

Agenda
GOSHEN BOARD OF ZONING APPEALS
Tuesday, March 28, 2023, 4:00 P.M.
Council Chambers, 111 E. Jefferson Street
Goshen, Indiana

- I. Roll Call
- II. Approval of Minutes from 2/28/23
- III. Filing of Zoning/Subdivision Ordinances and Official Staff Reports into Record
- IV. Postponements/Withdrawals – any person having business to come before the Board may request postponement or withdrawal at this time.
- V. **Use & Developmental Variances**– public hearing items
 - 23-03UV** – Kent Yoder Real Estate, Inc. and Jones Petrie Rafinski request a use variance to allow for the expansion of a non-conforming auto repair use where auto repairs (without gas pumps, major repair) are a conditional use in the Commercial B-3 District and a permitted use in the Industrial M-1 & M-2 districts, for an approximately 1,002 Sf building addition and parking and driving aisle expansion, and for the variance to be valid for one year. The subject property is generally located at 115 W Pike Street and is zoned Commercial B-2 District.
 - 23-04DV** - Walmart Stores and TNT Fireworks request a developmental variance to permit outside sales and display of merchandise (fireworks) from June 16, 2023 to July 5, 2023 where outside sales and display of merchandise is not permitted, except by permission of the BZA for a limited time. The subject property is generally located at 2304 Lincolnway East and is zoned Commercial B-4 District.
 - 23-05DV** – Brandon C Rhodes & Jackie A Wyse Rhodes and Kauffman Construction request a developmental variance to allow a front building setback along 6th Street of 10’ where a minimum of 25’ is required for an approximately 165 Sf porch addition. The subject property is generally located at 223 S 6th Street and is zoned Residential R-1 District.
 - 23-06DV** – Kyle and Allison Stiffney request a developmental variance to allow 39% building coverage where a maximum of 35% is permitted for an approximately 1,238 Sf addition and approximately 227 Sf patio reconstruction. The subject property is generally located at 702 S 6th Street and is zoned Residential R-1 District.
 - 23-07DV** – The City of Goshen Indiana requests developmental variances to allow one freestanding sign 13 Sf in area and 5’ in height, one freestanding sign 24 Sf in area and 8’ in height, and internal signs not exceeding 3 Sf as needed, where only ground signs not exceeding 3’ in height and with a maximum aggregate area of 8 Sf are permitted, for a new recycling drop-off site. The subject property is generally located at 802 N Indiana Avenue and is zoned Residential R-1 District.
- VI. Audience Items
- VII. Staff/Board Items
 - 6-month extension request for 22-34DV, 132 N Main Street, from April 25, 2023 to October 25, 2023
- VIII. Adjournment

Minutes - Goshen Board of Zoning Appeals
Tuesday, February 28, 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, Hesston Lauver, and Michael Potuck. Also present were Assistant City Planner Rossa Deegan and Assistant City Attorney James Kolbus.
Absent: Bethany Campbell

II. Approval of Minutes from 1/24/23: Lauver/Potuck 4-0

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

IV. Postponements/Withdrawals - None

V. Use Variance – public hearing item

23-02UV – Goshen Community Schools and Commonwealth Engineers, Inc. request a use variance to permit one illuminated freestanding sign and four non-illuminated freestanding signs up to 19' in height, 38 SF in area, and located in paved areas, in addition to an existing freestanding sign, where schools are a conditional use permitting one monument-style freestanding sign not exceeding 36 sf in area and 5' in height and located in a landscaped area, for the construction of a new entryway plaza to the outdoor athletic facilities. The subject property is generally located at 501 Lincolnway East and is zoned Residential R-1, Industrial M-1, and Commercial B-1 District.

Staff Report

Mr. Deegan explained this request is for Goshen High School, noting that schools are a conditional use in all zoning districts, and one of those conditions allows one monument and one wall sign. For that reason a use variance is required when a new sign is requested. Today's sign request is part of a larger project for the proposed Alumni Plaza, which is currently being reviewed by the City. Changes include a redesign of the entrances, with a ticketing area on the north side of the outdoor athletic facilities. New ticket buildings will be located at the east and west entrances, along with new paving, landscaping, bench seating, and five large, arched gateways with a sign. The signs are considered freestanding signs, exceeding the one allowed sign, and also exceeding the maximum 5' permitted height, and they will not be located in a landscaped area as required by the ordinance. He went on to explain the largest sign is illuminated and 38 sf in area, located at the main entrance.

Staff recommends approval of the request, noting this is a 30 acre campus, with an approximate 12 acre outdoor athletic area, and pointing out the conditional use requirements apply to all schools, regardless of size. He went on to say this project is unlikely to harm the character or value of adjacent residential properties, explaining the signs are far from property lines and the materials and design are aesthetically pleasing. He also noted for the record that the Comprehensive Plan seeks to incorporate plazas and gathering places in public facilities and this project appears to do that.

Mr. Deegan advised that no inquiries or comments were received by the Planning Office regarding this request.

Petitioner Presentation:

Andy Bearman, Commonwealth Engineers, 9604 Coldwater Road, Fort Wayne, spoke on behalf of the petitioner. He is also here with Dr. Steve Hope, Superintendent of Goshen Community Schools. He stated he agrees with Staff's findings, noting this project is for the betterment and enjoyment of the community. When questioned about the need for one illuminated sign, he explained they are trying to direct the public to the main entrance on the west side and that's the reason for the illumination.

Mr. Lauver asked if the existing parking spaces in this area will be totally eliminated.

Mr. Bearman stated that the area will function the same way and will be open 99% of the time, but it will be blocked off for events at the stadium.

Mr. Rohn asked about the bollards shown on the renderings.

Mr. Bearman stated they are removable and will only be in place for events at the stadium.

Audience Comments:

Nancy Brown, 511 E Purl Street spoke to the petition. She had multiple questions for the petitioner including the funding and cost of the project, number of signs, sign material, illumination of the sign, etc.

Mr. Holtzinger asked if Dr. Hope would like to respond to Ms. Brown's questions.

Attorney Kolbus advised Dr. Hope that the funding and cost is not relevant to the zoning decision and legally those questions do not have to be answered. Dr. Hope can answer if he wishes, but the only relevant question asked was about the need for the signs. He reiterated that the other points the audience member asked were not relevant and not legally required.

Petitioner Response:

Dr. Steve Hope, Superintendent Goshen Community Schools, responded to the audience member's questions. He stated he would be happy to have a private conversation with Ms. Brown about her questions. Regarding the signs, he explained it's a grand parkway plaza between the high school and the football field, track, and soccer fields. He went on to say this plaza will be open to the public at any time and can be used by anyone in Goshen. He agreed with Mr. Bearman's comments that it will greatly enhance the experience at all sporting events.

Mr. Rohn asked what type of lighting will be used for the sign.

Mr. Bearman commented that the lettering on the sign will be internally lit.

The public hearing was closed.

Staff Discussion:

Mr. Lauver asked if the fire department will look at this for access prior to approval.

Mr. Deegan stated that yes, this project is being review by multiple City departments.

Action:

A motion was made and seconded, Rohn/Potuck, to adopt the Staff recommendations as the findings of the Board and based on these findings, approve 23-02UV with the 5 conditions listed in the Staff Report. The motion passed unanimously by a vote of 4-0.

VI. Audience Items
None

VII. Staff Board Items
None

VIII. Adjournment: 4:14 pm

Respectfully Submitted:

Lori Lipscomb, Recording Secretary

Approved By:

Tom Holtzinger, Chair

Lee Rohn, Secretary

LOCATION: 115 W Pike Street
CASE NUMBER: 23-03UV

DATE: March 28, 2023
PREPARED BY: Rossa Deegan

GENERAL INFORMATION

APPLICANT: Kent Yoder Real Estate, Inc. (owner); Jones Petrie Rafinski (agent)

REQUEST: The applicants request a use variance to allow for the expansion of a non-conforming auto repair use where auto repairs (without gas pumps, major repair) are a conditional use in the Commercial B-3 District and a permitted use in the Industrial M-1 & M-2 districts, for an approximately 1,002 SF building addition and parking and driving aisle expansion, and for the variance to be valid for one year

LOT SIZE: ±21,583 SF (±0.49 acres); ±122 of frontage; ±183' of depth

APPLICABLE ZONING: Commercial B-2

NOTICES SENT: 21

SPECIAL INFORMATION

PUBLIC UTILITIES: City water & sewer

AREA DEVELOPMENT: Commercial, residential

NEIGHBORHOOD: Downtown

THOROUGHFARES: Pike Street & 3rd Street

TOPOGRAPHY: Level

VARIANCE OF USE STANDARDS

- ◇ Goshen Zoning Ordinance, Appendix E, Table of Permitted Uses
Automobile Repairs (Without Gas Pumps, Major Repair) are listed as a conditional use in the Commercial B-3 District and a permitted use in the Industrial M-1 & M-2 districts

ADJACENT PROPERTY OWNERS' SUPPORT, OPPOSITION, AND INQUIRIES

The Planning office has not been contacted by any adjacent property owners regarding this variance. However, the Planning office may still be contacted with questions and statements of support or opposition to the variance between the time of this report's delivery and the public hearing.

ANALYSIS

The subject property is an approximately half-acre tract of four tax parcels located on the north side of Pike Street and east of 3rd Street by the railroad overpass. The property is zoned Commercial B-2 and is surrounded by commercial uses to the west and south and a multi-unit residential building and Eagle's Lodge to the east. The property is a quick service oil change business. The existing building has two service bays and an office and has a footprint of approximately 1,550 SF. Parking and maneuvering areas include nine striped parking spaces.

Planning records indicate that the auto repair was approved in May 1989 by the BZA. At that time, the property was zoned Commercial B-1. Since then, it has been rezoned to B-2, and auto repair is not currently a permitted use in the B-2 District.

The petitioners are proposing to construct an approximately 1,002 SF addition on the east side of the building and add new parking and driving areas. A portion of the new driving aisle and building will be constructed on a tax parcel in the southeast corner of the property that had previously been a residential use and has been a vacant site

for approximately 20 years. Parking spaces, a dumpster area, and stormwater retention will be added to the north side of the site.

The proposed building addition is for auto repairs such as tire rotations and brake replacements that are not provided in the existing drive through bays. The petitioners state that these repairs will likely be provided to customers who use the oil change drive through, so the customer base is not expected to expand dramatically. The petitioners state that the site currently serves an average of 34 vehicles per day. Because auto repairs are not permitted in the B-2 District, the expansion requires a use variance to expand the non-conforming use.

