 , were presented for approval. A motion was made by Huffer, seconded by Tucker, the minutes were approved.

OLD BUSINESS

NONE

NEW BUSINESS

Election of officers: Chair and Vice Chair

Huffer motioned to reinstate Tammy Dalton as Chair and Rick Keeven as Vice Chair; Tucker seconded motion. Motion carried.

Item #1: 2026 -01-01- 5 Fairlane Dr. - Parker introduced a variance from development standards to allow a setback of less than 25 ft from the road and within the flood plain. Parker explained the petitioner's request to expand the existing garage and storage area, which would encroach into required setbacks.

Keeven requested a visual aid to understand the location. Parker provides a site plan directing them to the packet.

Huffer requested information on restrictive covenants and the role of BZA with those restrictions. Discussion ensued about the setback distances and the impact on the neighborhood, including potential violations of restrictive covenants. Reust stated that restrictive covenants are enforceable by other homeowners, it's not this governing body's duty to have interest in the private contractual covenants.

Huffer stated concerns about going against these neighborhood covenants.

Reust stated the homeowner does what they do at their own risk. Generally they can be amended. They are not enforceable by the government. Must be judged by a court, not BZA. Private contractual rights have nothing to do with the ordinance.

Petitioner came to the podium and stated his name: Nick Higdon. Higdon stated he is trying to find some space in front of their garage. He wants the space for a basketball court and some weight training.

Huffer questioned the proximity to the water and Dalton confirmed it is 20.57 feet away.

Reust stated that it appears the site plan states to add 17.97 feet to the north of his property and that would give a setback of about 20' from the channel.

Dalton questioned whether or not there has ever been any flooding in that spot before since the petitioner has lived there.

Higdon stated he has not seen any flooding.

Dalton questioned the public if anyone was here that was not in favor of the petition. No one spoke up. Dalton closed the questions to the floor.

Keeven motioned to approve and Tucker 2nd motion. Motion carried. 3 in favor Huffer was opposed. Motion carried 3 to 1.

Item #2: 1804 E. Center St.-- To allow a residential in a commercial zone

The petitioner is seeking a Special Exception to allow residential in a commercial zone. While this property is in a commercial zone, it is in between residential zones and will not disrupt the "flow" of the commercial zone. As required by or municipal ordinance, a special exception must meet the requirements set forth in the section 12.0.3 (R-3 Residential District) and section 12.0.4 (General Provisions) – which it does.

****Keeven asked for an overhead picture on this parcel.**

The petitioner came to the podium and stated her name: Daran Thitratanakorn. Ms. Thitratanakorn is wanting to purchase the building to be able to spend the night in bad weather or if she's working late. Ms. Thitratanakorn states she plans to use the business for Thai massage and nails.

Dalton asked if there was anyone in the audience that wanted to speak in opposition of this variance?

Melissa Rone came forward and took the podium. Rone asked why this property needs to be rezoned.

Reust answers her question stating they are not asking for the property to be rezoned, they are asking for a special exception that will allow residential use of the property. The zoning will remain commercial.

Rone asked what long term effects this will have on the property.

Parker responded that if there is a new owner, the special exception will remain in place with the new owner.

Reust commented that if this variance is granted, this will allow the property to be used as residential. Not just in bad weather or sometimes, but it's an all or nothing kind of situation. It would allow residential use full time.

Parker stated that there is a house bill being passed or going through the discussion phase to have more residential in commercial zones as a statewide rule. That is something to consider as well.

Rone stated she has concerns about that property becoming residential. There is no green space and a very large parking lot. So depending on what the plan is for that space, it does impact her business.

Dalton asked if anyone else is in opposition to this variance request

Diane Heyde came forward and took the podium. Heyde asked if it is limited to single families or multiple families.

Parker responded that based on our ordinances, it can be a single or multiple family home.

Heyde stated she is against it.

Dalton asked if anyone else would like to speak out.

No further comments were made from the public, so Dalton closed the meeting to the floor.

