

Minutes - Goshen Board of Zoning Appeals  
Tuesday, July 26, 2022, 4:00 p.m.  
Council Chambers, 111 E. Jefferson Street  
Goshen, Indiana

**I.** The meeting was called to order with the following members present: Michael Potuck, Bethany Campbell, Lee Rohn, Tom Holtzinger, and Hesston Lauver. Also present were City Planner Rhonda Yoder and Assistant City Attorney James Kolbus.

**II.** Approval of Minutes from 6/28/22: Lauver/Potuck 5-0

**III.** Filing of Zoning/Subdivision Ordinances and Official Staff Reports into Record: Rohn/Potuck 5-0

**IV.** Postponements/Withdrawals - None

**V. Use & Developmental Variances** – public hearing items

**22-19DV** – Trent J. Haldeman & Sailor D. Davis-York request developmental variances to allow a 2' side (west) setback where 5' is required and two parking spaces in the front yard setback where open parking is not permitted for the installation of a new concrete parking and driving aisle. The subject property is generally located at 416 E Douglas Street and is zoned Residential R-1 District.

*Staff Report*

Ms. Yoder explained this request is to install a new concrete driveway on the west side of the property that will include two open parking spaces with a 2' setback where 5' is required. The parking spaces are also located within the front yard setback. Staff's analysis is that approval is warranted, noting that the property has no existing onsite parking and the narrow lot creates the need for a variance. Staff recommends approval with the conditions listed in the Staff Report.

*Petitioner Presentation:*

Trent and Sailor Haldeman, 416 E Douglas Street spoke on behalf of the petitioner. Mr. Haldeman stated the only parking available to them is street parking and currently parking is only on their side of the street. He explained that their two cars are parked there, along with the neighbors across the street. He stated if they're allowed to install this parking, that will leave space on the street for the neighbors to park.

Mr. Holtzinger asked if both of their vehicles will be able to park on the new driveway.

Mr. Haldeman stated if the variance is approved, they will be able to make the driveway 17' wide, allowing enough room for both cars.

Ms. Haldeman stated being able to park in their driveway will also keep them out of the way of snow plows.

*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, Potuck/Rohn, to adopt the Staff recommendations as the findings of the Board and based on these findings, approve 22-19DV with the 4 conditions listed in the Staff Report. The motion passed unanimously by a vote of 5-0.

**22-20DV** - Richard & Vicky Miller request developmental variances to allow a 25' front yard setback along Plymouth Avenue where 30' is required and a 15' front yard setback along 13<sup>th</sup> Street where 25' is required and to allow a parking space in the front yards of both streets where open parking is not permitted for a new parking and driving aisle. The subject property is generally located at 924 E Plymouth Avenue and is zoned Residential R-1 District.

*Staff Report*

Ms. Yoder explained the petitioner is proposing an additional driveway from 13<sup>th</sup> Street to be used for a third vehicle. The proposed driveway would have a 25' setback along Plymouth Avenue and 15' from 13<sup>th</sup> Street. The variance would also cover open parking in the front yard setbacks along both streets. She noted that the Board of Works (BOW) approved the second driveway in May, with the condition that it also be approved by the BZA. She explained the driveway and parking space will be behind the front wall of the home and will not disturb the character 13<sup>th</sup> Street, noting that there are other driveways in the front setback along that street. She noted that there would be space in the southwest quadrant of the property to locate a parking space, but the petitioner stated it would conflict with the existing fenced in yard.

If this request is approved, the Engineering Department will need to approve the surface type and issue a right-of-way permit.

Based upon the analysis, Staff recommends approval of this request.

*Petitioner Presentation:*

Richard Miller, 924 E Plymouth Avenue spoke on behalf of the petitioner. He had technical questions regarding the construction of the driveway, and Ms. Yoder explained he would need to direct those questions to Goshen Engineering when obtaining his right-of-way permit.

Mr. Holtzinger noted a vehicle is currently parking along Plymouth Avenue which makes it difficult to see when wanting to turn west onto Plymouth Avenue from 13<sup>th</sup> Street. He asked if that vehicle will be parking in this location.

Mr. Miller stated that it will be setback far enough that people will be able to see. He explained the drive will come off of 13<sup>th</sup> Street and turn by the house, but not going past the front of the house.