Staff recommends approval of the request based on the following:

- While the B-2 District serves as the Central Business District, and while auto repairs are generally not appropriate in areas of the Central Business District such as the core of the Downtown, the subject property lies on the perimeter of the district and is surrounded by businesses with similarly large layouts and uses. A gas station, for example, is directly south across Pike Street.
- The Pike Street Corridor between Main Street and Pike Street is likely one of the heaviest trafficked corridors in the City, with ample non-local traffic, and where uses such as auto repairs are not out of character.
- The Central Business District also includes Downtown Main Street, which is characterized by historic buildings sharing common party walls on small narrow lots. The subject property is larger and has significantly more open space and parking area than a property on Downtown Mainstreet.
- An auto repair use has existed on the property for over 30 years
- All of the developmental requirements will be met
- There is over 40' of paved driving area between the front (south side) of the addition and the property line along Pike Street, so there is ample space for vehicle maneuvering related to the auto repair use.
- The proposed building expansion is for services not currently provided in the existing garage bays, and the petitioners believe existing customers will use the additional services; a large increase in new customers is not anticipated

Given that the project is commercial and requires Technical Review, allowing the variance to be valid for one year is reasonable.

FINDINGS OF FACT

Staff recommends **approval** of a use variance to allow for the expansion of a non-conforming auto repair use where auto repairs (without gas pumps, major repair) are a conditional use in the Commercial B-3 District and a permitted use in the Industrial M-1 & M-2 districts, for an approximately 1,002 SF building addition and parking and driving aisle expansion, and for the variance to be valid for one year, based on the following:

- 1. The approval will not be injurious to the public health, safety, morals, and general welfare of the community.** There is over 40' of paved driving area between the front (south side) of the addition and the property line along Pike Street, so there is ample space for vehicle maneuvering related to the auto repair use. There is also ample room for emergency services and emergency ingress and egress. *The standard is confirmed.*
- 2. The use and value of the area adjacent to the subject property will not be affected in a substantially adverse manner.** While the B-2 District serves as the Central Business District, and while auto repairs are generally not appropriate in areas of the Central Business District such as the core of the Downtown, the subject property lies on the perimeter of the district and is surrounded by businesses with similarly large layouts and uses. A gas station, for example, is directly south across Pike Street. *The standard is confirmed.*
- 3. The need for the variance arises from a condition peculiar to the subject property.** The subject property has operated as an auto repair for approximately 30 years. While the property is located in the Central Business District, it is located on the perimeter of the District, where there is a high volume of traffic and uses of similar intensity. *The standard is confirmed.*
- 4. Strict application of the terms of the Zoning Ordinance will constitute an unnecessary hardship if applied to the subject property.** The subject property is on a busy commercial corridor with ample non-local traffic; the property is ample in size and can accommodate an expansion of the auto repair use that has existed on

the property for approximately 30 years; and the proposed expansion meets all developmental requirements. The proposed addition is for a moderate increase in the types of services already offered on the existing auto repair property. *The standard is confirmed.*

5. The approval does not interfere substantially with the Comprehensive Plan. Located on the perimeter of the Central Business District, not far from the historic Downtown but also located adjacent to a busy commercial corridor, this property is in a transition area for the District. Approval aligns with Goshen's Comprehensive Plan, which seeks to "ensure compatibility and smooth transitions between different uses" (Land Use-2.1). *The standard is confirmed.*

With approval, the following conditions shall apply:

1. The variance shall become null and void unless a zoning clearance has been issued and substantial progress has been made within one (1) year 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. Technical Review by the Planning, Engineering, and Fire Departments is required.
5. Approval by the Building Department is required.
6. INDOT approval is required.



Looking north



Looking north at the proposed location of the building addition and parking and driving aisle expansion



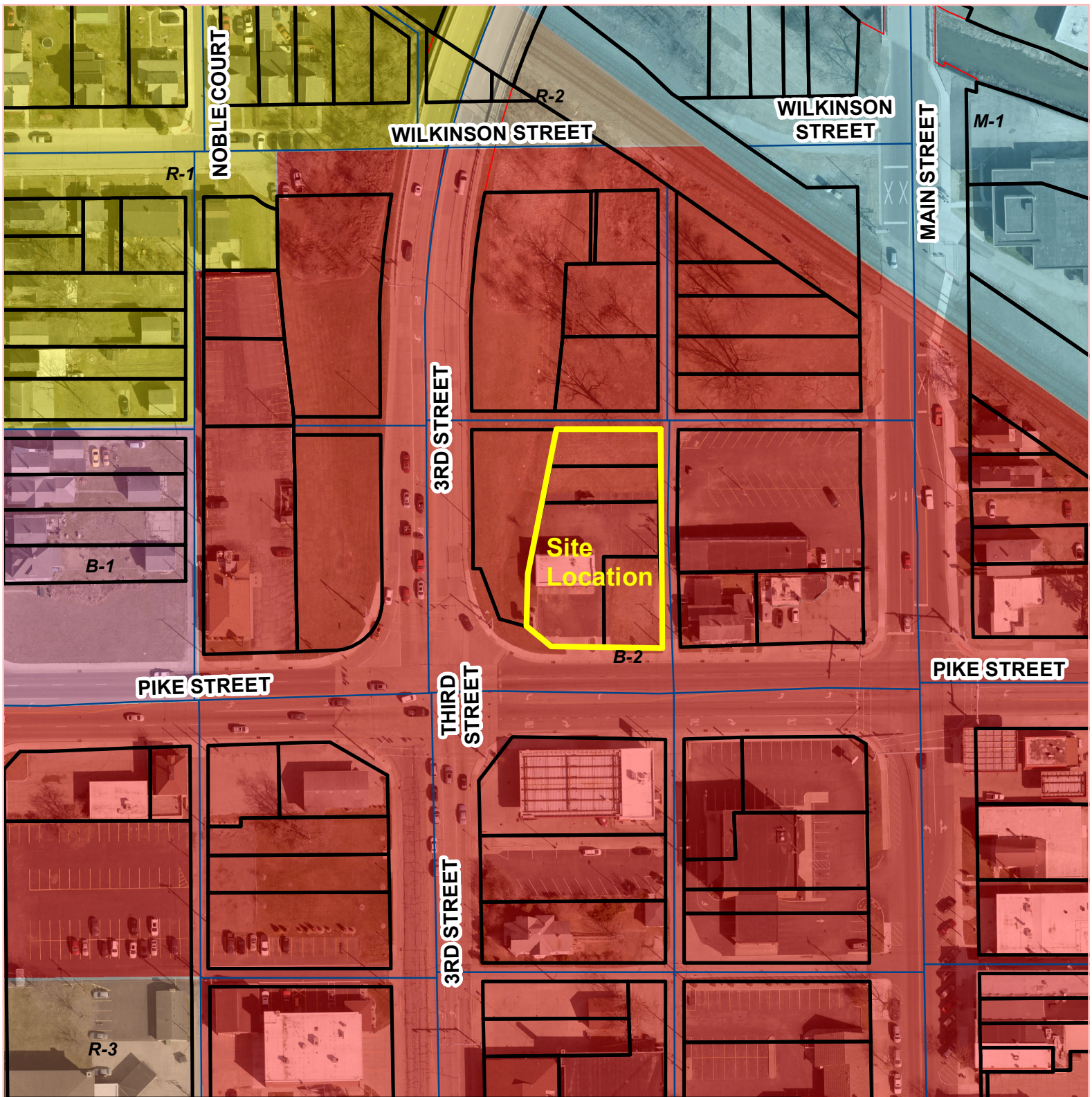
Looking southwest



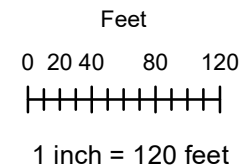
Looking southeast



Looking west



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



115 W Pike Street

2021 Aerial
 Printed March 3, 2023

The City of Goshen
 Department of
 Planning & Zoning
 204 East Jefferson Street, Goshen, Indiana 46528
 Phone: 574-534-3600 Fax: 574-533-8626

LEGEND

-  PROPOSED STANDARD DUTY HMA PAVEMENT
SEE G102 FOR DETAILS (4) C201
-  PROPOSED CONCRETE PAVEMENT
SEE G102 FOR DETAILS (3) C201
-  PROPOSED CONCRETE CURB WALK
SEE G102 FOR DETAILS (2) C201

- NOTES:**
1. THE PROPOSED BUILDING EXPANSION WILL HAVE A MAXIMUM BUILDING HEIGHT OF 19'. SEE ARCHITECTURAL DETAILS FOR THE HEIGHT OF THE BUILDING AND PARAPET.
 2. THE HEIGHT OF THE EXISTING BUILDING IS 14'8".

ZONING & SETBACKS

ZONING
EXISTING ZONING - B-2

BUILDING SETBACKS
FRONT YARD 10' (W PIKE ST)
SIDE YARD 5' (N 3RD ST)
5' (INTERIOR)
REAR YARD NA

PARKING & DRIVE SETBACKS
PER CITY OF GOSHEN ZONING ORDINANCES, PARKING SETBACKS SHALL MAINTAIN THE SAME AS ESTABLISHED FOR ACCESSORY BUILDINGS OF THE DISTRICT

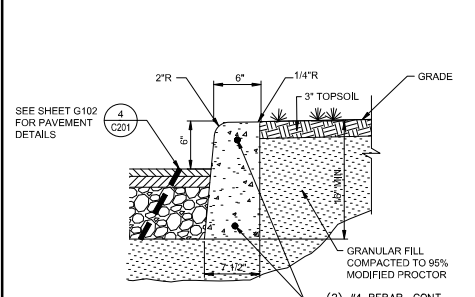
FRONT YARD 10' (W PIKE ST)
SIDE YARD 5' (N 3RD ST)
5' (INTERIOR)
REAR YARD NA

TABULATED SITE DATA

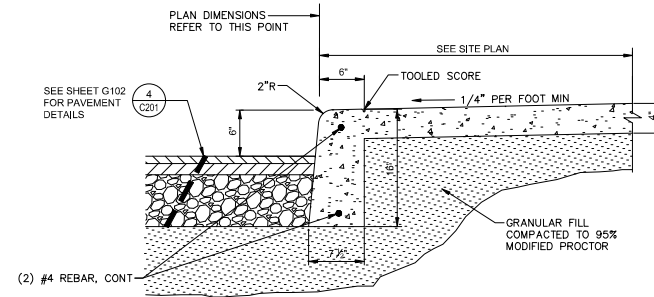
1. ACREAGE OF SITE (±) 21,541 SF 0.49 AC
2. PROPOSED LAND USE:
A. B-2 COMMERCIAL
3. EXISTING PARKING:
A. TOTAL SPACES PROVIDED - 11
B. TOTAL SPACES REQUIRED - ONE PER TWO EMPLOYEES PLUS TWO PER SERVICE BAY;
6 EMPLOYEES ON THE LARGEST SHIFT + 4 SERVICE BAYS = 3 SPACES + 8 SPACES = 11 SPACES.
4. EXISTING LAND COVERAGE:

	SQUARE FOOTAGE	% OF SITE
A. BUILDING(S)	1,549	7.19%
B. PAVEMENT/CONCRETE	9,857	45.76%
C. GRAVEL	329	1.53%
D. OPEN SPACE	9,806	45.52%
TOTAL	21,541	100.00%
5. PROPOSED LAND COVERAGE:

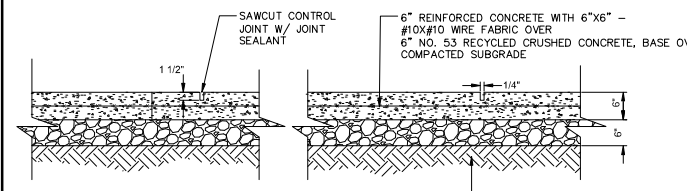
	SQUARE FOOTAGE	% OF SITE
A. BUILDING(S)	2,551	11.84%
B. PAVEMENT/CONCRETE	14,742	68.44%
C. GRAVEL	0	0.00%
D. OPEN SPACE	4,248	19.72%
TOTAL	21,541	100.00%
6. SURFACE RUN-OFF AND DRAINAGE TO BE COLLECTED ON-SITE AND DISCHARGED IN PROVIDED RETENTION BASIN.
7. PROPOSED ACCESS DRIVE WILL UTILIZE W. PIKE.



