

Minutes - Goshen Board of Zoning Appeals
Tuesday, July 23, 2019, 4:00 p.m.
Council Chambers, 111 E. Jefferson Street
Goshen, Indiana

I. The meeting was called to order with the following members present: Richard Aguirre, Brad Hunsberger, Scott McKee, and Tom Holtzinger. Also present was Assistant City Planner Rossa Deegan and Assistant City Attorney James Kolbus. Absent: Aracelia Manriquez

II. Approval of Minutes from 6/25/19: Hunsberger/McKee 4-0

III. Filing of Zoning/Subdivision Ordinances and Official Staff Reports into Record: Hunsberger/Holtzinger 4-0

IV. Postponements/Withdrawals: None

V. Developmental Variances – public hearing item

19-17DV – Hector Dario Trujillo-Valdes requests a developmental variance to allow a zero foot front yard setback where 30' is required along W Clinton Street for an approximate 19' x 21' open parking area for two spaces in the front yard. The subject property is generally located at 202 N Riverside Boulevard and is zoned Residential R-2 District.

Staff Report:

Mr. Deegan explained this property is a single family home, located on a corner lot in a residential neighborhood. In the spring of 2018, the petitioner installed an approximately 19' x 21' gravel parking area in his front yard along Clinton Street. When approached by the City, the petitioner stated he was unaware that any approvals were required. He noted that approvals include a right-of-way permit from Goshen Engineering, approval from the Board of Works for the gravel, and approval from the BZA for parking in the front yard setback. Last month the petitioner appeared in front of the BOW and they granted approval for gravel. He explained this property has an existing driveway and two car garage on the north side of the property. The petitioner states his family has 6 vehicles and several of the vehicles belong to his children. He also stated this parking is temporary and plans to remove the parking area once his children are gone, but admits he doesn't know how long that will be. He went on to say when the petitioner appeared before the BOW, the temporary nature of the gravel drive was used, in part, to justify his request. The petitioner also noted that when the gravel parking area is removed, he would likely turn it into a sitting area.

Mr. Deegan pointed out that the BZA has approved a number of requests for open parking in the front yard setback and the majority of the approvals were because of inadequate parking serving the properties. He noted that in at least one case, the driveway was approved because it matched that of surrounding properties. He pointed out that none of the properties he evaluated had available parking spaces matching the existing driveway and garage for this property. He noted this property has adequate parking for R-1 or R-2 use and the installation of two additional parking spaces don't appear to match the characteristic of the surrounding neighborhood.

Staff recommends denial of the request and removal of the gravel within 30 days of today's hearing.

Ms. Manriquez joined the meeting at 4:03 pm.

Petitioner Presentation:

Hector Trujillo, 202 N Riverside Blvd spoke on behalf of the petitioner.

Mr. Aguirre questioned why they are not utilizing street parking.

Isaac Trujillo, 202 N Riverside, stated this is a busy street and they don't feel comfortable parking on the street.

Mr. Deegan pointed out there are no delineated parking spaces on the street and while there is adequate onsite parking for a single family home, there may not be adequate parking for six cars.

Mr. Hunsberger asked if parking is permitted on the street.

Mr. Deegan explained parking is permitted in the right-of-way.

Attorney Kolbus pointed out one of the photographs provided by Staff shows a red car parked along the street on the opposite side of Riverside Blvd.

Audience Comments:

Doug Nisley, Goshen, spoke in opposition to the petition. He stated he is the council representative for this district and has received four complaints regarding the parking at this property. He stated complaints noted there is available parking in the driveway as well as street parking available on the opposite side of Riverside Blvd. He went on to say there is no timeframe for when this gravel parking will be removed and feels the request should be denied.

Mike Towne, 1212 W Lincoln Avenue, spoke in opposition to the petition. He stated the driveway can hold at least 6 cars, plus additional cars in the garage. He also noted that the stone makes the neighborhood look bad.

Petitioner Rebuttal:

Isaac Trujillo stated there is space in the driveway, but it's inconvenient because cars would have to be moved to allow cars in front to get out. He also said the parking across the street is not always available.

Mr. Holtzinger asked if they can make the driveway on the north side of the house work.

Isaac Trujillo stated it would be difficult.

The public hearing was closed.

Staff Discussion:

There was no discussion amongst Board members.

Action:

A motion was made and seconded, Aguirre/McKee, to find with the recommendations and conclusions of the Staff Analysis and deny 19-17DV with the reasons listed in the Staff Report. The motion passed unanimously by a vote of 5-0.

19-18DV – Salvador Salazar and Manuela Valtierra request developmental variances to allow a front yard setback (north) of approximately 16' where 30' is required along Clinton Street and a front yard setback (west) of approximately 20' where 25' is required along Winter Avenue, for an approximately 140 square foot open front porch. The subject property is generally located at 1218 W Clinton Street and is zoned Residential R-2 District.