Mr. Lauver asked if he has any concerns about this driveway being too close to the intersection of Plymouth and 13<sup>th</sup> Streets.

Mr. Miller stated the driveway will be far enough away that it shouldn't create any problems.

*Audience Comments:*

There was no one to speak to the petition.

*The public hearing was closed.*

*Staff Discussion:*

There was no discussion amongst Staff members.

*Action:*

A motion was made and seconded, Potuck/Campbell, to adopt the Staff recommendations as the findings of the Board and based on these findings, approve 22-20DV with the 4 conditions listed in the Staff Report. The motion passed unanimously by a vote of 5-0.

**22-21DV** - Matt P. Schrock and Abonmarche Consultants, Inc. request a developmental variance to allow a 13' front building setback along Lincoln Avenue where 35' is required for the construction of an approximately 2,352 Sf building addition. The subject property is generally located at 1210 E Lincoln Avenue and is zoned Industrial M-1 District.

*Staff Report*

Ms. Yoder explained this request is for an addition to the northernmost building which will replace two carports on an existing gravel surface, with a setback of 13 feet. She stated staff recommends approval, noting the front of the addition is in line with the existing building, and adjacent properties also encroach into the front setback. She noted the proposed addition maintains an adequate setback, and a majority of the site cannot be developed due to wetlands and floodplain. Approval with conditions is recommended.

*Petitioner Presentation:*

Crystal Welsh, 303 River Race Drive, Unit 206, spoke on behalf of the petitioner. She referred to a photo in the staff report which shows a fence in the location where the addition will be and explained that the addition will not extend closer to Lincoln Avenue than the existing fence. She explained an existing exterior door currently enters into the outdoor storage area and will become the entrance into the building addition. For this reason, it's important for the front façade to continue on.

*Audience Comments:*

There was no one to speak to the petition.

*The public hearing was closed.*

*Staff Discussion:*

There was no discussion amongst Staff members.

*Action:*

A motion was made and seconded, Rohn/Holtzinger, to adopt the Staff recommendations as the findings of the Board and based on these findings, approve 22-21DV with the 6 conditions listed in the Staff Report. The motion passed unanimously by a vote of 5-0.

**22-22DV** - Leopoldo Mendoza requests a developmental variance to allow a front building setback along Westfield Avenue of 5' where a minimum of 25' is required to rebuild an existing garage. The subject property is generally located at 711 Chicago Avenue and is zoned Residential R-2 District.

*Staff Report*

Ms. Yoder explained this property received a variance a couple years ago to convert from a three-unit residential building to a two-unit building. This building contains a one-stall garage which the petitioner would like to demolish and rebuild in the same footprint, with a taller ceiling and wider garage door. A new concrete driveway would also be installed. There is currently a 5' setback along Westfield Avenue and while this setback is existing, a variance is now required in order to allow this setback to continue.

Staff recommends approval of the request because the garage will be rebuilt in the same footprint and will maintain the existing 5' setback. She pointed out one condition of approval should be that the width of the driveway be limited so open parking is not created. She noted when the two-unit was approved, a driveway was allowed for parking on the south side of the house and this will be for a second driveway. She stated Goshen Engineering has said they will approve a second driveway, but they don't want parking in that area because most of the driveway will be in the public right-of-way. For this reason, Staff recommends the driveway be no more than 4' wider than the garage door. This allows access to the garage, but will discourage parking in that area. Staff also asks for a condition that the possible zoning violations on the property be addressed. She noted inoperable vehicles and vehicles without current license plates have been observed parked on an unimproved surface. Staff recommends as a condition of approval that these issues be resolved within 30 days of approval.

*Petitioner Presentation:*

Mr. Mendoza, son of the petitioner, 711 Chicago Ave, translated on behalf of the petitioner. His father commented that once the garage is approved, the house will look better than it does now. He also translated that this will allow more parking.

Mr. Holtzinger pointed out to Mr. Mendoza that the driveway will only be permitted to be 4' wider than the garage door and that parking on the driveway won't be permitted. He asked if Mr. Mendoza's father understood that condition of approval.

Mr. Mendoza translated that his father understands and that they only want access into the garage.

Mr. Holtzinger asked if there are unlicensed vehicles on the property.

Mr. Mendoza stated those vehicles have been removed. He went on to say there is currently a truck parked in the grass, but it can be moved if necessary.