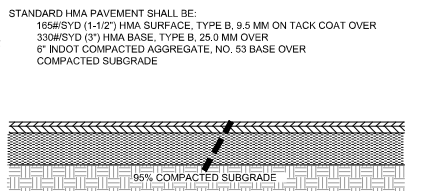
STRAIGHT CURB & PAVEMENT SECTION
NOT TO SCALE (1) C201



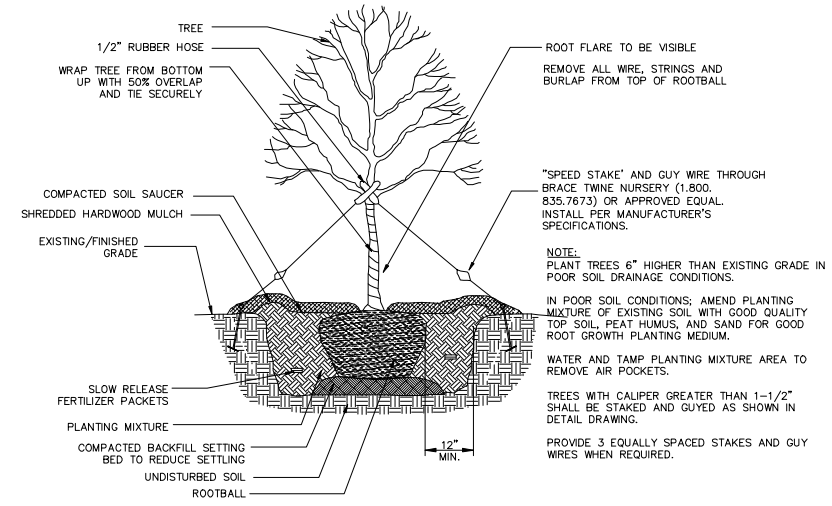
CURB WALK & PAVEMENT SECTION
NOT TO SCALE (2) C201




6 inch CONCRETE PAVEMENT SECTION
NOT TO SCALE (3) C201

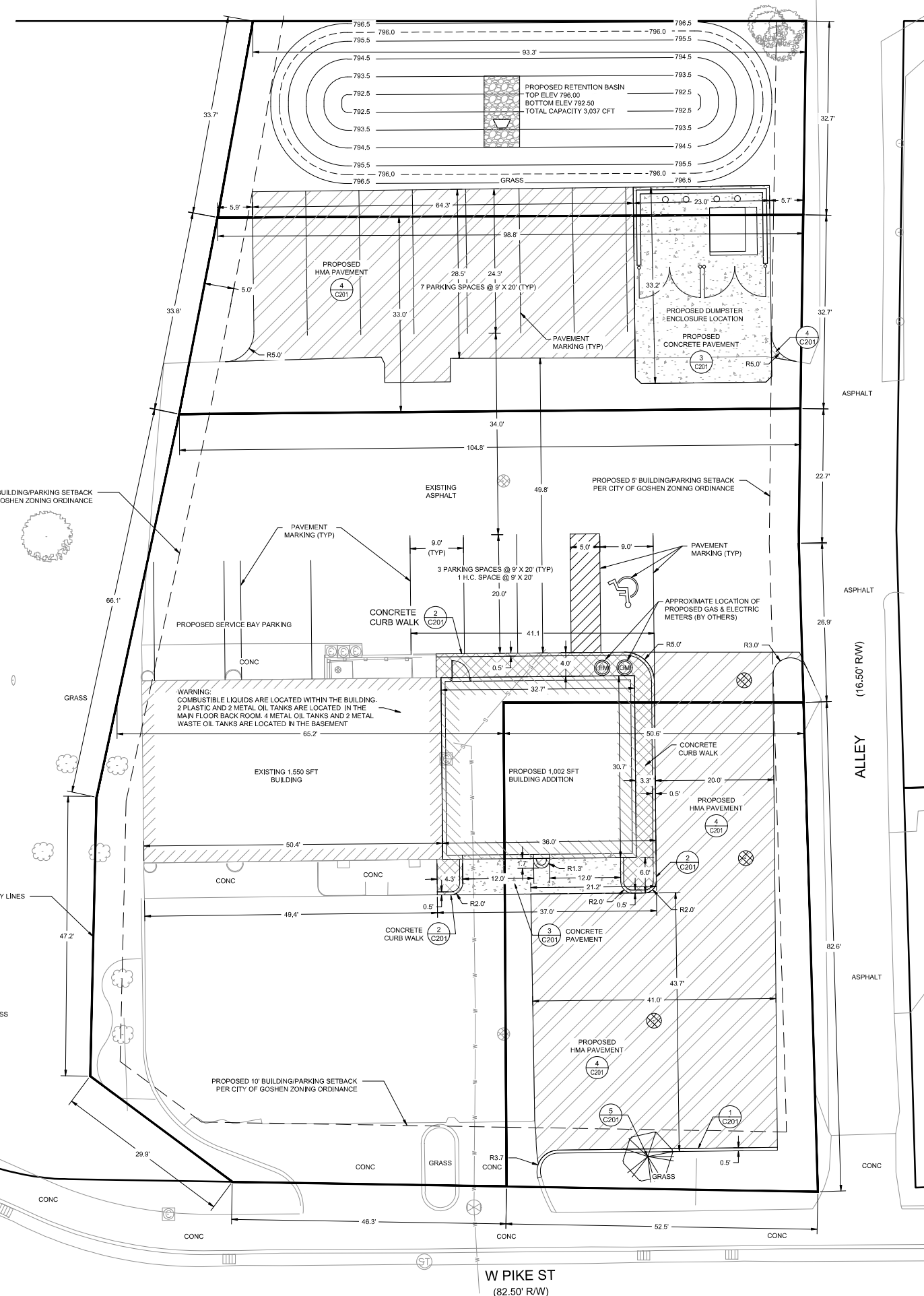
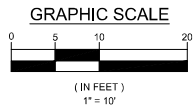


HMA PAVEMENT SECTION
NOT TO SCALE (4) C201



TYPICAL TREE PLANTING DETAIL
NOT TO SCALE (5) C201

Quantity	Symbol	Scientific Name	Common Name	Planting Size
1		Acer Rubrum	Red Maple	2 1/2" CALIP. MIN



JONES PETRIE RAFINSKI	JPR	MARK E. WILSON REGISTERED NO. 80328 STATE OF INDIANA PROFESSIONAL ENGINEER	DESIGNED BY: MMS REVIEWED BY: MEW	DRAWN BY: ASM REVIEWED BY: ---	DATE: 2/17/2023
JIFFY LUBE - 115 W PIKE STREET			SITE IMPROVEMENTS - 2023 BUILDING ADDITION GOSHEN, INDIANA 46526		
SOUTH BEND, IN Fort Wayne, IN			JOB NUMBER: 2022-0284		
Elkhart, IN			SCALE: 1" = 10'		
P. 574.232.4388 P. 574.293.7762			C201		

File: C:\Users\smerezhth\ACD\es\Jones Petrie Rafinski Corp\Jiffy Lube - 115 W Pike - Goshen, IN\Project Files\Eng\PLANS\C201-DIMENSIONAL.dwg Saved By: smerezhth

LOCATION: 2304 Lincolnway East
CASE NUMBER: 23-04DV

DATE: March 28, 2023
PREPARED BY: Rossa Deegan

GENERAL INFORMATION

APPLICANT: Walmart Stores (owner); TNT Fireworks (petitioner)

REQUEST: The applicant is requesting a developmental variance to permit outside sales and display of merchandise (fireworks) from June 16, 2023 to July 5, 2023 where outside sales and display of merchandise is not permitted, except by permission of the BZA for a limited time.

LOT SIZE: ± 25.13 acres; Lincolnway East, ± 775 feet frontage

APPLICABLE ZONING: Commercial B-4 (Planned Shopping Center)

NOTICES SENT: 19 notices

SPECIAL INFORMATION

PUBLIC UTILITIES: City water and sewer

AREA DEVELOPMENT: Commercial, industrial

NEIGHBORHOOD: Lincolnway East Corridor

THOROUGHFARES: Lincolnway East (U.S. 33) and Caragana Drive

TOPOGRAPHY: Level

VARIANCE OF DEVELOPMENTAL STANDARDS

- ◇ Goshen City Ordinance Section 4220.11.G, **Outside Display/Sales Regulations**. All business shall be conducted in a completely enclosed building. No storage will be permitted outside and no merchandise will be displayed outside except by permission of the BZA. This permission will only be granted for a limited time and shall be in conjunction with displays done with other businesses.

ADJACENT PROPERTY OWNERS' SUPPORT, OPPOSITION, AND INQUIRIES

The Planning office has not been contacted by any adjacent property owners regarding this variance. However, the Planning office may still be contacted with questions and statements of support or opposition to the variance between the time of this report's delivery and the public hearing.

