

Minutes - Goshen Board of Zoning Appeals
Tuesday, January 24, 2023, 4:00 p.m.
Council Chambers, 111 E. Jefferson Street
Goshen, Indiana

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

II. Election of 2023 Officers

- A motion was made and seconded, Lauver, Rohn to appoint Tom Holtzinger as Chair.
- A motion was made and seconded, Campbell/Holtzinger to appoint Michael Potuck as Vice-Chair.
- A motion was made and seconded, Holtzinger/Rohn to appoint Lee Rohn as Secretary.

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

III. Approval of Minutes from 12/20/22: Lauver/Potuck 5-0

IV. Filing of Zoning/Subdivision Ordinances and Official Staff Reports into Record: Rohn/Lauver 5-0

V. Postponements/Withdrawals - None

VI. Use & Developmental Variance – public hearing items

23-01UV & 23-01DV – Goshen Community Schools, Goshen Interfaith Hospitality Network, and The City of Goshen request a use variance to amend variance 22-01UV to change the legal description of the property, reducing it in size from approximately 3.1 acres to approximately 1.6 acres, and developmental variances to allow a front parking/driving aisle setback along Wilkinson Street of 23’ where 25’ is required, a side (east) parking/driving aisle setback of 2’ where 5’ is required, and to allow 37 onsite parking spaces where 53 are required, and for the variance to valid for one year, for changes to the parking and driving area serving the existing group housing quarters and school. The subject property is generally located at 801 W Wilkinson Street and is zoned Residential R-2 District.

Staff Report

Mr. Deegan reminded Board members that the BZA approved a use variance in January 2022 for a temporary group housing quarters at this location. As part of the discussion the school corporation pledged to make a portion of the property available for a neighborhood park. A plan is now in place for the park and the school will soon be ready to transfer the east portion of the property to the City. He referred to a site plan in Board members packets, explaining what will be retained by the school and what portion of the property will be donated for the park. He noted that with this transfer, the parking shown on the site plan will be moved to the school’s portion of the property. Part of today’s request is to allow an amendment to the variance approved last year. This will allow a change to the legal description of the school’s property, allowing the park to be transferred. He noted the remainder of the document will not change, including that the commitment requiring review at the end of the original 3-year period will remain in effect.

He explained most of the work will involve cleaning up the parking area and locating it entirely on the school’s portion of the property. He once again referred to a site plan in Board members packets, noting there is a 23’ front setback from Wilkinson Street and a 2’ side setback from the edge of the new parking area to the newly established side property line between the two properties. He noted the existing gravel area will be removed which means the parking requirements cannot be met. He noted that Staff is comfortable with these requests, pointing out the parking area is underutilized.

Mr. Deegan stated the Planning Office was not contacted by members of the public regarding this request, but noted a public meeting was held in December and these details were shared at that time.

Petitioner Presentation:

Mark Brinson, City of Goshen, spoke on behalf of the petitioner. He stated there is a lot of interest in the neighborhood park. He explained that this year they would likely do cleanup, plant some trees, and do some basic maintenance. Long-term, they’ll look at park improvements. Based on what’s been discussed with the neighborhood, a dog park is one of the possibilities.

Mr. Holtzinger asked how long it will take before the park is reasonably finished.
Mr. Brinson referred that question to the Parks Department representative.

Tanya Heyde, Parks Superintendent, also spoke to this petition. She stated she expects any development to be phased in within the next couple years, pointing out something as simple as a dog park with a fenced in area doesn't require much in the way of planning, effort, or funds, and it could easily be implemented within the next year or so. If the neighborhood wants further improvements such as a playground with equipment, it might take another year or two.

Mr. Lauver asked if the park will have its own parking area.
Ms. Heyde stated the park and the school will share parking spaces. She went on to say that with this being a neighborhood park, they don't anticipate a lot of traffic driving to the park.

Mr. Deegan clarified that because there are no large amenities in the park, the Zoning Ordinance does not have parking requirements so no variance is required for parking.

Bob Evans, Goshen Community Schools, spoke on behalf of the petitioner. He stated they are happy to partner with the City and are anxious to see the new park.

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/Lauver to adopt the Staff recommendations as the findings of the Board and based on these findings, approve 23-01UV & 23-01DV with the 5 conditions and 5 commitments listed in the Staff Report. The motion passed unanimously by a vote of 5-0.

23-02DV – Jenna R Martin requests a developmental variance to allow a side (west) setback of 4' where 6' is required for the installation of two basement egress windows. The subject property is generally located at 1310 West Avenue and is zoned Residential R-2 District.

Staff Report

Mr. Deegan explained the petitioner would like to remodel the basement of this one-story home by adding living space and bedrooms. Egress windows for the bedrooms would be installed on the west basement wall and the window wells will encroach 2' into the required 6' side setback. Staff supports this request noting that the basement remodel is a reasonable use and egress windows allow occupants to safely use the building.

Mr. Deegan noted for the record that one telephone call was received from David Perkins, 1312 West Avenue, who lives immediately adjacent to the subject property. He stated he supports this request and has no concerns.