*Audience Comments:*

There was no one to speak to the petition.

*The public hearing was closed.*

*Staff Discussion:*

Mr. Holtzinger commented that he understands why they want this garage and if the existing driveway is used properly, this seems reasonable.

*Action:*

A motion was made and seconded, Holtzinger/Potuck, to adopt the Staff recommendations as the findings of the Board and based on these findings, approve 22-22DV with the 7 conditions listed in the Staff Report. The motion passed unanimously by a vote of 5-0.

**22-23DV** - Juan & Victoria Navarro, Jose & Maria Hernandez, and Abonmarche Consultants, Inc., request developmental variances to allow a 0' side (south) setback at 908 E Reynolds Street (Lots 90 and 91), a 0' side (north) setback at 707 S 13th Street (Lot 92) where 5' is required in both side yards for two driveways that cross the property line separating both properties, and 36% building coverage for Lot 92 (707 S 13th Street), to allow for new single family development of Lot 92 (707 S 13th Street). The subject properties are generally located at 908 E Reynolds Street (Lots 90 and 91) and 707 S 13th Street (Lot 92) and are zoned Residential R-1 District.

*Staff Report*

Ms. Yoder explained this request is for three underlying lots (Lots 90, 91, & 92) which most recently, have been one tax parcel with an address of 908 E Reynolds. The property contains a single-family house, with a garage on Lot 92 which is the southernmost portion of the property.

Lot 92 has been transferred to a new owner, making these two separate properties. 908 E Reynolds now contains Lots 90 and 91, and 707 S 13<sup>th</sup> Street contains Lot 92. She explained that a single-family home is proposed for Lot 92, with the existing alley driveway serving the property. The existing alley driveway crosses the lot line and an existing driveway off of 13<sup>th</sup> Street also encroaches onto Lot 92. Because of this, a 0' setback is required for both properties for the existing driveways.

A developmental variance is also requested to allow 36% building coverage which includes the house and garage. Ms. Yoder pointed out the 36% lot coverage is a negligible difference from what the ordinance allows and the variance is due to the small lot size, which is smaller than the R-1 minimum.

Ms. Yoder pointed out the existing garage will provide the required parking for the new home and explained that because the driveway crosses the property, a recorded cross-access easement needs to be established before the zoning clearance is signed for the new house at 707 S 13<sup>th</sup>. This is required to protect future property owners and to ensure they're clear about what is allowed.

As part of the approval, Ms. Yoder noted Staff recommends removal of portions of the driveway from 13<sup>th</sup> Street. Staff suggests the portion in the 13<sup>th</sup> Street right-of-way and the front yard setback along 13<sup>th</sup> Street of Lots 91 & 92, be removed. She pointed out that 908 E Reynolds has driveway access from the north and the design of the driveway would allow for plenty of parking. She also stated that portions of the driveway that are removed should be stabilized with grass and the City sidewalk should be maintained and repaired as necessary.

Ms. Yoder noted that possible zoning violations have been observed on this property, with vehicles parked on unimproved surfaces, in inoperable condition, and without current license plates.

Staff recommends an amended approval to allow the 0' setback for only the west alley driveway.

She discussed suggested conditions 4 through 7 of the Staff Report which would require the following:

- Within thirty (30) days of approval, all vehicles parked or stored at 908 E Reynolds Street and 707 S 13<sup>th</sup> Street shall have current license plates, be in fully operating condition, and be parked or stored on an improved surface.
- A cross access easement for the driveway between the 908 E Reynolds Street and 707 S 13<sup>th</sup> Street must be executed and recorded, with a copy provided to the Planning office, before a zoning clearance will be issued for any development on either of the two subject properties.
- Portions of the driveway from 13<sup>th</sup> Street, including those in the right of way, front yard setback along 13<sup>th</sup> Street, side (south) setback of 908 E Reynolds, and side (north) setback of 707 S 13<sup>th</sup> Street, shall be removed and stabilized with a vegetative cover. Any public sidewalk shall be maintained and repaired to City standards if damaged. This removal must occur before the Certificate of Occupancy is issued for the new home at 707 S 13<sup>th</sup> Street. Areas of removal shall be as shown in “Driveway Removal Locations Notes 7/26/22”.
- A single-family home shall be built at 707 S 13<sup>th</sup> Street with a certificate of occupancy for the home issued by the City of Goshen no later than November 30, 2023.