ANALYSIS

On May 27, 2014, Goshen BZA approved a developmental variance to allow the annual outside sale of fireworks (from a tent in the parking lot) at the subject property. Per commitment #5 of the approval, "The use variance for the tent [was] approved for ten (10) years from the date of approval by the City of Goshen Board of Zoning Appeals." Though the BZA granted approval for ten years, the Walmart corporate office did not sign and execute the commitment form, as they do not support a multi-year agreement. Walmart wishes to approve such agreements on a year-to-year basis. BZA approval was granted for this request again in each of the subsequent years between 2015 and 2022.

The subject property is Walmart, located at 2304 Lincolnway East. Developmental patterns of the surrounding area are a mix of commercial and industrial uses.

The petitioner is requesting permission to operate an outside tent in the Walmart parking lot for the display and sale of fireworks from June 16 to July 5, 2023 (approximately two and a half weeks). Hours of operation for the outside tent will be 10:00am to 10:00pm daily. The proposed tent, which is approximately 20' x 40', will displace approximately 10 parking spaces. These details are similar to the ones approved by the BZA in previous years.

All four commercial zoning districts have regulations which address the outside display/sales of merchandise. The B-1 district (neighborhood commercial) prohibits outside display/storage. The B-2 district (city center) prohibits outside storage, but allows outside display/sales of merchandise when part of and related to an active principal use. The B-3 (general commercial) allows outside display/sales of merchandise, when related to an active principal use. The B-4 (planned shopping center) does not permit outside display/sales of merchandise, unless approval is granted by the BZA. According to Section 4220.11.G, approval may only be granted for a limited time.

The Planning office has no record of issues related to this temporary use in previous years, and outside display and sales meets the characteristics of the commercial corridor where they will take place.

The petitioners have stated that they will not be attending the hearing.

FINDINGS OF FACT

Staff recommends **approval** of a developmental variance to permit outside sales and display of merchandise (fireworks) from June 16, 2023 to July 5, 2023 where outside sales and display of merchandise is not permitted except by permission of the BZA for a limited time.

1. **The approval will not be injurious to the public health, safety, morals and general welfare of the community.** Temporary approval will likely not be injurious to the public health, safety, morals or general welfare of the community. While traffic is heavy on the south side of the City near the subject property, there is sufficient space in the parking lot to accommodate the requested tent. *The standard is confirmed.*
2. **The use and value of the area adjacent to the subject property will not be affected in a substantially adverse manner.** Temporary approval will likely not affect the surrounding neighborhood in a substantially adverse manner. Section 4220.11.G of the Goshen Zoning Ordinance allows the outside display/sales of merchandise, with BZA approval, for a limited time. The petitioner is requesting permission to allow the tent for approximately two and a half weeks from June 16 to July 5, 2022. Though traffic is heavy on the south side of the City, there is sufficient space in the parking lot to accommodate the requested tent. *The standard is confirmed.*
3. **Strict application to the terms of the Zoning Ordinance will result in practical difficulties in the use of the subject property.** Per Section 4220.11.G of the Goshen Zoning Ordinance, outside display/sales of merchandise in the B-4 is only permitted with BZA approval. Strict application to the Goshen Zoning Ordinance requires the petitioner to obtain approval from the BZA. *The standard is confirmed.*

With approval, the following conditions shall apply:

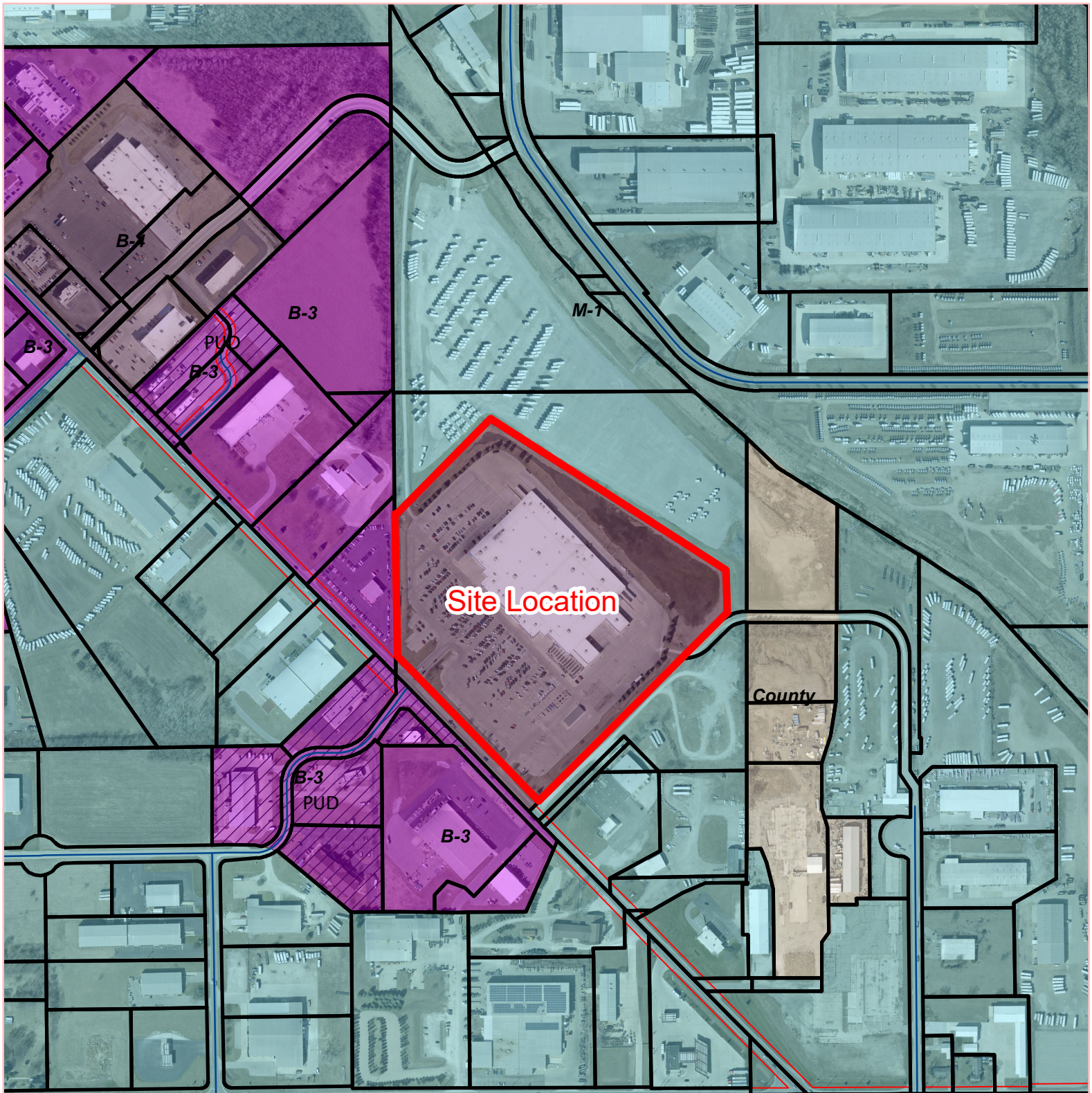
1. An approved zoning clearance form is required.
2. Deviation from the requirements and conditions of the variance automatically cancels and terminates the approval or permit.
3. The tent display/sales are limited to fireworks only, from June 16, 2023, through July 5, 2023.
4. The tent size is limited to 800 square feet.
5. The hours of operation for the tent will be from 10:00am to 10:00pm, daily.



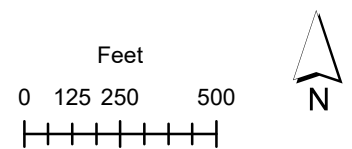
Looking west



Looking east



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2304 Lincolnway East

2021 Aerial
Printed March 3, 2023

The City of Goshen
Department of
Planning & Zoning
204 East Jefferson Street, Goshen, Indiana 46528
Phone: 574-534-3600 Fax: 574-533-8626



2/28/2023

Dear Zoning Committee,

TNT is requesting a zoning variance for the Walmart Parking Lot on Lincoln Way East in order to operate our annual Fundraising Tent. We are unable to be in attendance this year due to scheduling conflicts as these are our busiest weeks of the year preparing to open our locations, but the request is identical to previous requests. We have operated our tent in this particular location for over a decade with no issues or complaints. We abide by all local laws and draw additional business into the Walmart Parking Lot. The reason we have not applied for a ten-year variance is that Walmart does not allow multi-year variances.

TNT uses locals to operate this site. Because this is their community, they are invested in it. They keep the site neat and organized, and leave it just as they found it (or better) once the sale is over. Because we have been there so long, consumers know to look for us. We appreciate your consideration.

Sincerely,
Cedric McConnell
TNT Fireworks Area Manager -Indiana



February 28, 2023

Reference: Temporary Fireworks Sales in Parking Lot (2304 LINCOLNWAY EAST)

To Whom It May Concern

Here is the information on the temporary fireworks tent sale:

1. Our company will be selling Indiana approved fireworks
2. Our sales period will be no longer than June 16-July 5
3. Hours of operation will be from 10am-10pm daily
4. Sales will be conducted from a tent approximately 20'x40' which will displace approximately 10 parking spaces
5. Fire extinguishers and "No Smoking" signs will be present
6. Overnight security will be provided by the operator (24 hours/day)
7. Our company will ensure the environment is kept clean and safe
8. Our company will provide all necessary information

Sincerely,

Cedric McConnell
Area Manager, Indiana
317-504-4361



702 SW 8th Street
Bentonville, AR 72716
Pete.Rosen@walmart.com

August 15, 2022

To Whom It May Concern,

American Promotional Events, Inc. dba TNT Fireworks is an approved National Supplier to conduct fireworks promotions on our Walmart parking lots where this type of promotion is legal. All stores have been researched and approved by the Walmart Realty Department. The approximate time frame for the promotions are:

- December 26th, 2022 through and including January 10th, 2023.
- June 12th, 2023 through and including July 12th, 2023 with the exception of Utah which has an additional selling period through the end of July for Pioneer Days.

American Promotional Events, Inc. dba TNT Fireworks is authorized to sign for and obtain all necessary permits and/or licenses for the promotion and must display such permits and/or licenses at each stand/tent. Walmart grants permission for all patrons of the sale to utilize the restroom facilities at each participating store.

An American Promotional Events, Inc. dba TNT Fireworks representative will call you to introduce the company and discuss your participation in the event. Participation is encouraged and does add additional income to your other income account. Store Management must approve the store's participation and placement on the parking lot.

Thank you in advance for your cooperation in this matter and if you have any questions, please contact TNT Fireworks at 256-767-7142.

Best Regards,

DocuSigned by:

Pete Rosen

377556219E43439...