Petitioner Presentation:

Jenna Martin, 1310 West Avenue spoke on behalf of the petitioner. She stated she purchased this one bedroom house and wants to remodel the basement to include bedrooms for her two children. She also explained this is the only place where the egress windows could be installed and asked that the Board approve this request.

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 23-02DV with the 4 conditions listed in the Staff Report. The motion passed unanimously by a vote of 5-0.

23-03DV – D & C Miller Holdings, LLC, Ice Express, LLC, and Abonmarche Consultants, Inc. request developmental variances to allow a sign area of 100-percent on three walls where sign area cannot exceed 40-percent of the signable wall area of each façade, three roof-mounted signs where roof-mounted signs are prohibited, and no sewer connection where connection to City sewer is required, for the installation of an ice and water vending structure. The subject property is generally located at 1501 Elkhart Road and is zoned Commercial B-3 District.

Staff Report

Mr. Deegan provided background information on this property, explaining it is approximately 2 acres in size and contains 5 buildings. The location, which was previously Kauffman John Deere, currently houses an appliance store. He explained that most of the remaining property is concrete and gravel, parking and driving areas. The petitioners wish to install a structure that is an automated water and ice vendor and there would be no staff. He referred to the site plan in the BZA packets and pointed out the proposed location of the approximate 100 sf structure. He noted this will be located outside the front yard setback, and sufficient parking is available for all uses on the property, including a food truck.

Developmental variances are required because the zoning ordinance requires all structures in the B-3 zoning district to connect to City utilities, and while this structure is proposed to connect to City water, it will not be connected to City sewer. The petitioner has stated the minimal discharge from the machine will run into a French drain and based on the level of discharge, Staff supports this request, but recommends a condition that written approval from the health and building departments be required before a zoning clearance is issued for the structure. He went on to say Staff has received verbal approval from the building department and is awaiting written approval. He stated he has not heard from the health department confirming they approve of the French drain.

Mr. Deegan stated developmental variances are also needed for the signage on this structure, pointing out that the zoning ordinance prohibits roof mounted signs and this machine will have three roof mounted signs. He noted the zoning ordinance also limits wall sign coverage to 40 percent of signable wall area and this proposal is for 100 percent coverage. He noted that Staff doesn't generally give favorable recommendations when exceeding sign allowances, but in the case of this small pre-manufactured machine, it doesn't appear this will be detrimental to the overall character of the commercial corridor.

Mr. Deegan acknowledged that one comment was received by Mike Landis, an adjacent property owner, who gave support for this request, but voiced concerns that the signage request could set a precedent for future requests.

Petitioner Presentation:

Crystal Welsh, Abonmarche Consultants, 303 River Race Drive, spoke on behalf of the petitioner. She stated this structure is basically a 100 sf vending machine. She explained it will be hooked up to City water through the existing facilities on the property. The machine will make ice and dispense water, and there will be very little discharge. She told Board members that the petitioner has one of these facilities in a nearby town and the water discharge is very minimal. She went on to say they looked at connecting to sewer, but it would have to be directionally bored under the state highway to be connected which was found to be prohibitive. She stated they met with City staff and City Engineer, Dustin Sailor stated he felt he could support the French drain concept. She explained she had also spoken with Myron Grise in the building department who felt this made sense, but he wanted them to check because this would be similar to a retention pond. She stated they have discussed with the county health department and preliminary emails back and forth they feel it's ok too, but wouldn't make any definite decision until they could see the final site plan. If approval is granted today, the next step is technical review with City staff and County staff. It's understood that all of these approvals must be in place before any permits can be issued for the installation.

Mr. Holtzinger asked for a definition of a French drain.

Ms. Welsh stated a French drain is very low tech and is basically a ditch with gravel in it. She went on to say it allows for some filtration as opposed to a regular retention pond.

The public hearing was closed.

Staff Discussion:

Mr. Rohn noted there is concern with the signage and asked if it should be noted this signage is allowed because the structure is 100 SF. He also voiced concerns that the Board would be setting a precedence for future cases.

Mr. Deegan pointed out that Attorney Kolbus has mentioned several times that the Board’s decision on a particular property doesn’t set a legal precedence for future decisions.

Attorney Kolbus agreed that it doesn’t create a legal precedence and while a petitioner might bring it up in a future case, the Board is not legally bound by what was done in the past. If granting approval, he recommended using the wording contained in the Staff Report.

Mr. Deegan explained that the three criteria in the Staff Report contain the findings of fact and feels that covers what is being discussed here today. He pointed out that this 100 SF structure is not a traditional building.

Mr. Holtzinger asked if this will be permanently mounted.

Mr. Deegan stated it’s his understanding that it can be moved from one site to another.

Action:

A motion was made and seconded, Rohn/Lauver, to adopt the Staff recommendations and the findings of the Board and based on these findings, approve 22-03DV with the 6 conditions listed in the Staff Report. The motion passed unanimously by a vote of 5-0.

VII. Audience Items
None

VIII. Staff Board Items
None

IX. Adjournment: 4:28 pm Rohn/Potuck

Respectfully Submitted:

/s/ Lori Lipscomb
Lori Lipscomb, Recording Secretary

Approved By:

/s/ tom Holtzinger
Tom Holtzinger, Chair

/s/ Lee Rohn
Lee Rohn, Secretary