Staff Report:

Mr. Deegan explained this variance was originally approved in 2016, but expired because the porch was never built. This request is identical to the 2016 proposal for a 140 sf open front porch, located within the front yard setback. He explained the setback along Clinton Street will be approximately 16' where 30' is required and approximately 20' along Winter Avenue where 25' is required. He went on to say the existing setback along Clinton Street is approximately 24', measured from the roof overhang, and the porch will reduce the setback by approximately 8'. He pointed out that while the 20' setback along Winter Ave is less than required, the porch will match the setback of the existing home. He also pointed out that most of the homes along Clinton Street do not meet the 30' required setback, averaging between 20' to 26'. When measuring from the masonry steps, setbacks average between 9' and 23'.

With the exception of the setbacks along Clinton Street and Winter Avenue, the proposed porch will meet all other zoning requirements. Staff recommends approval of the request.

Petitioner Presentation:

Daniel Franco, 201 Silverwood Lane spoke on behalf of the petitioner. He introduced the property owner, Salvador Salazar and stated that if this request is approved, there will be no changes from the previous proposal.

Mr. Holtzinger asked if this porch will remain open and unenclosed.

Mr. Franco translated for Mr. Salazar, acknowledging that the porch will have a roof, but will not be enclosed.

Audience Comments:

There was no one to speak to the petition.

The public hearing was closed.

Staff Discussion:

There was no discussion amongst Board members.

Action:

A motion was made and seconded, Aguirre/Hunsberger, to find with the recommendations and conclusions of the Staff Analysis and approve 19-18DV with the three conditions listed in the Staff Report. The motion passed unanimously by a vote of 5-0.

19-19DV – Bosser, LLC requests a developmental variance to allow a 2’ side (north) setback where 5’ is required for a 10’ x 24’ open shed (lean-to). The subject property is generally located at 227 S Main Street and is zoned Commercial B-2 District.

Staff Report:

Mr. Deegan explained this request is for The Elephant Bar in downtown Goshen. The bar is on the first floor of the building, with an outdoor seating area, located at the rear of the building. The proposed structure is an approximate 240 sf rain shelter and will be placed in the outdoor seating area, approximately 2’ from the north wall between the properties. Setbacks are generally relaxed in the downtown district and many of the buildings along Main Street have zero foot front and side setbacks. The proposed shelter is adjacent to the wall of a one story building that has no door or windows. Both the Building and Fire Departments have confirmed that they have no issue with the shelter or its location. For these reasons, Staff feels the relaxed setback for the proposed rain shelter is reasonable and recommends approval of the request.

Petitioner Presentation:

Jason Oswald, 419 Cross Street, spoke on behalf of the petitioner. He stated is familiar with the Staff Report and has nothing to add.

Audience Comments:

There was no one to speak to the petition.

The public hearing was closed.

Staff Discussion:

There was no discussion amongst Board members.

Action:

A motion was made and seconded, Hunsberger/McKee, to find with the recommendations and conclusions of the Staff Analysis and approve 19-19DV with the three conditions listed in the Staff Report. The motion passed unanimously by a vote of 5-0.

VI. Audience Items:
None

VII. Staff Board Items:

- *6-month extension for 19-02UV & 19-03DV from 8/26/19 to 2/26/20 – 320 S 5th Street*

Mr. Deegan explained the BZA approved a variance on March 26, 2019 for a carriage house residence at 320 S 5th Street. The petitioner has requested a six-month extension in order to finalize interior design, to allow time for plan review, and to complete the required zoning clearance form.

Action:

A motion was made and seconded, Hunsberger/McKee to grant a 6-month extension for 19-02UV & 19-03DV from 8/26/19 to 2/26/20. The motion passed unanimously by a vote of 5-0.

- *BZA Rules of Procedure – revisions*

Mr. Deegan explained BZA members have a copy of the current Rules of Procedure with several edits. He noted edits on page 4 have been requested by the mayor and explained each proposed change. He explained the remaining changes are minor and have to do with the date for requesting the tabling or withdrawal of a BZA submittal.

Staff Discussion:

Mr. Holtzinger stated he agrees with the edits on page 4 and feels this is a good policy because it doesn't ask audience members to choose sides when speaking to a petition.

Attorney Kolbus pointed out that if there is a large crowd or a contentious topic, it might be advisable to ask that spokespersons speak first, followed by anyone wanting to speak for or against the petition. He went on to clarify that the BZA Rules allow Board members to suspend any rule of procedure for a meeting by unanimous consent of those present.

Action:

A motion was made and seconded, Aguirre/Manriquez, to adopt the proposed revisions to the BZA Rules of Procedure. The motion passed unanimously by a vote of 5-0.

VIII. Adjournment: 4:31pm Aguirre/Hunsberger

Respectfully Submitted:

Lori Lipscomb, Recording Secretary

Approved By:

Tom Holtzinger, Chair

Richard Aguirre, Secretary