Pete Rosen

Manager II

Walmart Retail Services

Goshen Walmart

2304 Lincolnway E

Legend

2304 Lincolnway E

Tent - Row 5



Google Earth

©2010 Google



200 ft



LOCATION: 223 S 6th Street
CASE NUMBER: 23-05DV

DATE: March 28, 2023
PREPARED BY: Rossa Deegan

GENERAL INFORMATION

APPLICANT: Brandon C Rhodes & Jackie A Wyse Rhodes (owners); Kauffman Construction (agent)

REQUEST: The applicants request a developmental variance to allow a front building setback along 6th Street of 10' where a minimum of 25' is required for an approximately 165 Sf porch addition

LOT SIZE: ±6,600 SF; ±166' of frontage (±66' on 6th Street & ±100' on Jefferson Street); ±100' of depth

APPLICABLE ZONING: Residential R-1

NOTICES SENT: 35

SPECIAL INFORMATION

PUBLIC UTILITIES: City water and sewer

AREA DEVELOPMENT: Residential, institutional

NEIGHBORHOOD: East Lincoln Crossroads

THOROUGHFARES: 6th Street & Jefferson Street

TOPOGRAPHY: Level

VARIANCE OF DEVELOPMENTAL STANDARDS

- ◇ Goshen Zoning Ordinance, *Section 4140.3*, Area, Width, and Yard Regulations of the R-1 District
B.1. On residential or cul-de-sac streets, the front yard shall be a minimum distance of 25 feet

ADJACENT PROPERTY OWNERS' SUPPORT, OPPOSITION, AND INQUIRIES

The Planning office has not been contacted by any adjacent property owners regarding this variance. However, the Planning office may still be contacted with questions and statements of support or opposition to the variance between the time of this report's delivery and the public hearing.

ANALYSIS

The subject property is a single family home in the R-1 District located on the northwest corner of the intersection of 6th Street and Jefferson Street. Surrounding properties are primarily residential, and a church and City offices are located a short distance to the west. Improvements on the property include an approximately 1,540 SF home, an approximately 240 SF detached garage, and a stone driveway along the north property line with access from 6th Street. The home is located in the East Lincoln Crossroads neighborhood where dense residential development is characteristic.

The petitioners are renovating the home and are proposing to construct an approximately 165 SF open-air porch on the east side of the home along 6th Street. New concrete steps from the porch will have a setback of 10' where a minimum of 25' are required, so a developmental variance is needed to proceed with construction. The proposed porch is designed to match a porch that previously existed in the same location and evident in historic photos of the property.

Staff recommends approval of the request. The average front building setback along the same side of the subject block is 14', which is only slightly greater than the proposed setback. The proposed porch will match the design of a previously existing porch on the property and will match surrounding development. The porch will not impede access to or around the home. Front porches are a reasonable form of development of the property, especially considering they are characteristic of homes in the area. The three homes directly north of the subject

property all have amply sized front and side open-air porches. In June 2022, the BZA granted approval to allow a 3' front building setback for a new porch at 507 S 7th Street based on similar reasoning.

FINDINGS OF FACT

Staff recommends **approval** of a developmental variance to allow a front building setback along 6th Street of 10' where a minimum of 25' is required for an approximately 165 Sf porch addition, based on the following:

1. **The approval will not be injurious to the public health, safety, morals and general welfare of the community.** The porch will not impede access to or around the home and will be built to current Building Code specifications. *The standard is confirmed.*
2. **The use and value of the area adjacent to the subject property will not be affected in a substantially adverse manner.** The proposed porch will match the design of a previously existing porch on the property and will match surrounding development. The average front building setback along the same side of the subject block is 14', which is only slightly greater than the proposed setback. *The standard is confirmed.*
3. **Strict application to the terms of the Zoning Ordinance will result in practical difficulties in the use of the subject property.** Front porches are a reasonable form of development of the property, especially considering they are characteristic of homes in the area. The three homes directly north of the subject property all have amply sized front and side open-air porches. *The standard is confirmed.*

With approval, the following conditions shall apply:

1. The variance shall become null and void unless a zoning clearance 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. A building permit is required.



Looking northwest from the intersection of 6th Street and Jefferson street



Looking north from Jefferson Street



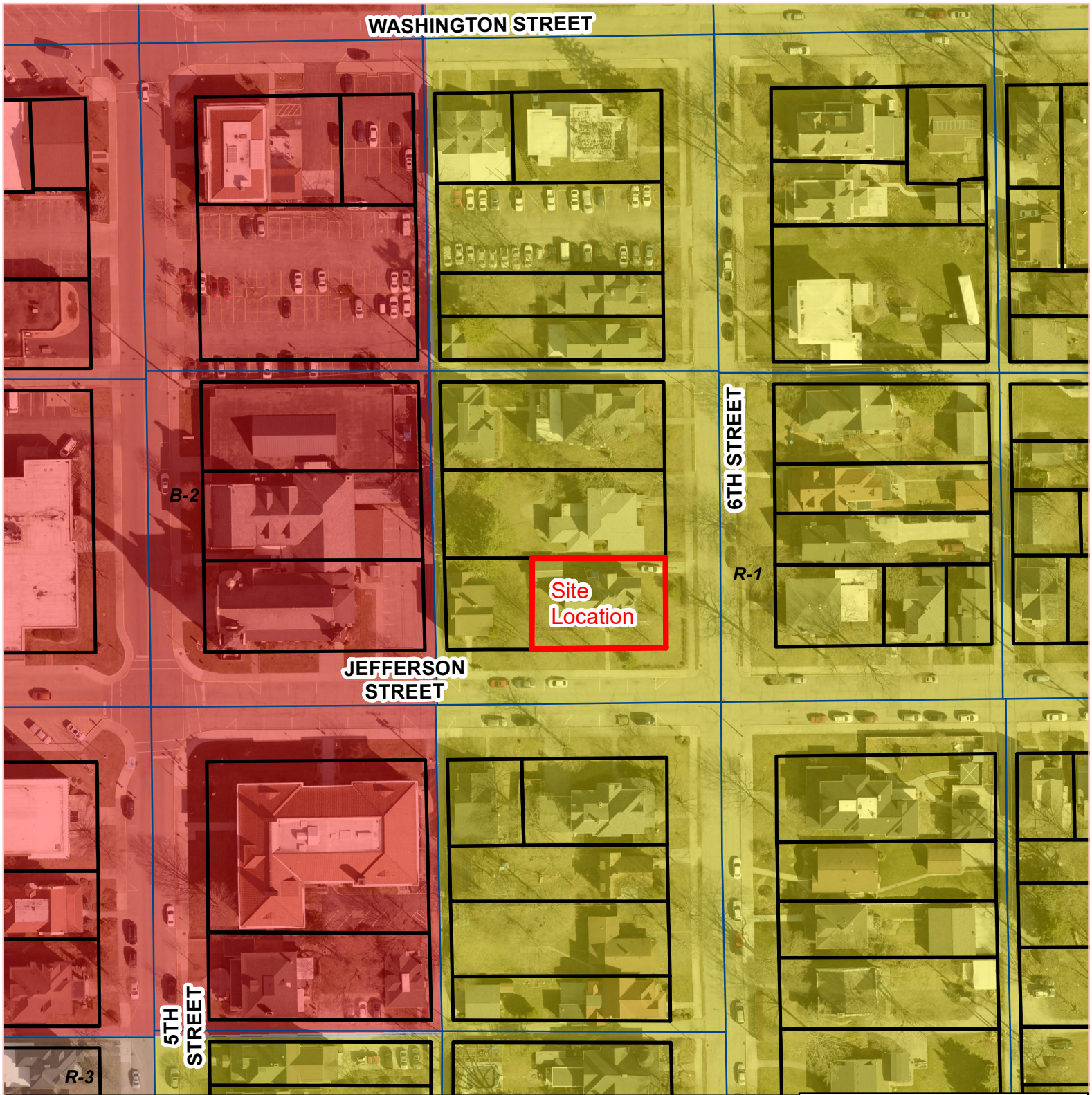
Looking west from 6th Street



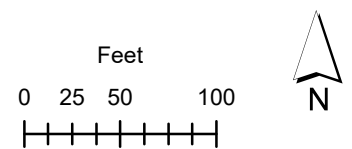
Looking south



Looking west



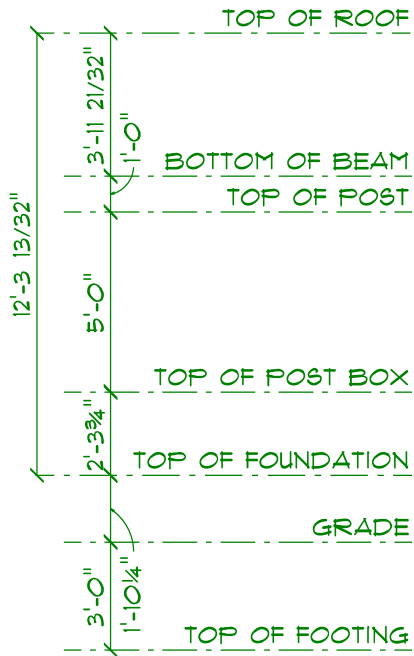
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223 S 6th Street

2021 Aerial
Printed March 7, 2023

The City of Goshen
Department of
Planning & Zoning
204 East Jefferson Street, Goshen, Indiana 46528
Phone: 574-534-3600 Fax: 574-533-8626