Keeven asked if it can be limited to single families.

Reuse responded no.

The board members discuss the implications of granting a special exception and its permanence.

Huffer made a motion to grant the petition. Keeven opposes.; Tucker 2nd Keeven's motion to oppose. Dalton and Huffer were in favor.

The vote is 2 to 2.

Reust stated we need 3 to take action.

Dalton stated as it stands today we have a tie so we cannot grant it.

Dalton stated no final action can be taken. The petitioner can come back with more information.

Reust stated that the petitioner can come back at a later time and bring her petition before the board again.

Dalton stated no further action can be taken today.

Item #3: 1113 W. Lake St.- Variance from Development Standards—Parker introduced this case regarding a variance from development standards requesting use of an active flood prevention system, which requires human intervention.

Keeven asked what would be the alternative?

Leah stated it would be an automated electrical system or mechanical.

Dalton asked the petitioner to take the podium.

Jordan Huttonlocker, attorney for petitioner Zimmer/Biomet, took the podium. Huttonlocker explained the proposed active floodproofing system, including waterproof epoxy coating and curbing.

Matthew McCoy, The Associate Director of Facilities of Zimmer/Biomet took the podium and confirmed the building is occupied 24/7 and the system would be managed by staff except for holidays.

Parker showed an example on the overhead screen of the equipment in question.

McCoy confirmed there is always someone there to act if necessary.

Keeven asked if the overall program is to waterproof the doors. McCoy referred to Connor Jackson.

Connor Jackson, Company of James S Jackson, the General Contractor provided additional technical details about the floodproofing measures including waterproofing the doors and the walls up to the flood grade.

Keeven asked what the building will be used for?

McCoy stated raw materials and material storage

Dalton questioned if there are any in the public opposing this variance and none came forth.

Dalton closed the discussion to the public.

The board discussed the potential impact on the community and intent of the floodplain ordinance.

Huffer motioned to approve the variance, Tucker 2nd the motion.

Motion carried

Variance approved.

Item #4: 315 W. Fort Wayne St.– Parker introduced the final case to allow a business in an R-3 zone– . The Petitioner would like to sell hand-made quality crafts made by local artisans. These crafts include but are not limited to refinished furniture, paintings, indoor signs, soaps, jewelry, needle point, and vegetables in season. The business would operate one weekend per month with hours not exceeding 15 hours. There is an empty lot west of the property wherein customers could park and not be a hindrance to a neighbor.

Huffer stated he does not understand where the parking would be.

Parker stated only street parking

Petitioner, Heather Jagger took the podium: Jagger made a paper map of the parking available and gives a copy to the board. Jagger stated she would like a shed type structure and it would possibly be a 10' x 18'. Jagger also provides details about the proposed business hours and parking arrangements that are available on surrounding streets where existing emergency signs already limit parking to one side, which the petitioner felt would prevent blockage by customers.

The board raised concerns about placing a commercial use in a residential area, which was viewed as contrary to the spirit of the R3 ordinance and the neighborhood. The parking situation was a major concern, as the ordinance required specific parking provisions for businesses, and the plan relied on street parking and an empty neighboring lot that the petitioner did not own.

Dalton asked if anyone opposed the petitioner's request to step forward. None opposed from the floor. Dalton closed to the public.

Keeven made a motion to deny the petitioner's request for variance. Tucker 2nd motion. The board voted unanimously to deny the petition.

Petition is denied.

Jagger was given the opportunity to speak after the vote, defending her proposed low-volume business model compared to existing daily businesses nearby.

SPECIAL INFORMATION

The next meeting is scheduled for Monday, February 23, 2026 to be held at 2225 E. Fort Wayne St., Warsaw, IN 46580

OTHER MATTERS

NONE

ADJOURNMENT

Huffer moved to adjourn the meeting, seconded by Keeven, the meeting was adjourned.



Tammy Dalton, Chair



Amber Utter, Recording Secretary