She went on to explain Lot 92 now has an accessory structure without a primary structure which is not permitted. For this reason, development of the home should proceed as quickly as possible.

*Petitioner Presentation:*

Crystal Welsh, 303 River Race Drive, Unit 206, spoke on behalf of the petitioner. She stated the intention is to build a new single-family home, utilizing the existing garage and driveway along the alley. She stated the only issue is Staff’s request that the driveway along 13<sup>th</sup> Street be removed. The petitioner’s concern about removing that driveway is that the owners of the existing house use this driveway. She explained the intention of the owners is to use this area to park vehicles that are currently parked on the driveway off the alley. The concern is that removing this driveway would cause parking issues for the existing house.

Mr. Holtzinger asked for clarification if this request is to allow the driveway from both 13<sup>th</sup> Street and Reynolds. Ms. Welsh acknowledged this is what the petitioner wants. She went on to explain that the owner of the existing house sold the lot with the garage to her sister and didn’t understand that they would lose their driveway. She said if the driveway is required to be removed, its likely the home won’t be built because the owner of the existing house doesn’t want to lose their driveway.

Ms. Yoder pointed out that the driveway from the alley could be expanded to allow additional parking. Ms. Welsh stated the property owner is not willing to lose her existing driveway. She stated the property owner’s intent was to continue using the 13<sup>th</sup> Street driveway as it’s been used. They didn’t realize this process would require the removal of that driveway.

Mr. Holtzinger asked for clarification of how close to the property line this driveway is. Ms. Welsh stated there is a slight encroachment onto the adjoining property. Ms. Yoder pointed out the variance request is for a 0’ setback on each side, but Staff is not recommending approval for that. Ms. Welsh explained that most of the driveway is on the property line, but a small portion extends 0.9’ onto the lot, leaving 8.9’ between the asphalt and the house.

Mr. Rohn asked what Staff’s reason is for requesting removal of the driveway. Ms. Yoder responded that Staff is asking for removal of the portion of the driveway in the side-yard and front-yard setbacks, which will leave the majority of the driveway in place. She pointed out this would leave a significant area for parking. She went on to say if the Board wants to consider leaving it, she recommends that a condition is added that the portion of the driveway on Lot 92 be removed. That would allow the driveway on Lot 91 to remain with a 0’ setback and no encroachment onto Lot 92.

*Audience Comments:*

There was no one to speak to the petition.

*The public hearing was closed.*

*Staff Discussion:*

Ms. Yoder stated if the Board wishes to grant the petition as discussed above, the motion should include that Condition #6 would say the portion of the driveway from 13<sup>th</sup> Street on Lot 92 shall be removed.

*Action:*

A motion was made and seconded, Rohn/Potuck, to approve 22-23DV with the following conditions:

1. The variance shall become null and void unless a zoning clearance for the construction of a single family home at 707 S 13th Street has been issued and substantial progress has been made within six (6) months of the date of the BZA approval.
2. Deviation from the requirements and conditions of the variance may result in the cancellation and termination of the approval or permit.
3. An approved zoning clearance form is required.
4. Within thirty (30) days of approval, all vehicles parked or stored at 908 E Reynolds Street and 707 S 13th Street shall have current license plates, be in fully operating condition, and be parked or stored on an improved surface.
5. A cross access easement for the driveway between the 908 E Reynolds Street and 707 S 13th Street must be executed and recorded, with a copy provided to the Planning office, before a zoning clearance will be issued for any development on either of the two subject properties.
6. Portions of the driveway from 13th Street that are located on Lot 92 shall be removed and stabilized with a vegetative cover. This removal must occur before the Certificate of Occupancy is issued for the new home at 707 S 13th Street.
7. A single-family home shall be built at 707 S 13th Street with a certificate of occupancy for the home issued by the City of Goshen no later than November 30, 2023.

The motion passed unanimously by a vote of 5-0.

**VI.** Audience Items  
None

**VII.** Staff Board Items  
None

**VIII.** Adjournment: 4:51 pm Potuck/Holtzinger

Respectfully Submitted:

/s/ Lori Lipscomb  
Lori Lipscomb, Recording Secretary

Approved By:  
/s/ Tom Holtzinger  
Tom Holtzinger, Chair

/s/ Lee Rohn  
Lee Rohn, Secretary