KAUFFMAN
CONSTRUCTION

Brandon & Jackie Rhodes

East Elevation 3.1

223 S. 6th St.
Goshen

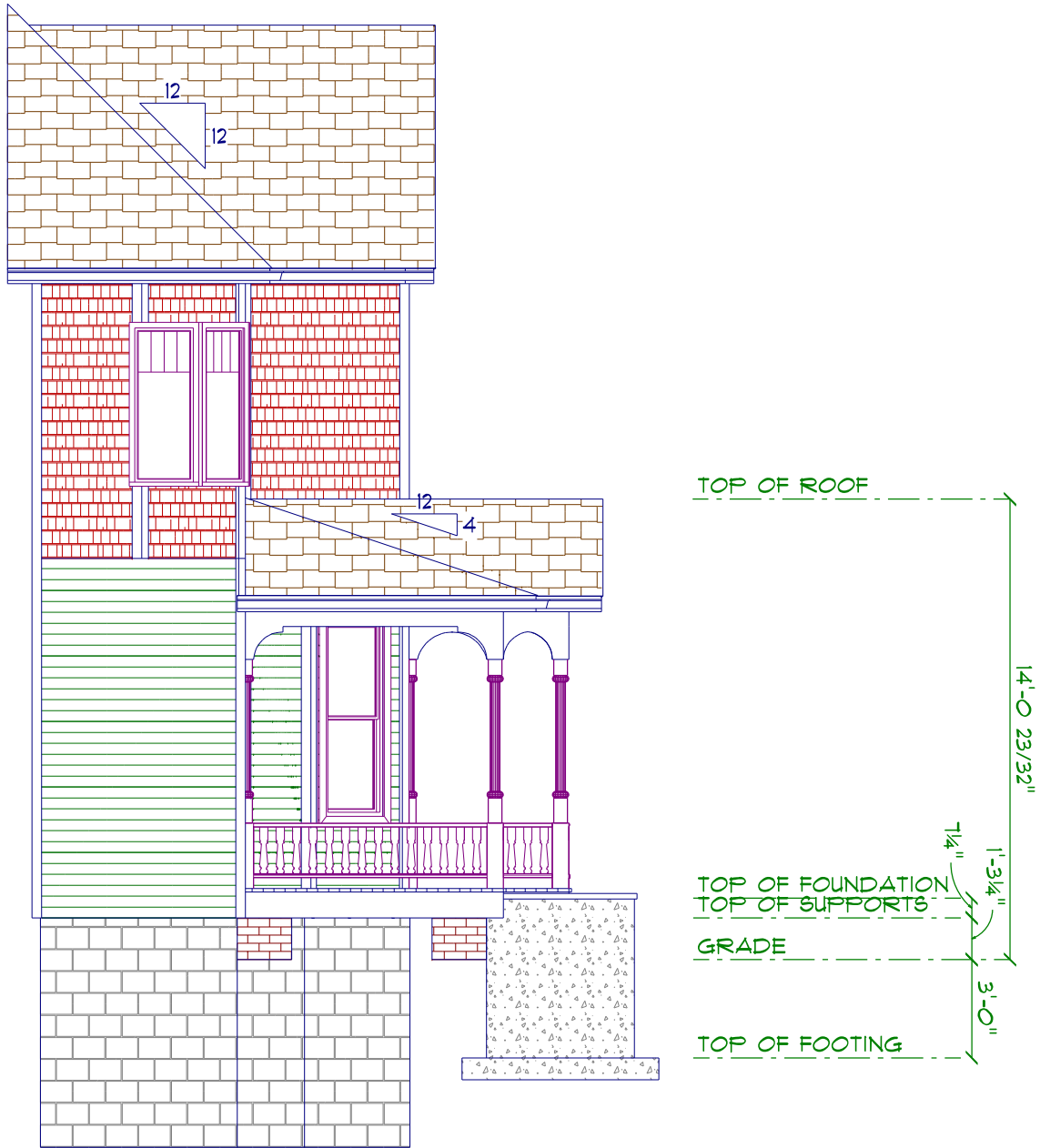
Phone # 404-704-6376

IN 46526

SCALE: 3/16" = 1'-0"

DATE: Tuesday, January 17, 2023

Drawn By: Jonathan Kuhns



KAUFFMAN
CONSTRUCTION

Brandon & Jackie Rhodes

223 S. 6th St.

Phone # 404-704-6376

Goshen

IN 46526

South Elevation 3.1

SCALE: 3/16" = 1'-0"

DATE: 1/17/2023

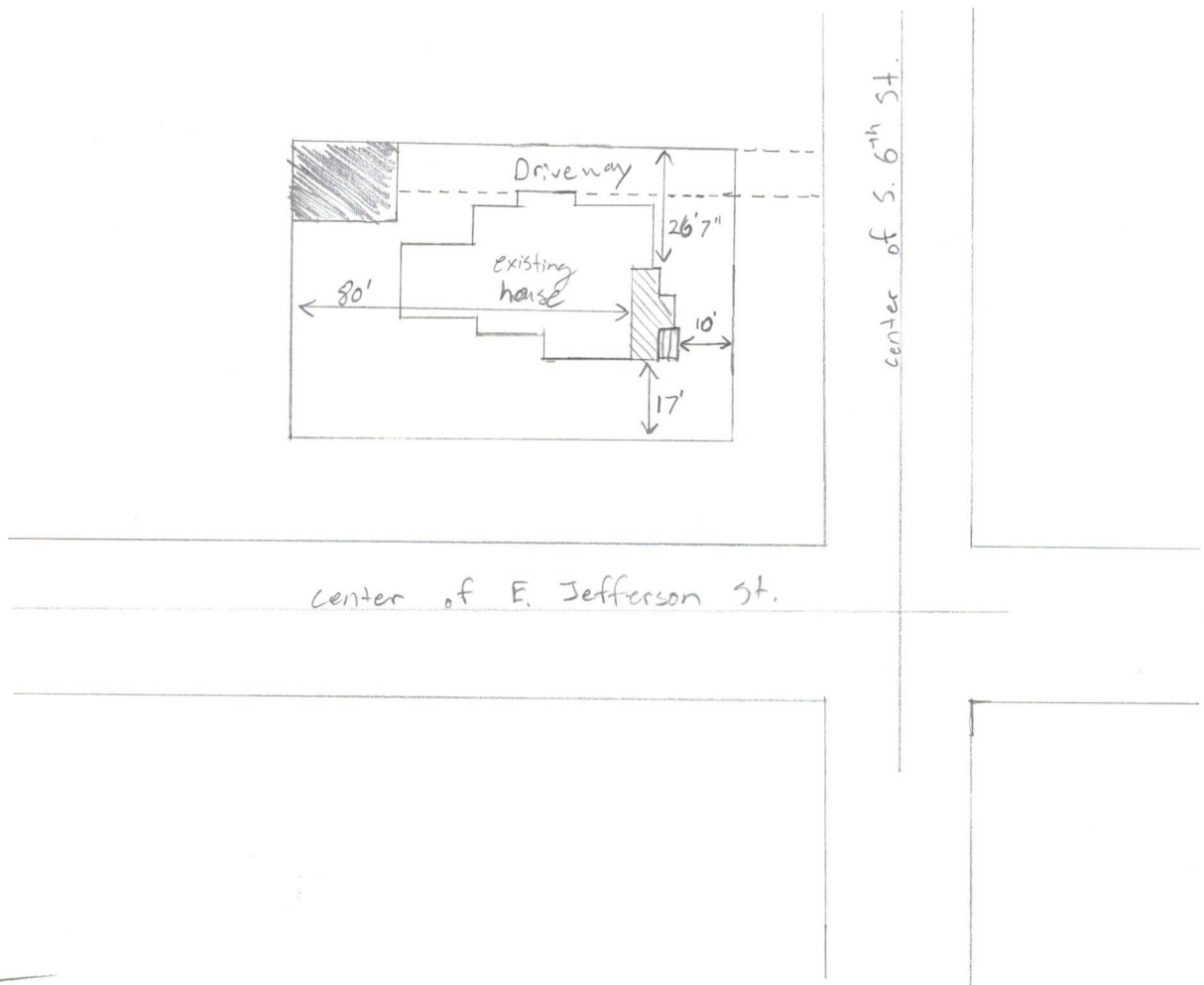
Drawn by: Jonathan Kuhns







PHOTOGRAPHED AND ENGRAVED BY PARFITT ENGRAVING CO.

Kauffman Construction
Brandon + Jackie Rhodes
223 S. 6th St
Goshen IN, 46526

Site Plan



Legend

-  = existing shed
-  = proposed addition
-  = dimension from property line
-  = steps

- overhang included in setback
- scale 1:500

LOCATION: 702 S 6th Street
CASE NUMBER: 23-06DV

DATE: March 28, 2023
PREPARED BY: Rossa Deegan

GENERAL INFORMATION

APPLICANT: Kyle & Allison Stiffney (owners)

REQUEST: The applicants request a developmental variance to allow 39% building coverage where a maximum of 35% is permitted for an approximately 1,238 Sf addition and approximately 227 Sf patio reconstruction

LOT SIZE: ±8,151 SF; ±213' of frontage (±50' on 6th Street & 163' on Douglass Street); ±163' of depth

APPLICABLE ZONING: Residential R-1

NOTICES SENT: 54

SPECIAL INFORMATION

PUBLIC UTILITIES: City water and sewer

AREA DEVELOPMENT: Residential

NEIGHBORHOOD: Historic Southside

THOROUGHFARES: 6th Street & Douglass Street

TOPOGRAPHY: Level

VARIANCE OF DEVELOPMENTAL STANDARDS

- ◇ Goshen Zoning Ordinance, *Section 4140.4*, Building Coverage Regulations of the R-1 District
No building shall hereafter be erected, reconstructed or altered so that more than 35 percent of the area of the lot is covered. This shall include a primary residential use and/or accessory buildings or structures, combined.

ADJACENT PROPERTY OWNERS' SUPPORT, OPPOSITION, AND INQUIRIES

The Planning office has not been contacted by any adjacent property owners regarding this variance. However, the Planning office may still be contacted with questions and statements of support or opposition to the variance between the time of this report's delivery and the public hearing.

ANALYSIS

The subject property is a single family home in the Historic Southside neighborhood located on the southeast corner of the intersection of 6th Street and Douglas Street. The property is just over 8,100 SF and is improved with an approximately 1,586 SF home, 550 SF detached garage, and several brick and concrete patio areas. Drive access is from Douglas Street.

The petitioners are proposing a number of updates to the home and property that include demolishing the existing detached garage and constructing an approximately 1,238 SF addition with a mudroom and new two-stall garage. A second story room will be added above the garage. The interior of the existing home will be renovated and an existing patio that encroaches in the Douglas Street right of way will be rebuilt and downsized. The proposed patio will include a structural border.

In January of this year, the Board of Works approved the patio encroachment into the right of way where the same board approved the original patio encroachment in 1992. The proposed building coverage with the improvements to the property will be over 38% where a maximum of 35% is permitted, so a developmental variance is needed.

Staff recommends approval of the request. At approximately 8,151 SF, the property is only slightly larger than the minimum required 8,000 SF lot size of an R-1 property by current Zoning Ordinance standards. The size of the existing home with the proposed addition is reasonable for single family use and is will match the character of the area, and the new garage will replace an existing failing garage. The BZA has routinely granted approval for relief from the building coverage standard in this neighborhood, including approvals of 49% building coverage at 414 E Douglas Street (19-01DV) and 48% at 507 S 5th Street (21-05DV). All other developmental requirements, including minimum building setbacks, will be met.

FINDINGS OF FACT

Staff recommends **approval** of a developmental variance to allow 39% building coverage where a maximum of 35% is permitted for an approximately 1,238 Sf addition and approximately 227 Sf patio reconstruction, based on the following:

1. **The approval will not be injurious to the public health, safety, morals and general welfare of the community.** The existing garage on the property is failing and will be replaced as part of the improvements. *The standard is confirmed.*
2. **The use and value of the area adjacent to the subject property will not be affected in a substantially adverse manner.** The subject property is located in a neighborhood where much of the residential development predates the current Zoning Ordinance and is characterized by reasonably sized homes built on small to moderately sized lots. *The standard is confirmed.*
3. **Strict application to the terms of the Zoning Ordinance will result in practical difficulties in the use of the subject property.** Approval will allow replacement of a failing detached garage structure with a new two-stall garage and several other reasonable updates to the existing single-family residence. All other developmental requirements, including minimum building setbacks, will be met. *The standard is confirmed.*

With approval, the following conditions shall apply:

1. The variance shall become null and void unless a zoning clearance 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. A building permit is required.



From 6th Street, looking northeast



From the intersection of 6th Street and Douglas Street, looking southeast



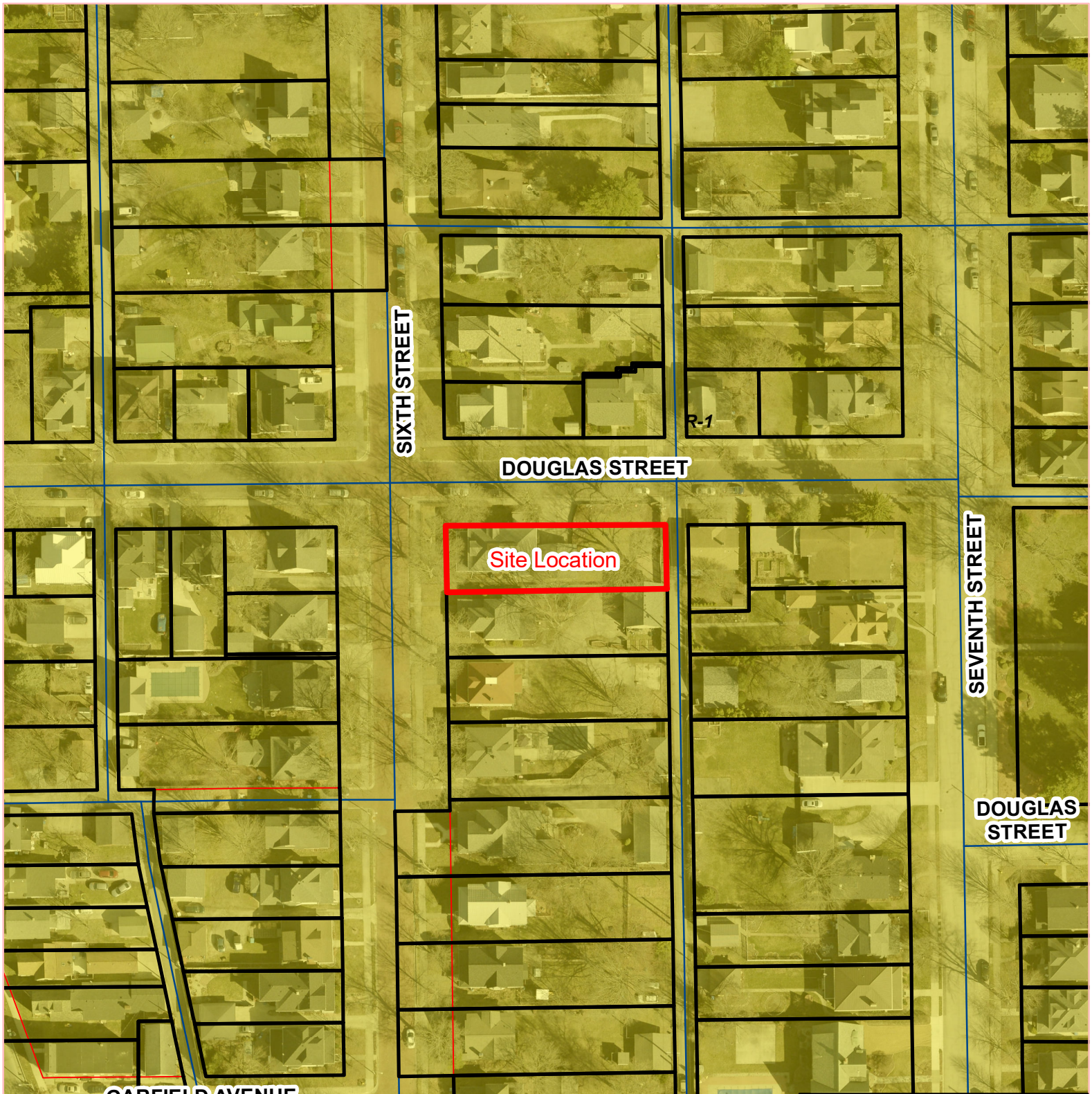
From Douglas Street, looking south



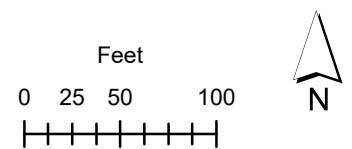
Looking south



Looking east



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702 S 6th Street

1 inch = 100 feet

2021 Aerial
Printed March 7, 2023

The City of Goshen
Department of
Planning & Zoning
204 East Jefferson Street, Goshen, Indiana 46528
Phone: 574-534-3600 Fax: 574-533-8626

Allison & Kyle Stiffney
702 s 6th st.
Goshen, IN 46526

March 1, 2023

Board of Zoning Appeals
204 E. Jefferson Street, Suite 4
Goshen, IN 46528

BZA,

We are before you today asking for a developmental variance for allowable lot coverage. Current building code requirements specify the following: *Section 4140.4 Building Coverage. No building shall hereafter be erected, reconstructed or altered so that more than 35 percent of the area of the lot is covered. This shall include a primary residential use and/or accessory buildings or structures, combined.*

The below calculation details how we arrived at our 39% proposed lot coverage variance. Please reference the included site plan for further details.

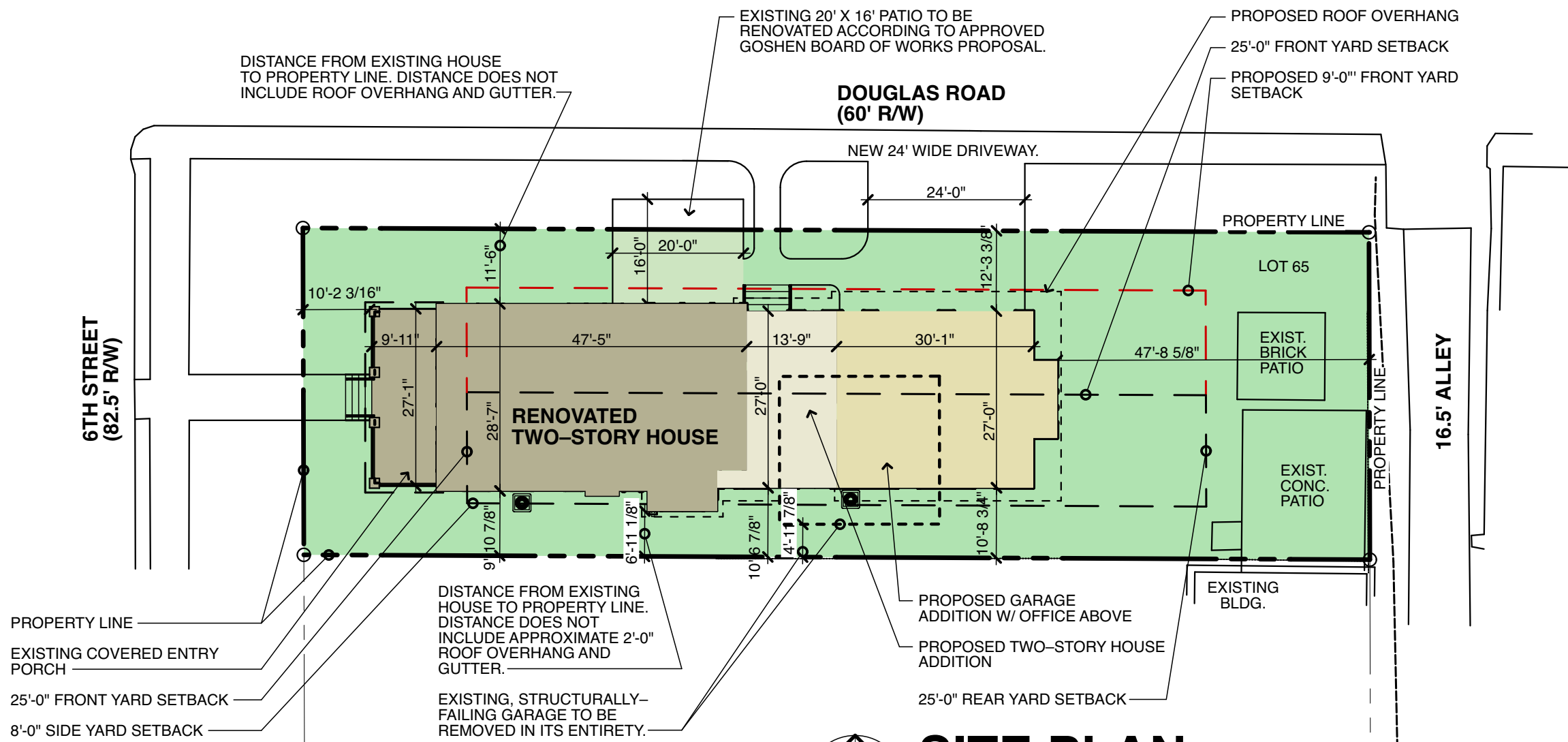
EXISTING LIVING AREA	1,378	S.F.
EXISTING FRONT PORCH AREA	271	
PROPOSED HOUSE ADDITION AREA	383	
PROPOSED GARAGE ADDITION AREA	855	
EXISTING PATIO AREA	227	
TOTAL BUILDING AREA	<u>3,114</u>	
PROPERTY AREA	8,151	S.F.
PROPOSED BUILDING COVERAGE:	38.19%	
ALLOWABLE BUILDING COVERAGE:	35.00%	
Excess S.F.	261	
EXISTING PATIO AREA	227	

Throughout our planning and design process our goal was to remain below the 35% allowable lot coverage requirement. Towards the end of this phase through discussion with the Planning and Zoning office we became aware that the existing patio space would be included in the lot coverage as it qualifies as an accessory structure. This then pushed our coverage over the 35% threshold. Since we would now be required to seek a variance we went ahead and added a small bump out on the garage (seen on the site plan on the east side) for bike storage.

We look forward to presenting this proposal to you and answering any questions or concerns you may have.

Warm regards,

Allison & Kyle Stiffney



SITE PLAN

1" = 20'-0"



BUILDING COVERAGE:

EXISTING LIVING AREA:	1,378 S.F.
EXISTING FRONT PORCH AREA:	271 S.F.
PROPOSED HOUSE ADDITION AREA:	383 S.F.
PROPOSED GARAGE ADDITION AREA:	855 S.F.
EXISTING PATIO AREA:	227 S.F.
TOTAL BUILDING AREA:	3,114 S.F.

PROPERTY AREA: 8,151 S.F.

BUILDING AREA / PROPERTY AREA x 100 = PROPOSED BUILDING COVERAGE%

PROPOSED BUILDING COVERAGE: 38.19%

ALLOWABLE BUILDING COVERAGE: 35%

LOCATION: 802 N Indiana
CASE NUMBER: 23-07DV

DATE: March 28, 2023
PREPARED BY: Rossa Deegan

GENERAL INFORMATION

APPLICANT: City of Goshen Indiana (owner)

REQUEST: The applicant requests developmental variances to allow one freestanding sign 13 Sf in area and 5' in height, one freestanding sign 24 Sf in area and 8' in height, and internal signs not exceeding 3 Sf as needed, where only ground signs not exceeding 3' in height and with a maximum aggregate area of 8 Sf are permitted, for a new recycling drop-off site

LOT SIZE: ±1 acre; ±343' of frontage; depth varies

APPLICABLE ZONING: Residential R-2

NOTICES SENT: 17

SPECIAL INFORMATION

PUBLIC UTILITIES: N/A

AREA DEVELOPMENT: Institutional, residential

NEIGHBORHOOD: None

THOROUGHFARES: Indiana Avenue & Wilden Avenue

TOPOGRAPHY: Inclines moderately southward towards railroad

VARIANCE OF DEVELOPMENTAL STANDARDS

ADJACENT PROPERTY OWNERS' SUPPORT, OPPOSITION, AND INQUIRIES

The Planning office has not been contacted by any adjacent property owners regarding this variance. However, the Planning office may still be contacted with questions and statements of support or opposition to the variance between the time of this report's delivery and the public hearing.

ANALYSIS

The subject property is a largely vacant parcel on the west side of Oakridge Cemetery, east of Indiana Avenue and south of Wilden Avenue. The property is bounded to the south by the Norfolk Southern Railroad and City wastewater treatment facility is located west across Indiana Avenue. Residential properties, included a mobile home park, are located to the north.

A recycling drop-off facility is being added to the subject property and is slated to open in the spring of this year. The facility will occupy approximately one acre in the southwest corner of the approximately five-acre parcel. The facility includes an area for approximately 10 recycling bins, a driving and turnaround area, evergreen screening, two light poles, and video cameras to help prevent illegal dumping. The petitioners are proposing to install the following signs on the property:

- An approximately 13 SF freestanding sign 5' in height at the entrance along Indiana Avenue
- An approximately 24 SF freestanding sign 8' in height by the dumpster area
- Approximately five signs up to three square feet in area located internally to the site. The number and locations of these may change over time.

Because the property is located in the R-1 District, which limits signs to ground signs not exceeding 3' in height and with a total aggregate area of 8 SF, developmental variances are required.

Approval is warranted. While the property is in the R-1 District, development of the area adjacent to the recycling drop-off site is largely industrial, with the railroad to the south and the waste water treatment plant to the west. The waste water treatment plant is zoned Industrial M-2, the zoning district reserved for the most intense industrial uses.

Other than the proposed sign at the entrance, the remainder of the proposed signs will be internal to the site. At 13 SF and 24 SF, the two proposed signs are smaller in area than freestanding signs permitted for schools and churches. The proposed sign at the entrance is setback 5' from the front property line and will be non-illuminated.

FINDINGS OF FACT

Staff recommends **approval** of developmental variances to allow one freestanding sign 13 Sf in area and 5' in height, one freestanding sign 24 Sf in area and 8' in height, and internal signs not exceeding 3 Sf as needed, where only ground signs not exceeding 3' in height and with a maximum aggregate area of 8 Sf are permitted, for a new recycling drop-off site, based on the following:

1. **The approval will not be injurious to the public health, safety, morals and general welfare of the community.** The proposed sign at the entrance is setback 5' from the front property line and will be non-illuminated. The remainder of the signs are internal to the site. *The standard is confirmed.*
2. **The use and value of the area adjacent to the subject property will not be affected in a substantially adverse manner.** While the property is in the R-1 District, development of the area adjacent to the recycling drop-off site is largely industrial, with the railroad to the south and the waste water treatment plant to the west. A small number of single-family homes are located to the north of the subject property across Wilden Avenue but are more than 500' from the recycling site. The proposed signs are non-illuminated. *The standard is confirmed.*
3. **Strict application to the terms of the Zoning Ordinance will result in practical difficulties in the use of the subject property.** The subject property is in an ideal location of for recycling drop-off facility, and is immediately adjacent to an intense industrial use and railroad. The use cannot be properly served by ground signs not exceeding 8 SF in aggregate area. *The standard is confirmed.*

With approval, the following conditions shall apply:

1. The variance shall become null and void unless a zoning clearance 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.



Looking north from railroad



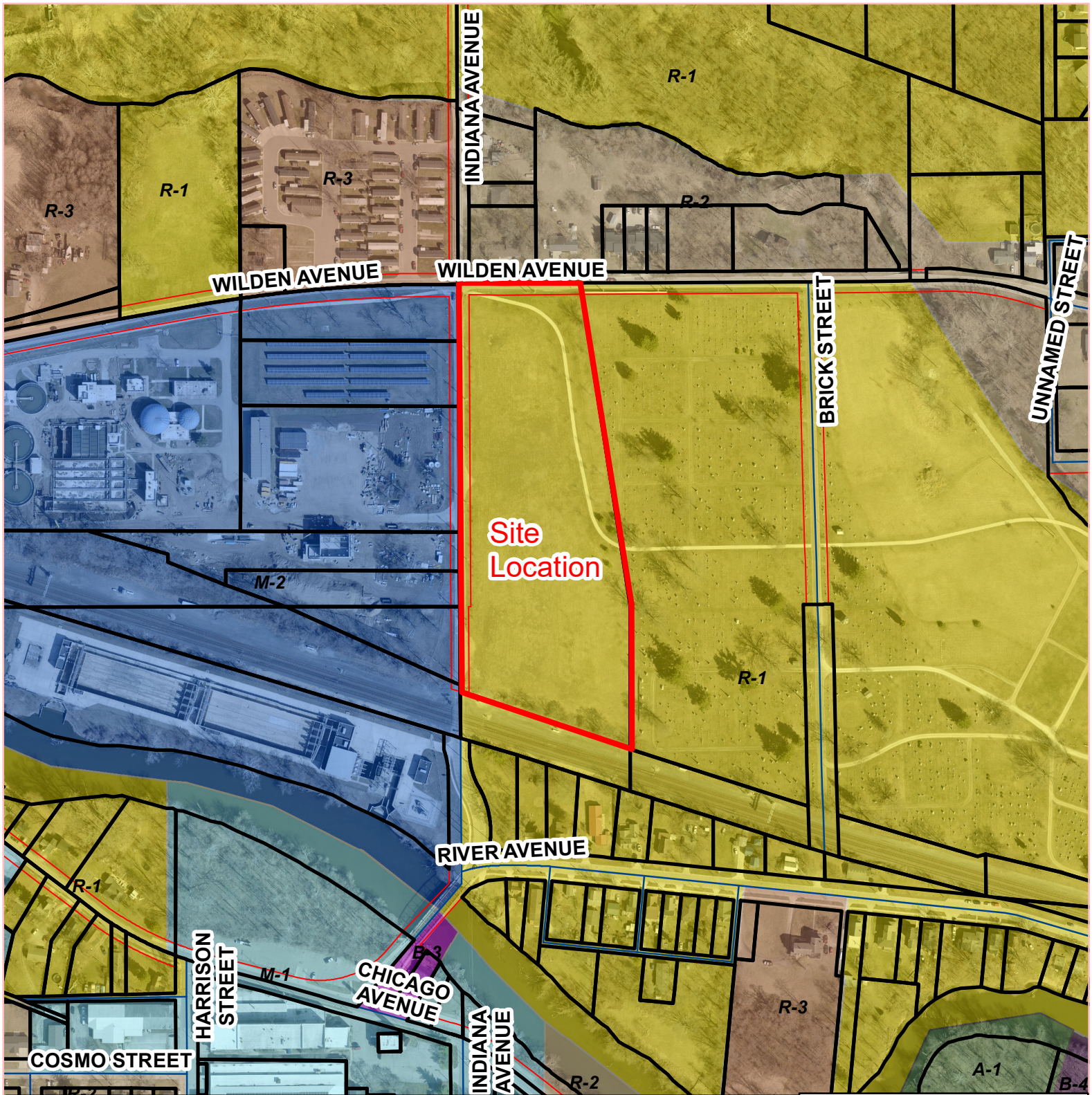
Looking northeast at proposed location of 24 SF freestanding sign



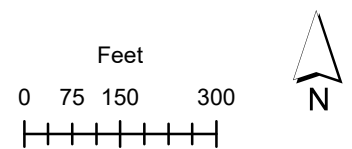
Looking northwest



Looking southeast



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1 inch = 300 feet

802 N Indiana Ave

2021 Aerial
Printed March 8, 2023

The City of Goshen
Department of
Planning & Zoning
204 East Jefferson Street, Goshen, Indiana 46528
Phone: 574-534-3600 Fax: 574-533-8626

Lipscomb, Lori

From: Deegan, Rossa
Sent: Thursday, March 2, 2023 1:11 PM
To: Magali Vergara
Cc: Lipscomb, Lori
Subject: RE: 132 N Main - variance extension

From: Magali Vergara <thewholesometortilla@gmail.com>
Sent: Thursday, March 2, 2023 1:09 PM
To: Deegan, Rossa <rossadeegan@goshencity.com>
Subject: Re: 132 N Main - variance extension

Hello,

Thank you for the heads up. We do want to request an extension. Thank you.

Rafael C.

Sent from my iPhone

On Mar 2, 2023, at 12:40, Deegan, Rossa <rossadeegan@goshencity.com> wrote:

Rafael,

The variance approved for 132 N main on October 25, 2022 will expire on April 25, 2023 unless a zoning clearance form for the project is issued by that date. You can request a one-time six-month extension, and staff can make that request on your behalf at the BZA. No application is necessary and you don't need to attend the meeting, just reply to this email requesting the extension. The request won't interfere with the approval process if the plans are approved prior to April 25.

Sincerely,

Rossa Deegan, AICP
Assistant Planning & Zoning Administrator
City of Goshen
204 E Jefferson St, Suite 4
Goshen, IN 46528
rossadeegan@goshencity.com
574-534-3505

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