

*Agenda*  
GOSHEN BOARD OF ZONING APPEALS  
Tuesday, April 25, 2023, 4:00 P.M.  
Council Chambers, 111 E. Jefferson Street  
Goshen, Indiana

- I. Roll Call
- II. Approval of Minutes from 3/28/23
- 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. **Developmental Variances**– public hearing items
  - 23-08DV** – Nancy J Miller & Gloria J Banda request a developmental variance to allow open parking in the front yard setback where open parking spaces are not permitted, for an approximately 372 SF driveway expansion. The subject property is generally located at 510 E Plymouth Avenue and is zoned Residential R-1 District.
  - 23-09DV** – Elks of Goshen #798 and Signtech Sign Services request a developmental variance to allow an approximately 14.5 Sf electronic message center (EMC) where EMCs are not permitted in the core Historic District, for the installation of a new approximately 69 SF illuminated wall sign. The subject property is generally located at 220 N Main Street and is zoned Commercial B-2HD District.
  - 23-10DV** – Susan M Kyle requests a developmental variance to allow open parking in the front yard setback where open parking spaces are not permitted, for an approximately 400 SF driveway expansion. The subject property is generally located at 412 James Place and is zoned Residential R-1 District.
  - 23-11DV** – Dale E Klassen & Beverly K Lapp request a developmental variance to allow an approximately 432 SF detached two-story workshop 21’ in height where the maximum height permitted for an accessory building shall not exceed the height of the residential dwelling on site. The subject property is generally located at 417 Gra Roy Drive and is zoned Residential R-1 District.
- VI. **Administrative Appeals** – public hearing items
  - 23-01AA** – Ronald E. Davidhizar and John William Davis, Jr., appeal the Zoning Administrator’s decision that the Planning office could not review or approve a General (Remodel) Permit Request and the associated zoning clearance form because a second-floor only residence does not meet the Zoning Ordinance definition of single family dwelling and because a complete submittal was not received because dimensioned, labeled floor plans for each floor, with the use of all spaces labeled, were not provided. The subject property is generally located at 207 Queen Street and is zoned Residential R-2 District.
  - 23-02AA** – Ronald E. Davidhizar and John William Davis, Jr., appeal the Zoning Administrator’s decision that the Planning office could not review or approve a General (Remodel) Permit Request and the associated zoning clearance form because a second-floor only residence does not meet the Zoning Ordinance definition of single family dwelling and because a complete submittal was not received because dimensioned, labeled floor plans for each floor, with the use of all spaces labeled, were not provided. The subject property is generally located at 209 Queen Street and is zoned Residential R-2 District.
- VII. Audience Items
- VIII. Staff/Board Items
- IX. Adjournment

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

**II.** Approval of Minutes from 2/28/23: Potuck/Lauver 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

**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.

*Staff Report*

Mr. Deegan described the existing Jiffy Lube property, noting that its largely surrounded by commercial properties, with a multi-unit residential property across the alley to the east. He noted minor auto repair has operated here since approximately 1989 and today's request is to add two service bays on the east side of the building and to expand the parking and driving aisle to accommodate the expansion. He noted most of the expansion will occur on what was previously a residential property. He went on to say auto repairs are not permitted in the B-2 zoning district, so a use variance is required.

Because auto repair has existed on the property for a number of years with no concerns, Staff recommends approval of the request. No public comments were received by the Planning Office.

*Petitioner Presentation:*

Evan Williams, 115 W Pike Street, spoke on behalf of the petitioner. He stated this is a family business with a good crew, some of which have been there for many years. He went on to say they did this same project two years ago at a store in Fishers and feels this remodel will enhance the entire area.

*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/Campbell, to adopt the Staff recommendations as the findings of the Board and based on these findings, approve 23-03UV with the 6 conditions listed in the Staff Report. The motion passed unanimously by a vote of 5-0.

**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.

*Staff Report*

Mr. Deegan explained this is the ninth consecutive year this request has come before the Board. The request is to allow the sale of fireworks from a tent located in the Walmart parking lot, with sale dates are from June 16<sup>th</sup> to July 5<sup>th</sup> of this year. The tent will be approximately 800 sf in area and take up 10 parking spaces. Hours will be from 10:00 am to 10:00 pm daily. Approval is required once again because the property is zoned Commercial B-4 and outside display and sales of merchandise requires approval by the BZA. No public comments were received regarding this request.

*Petitioner Presentation:*

Mr. Deegan noted for the record that the petitioner is not present today.

*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 23-04DV with the 5 conditions listed in the Staff Report. The motion passed unanimously by a vote of 5-0.

**23-05DV** – Brandon C Rhodes & Jackie A Wyse Rhodes and Kauffman Construction request a developmental variance to allow a front building setback along 6<sup>th</sup> 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 6<sup>th</sup> Street and is zoned Residential R-1 District.

*Staff Report*

Mr. Deegan explained the petitioners would like to add an open-air porch to the east side of their home which will have an approximate 10’ front setback along S 6<sup>th</sup> Street where 25’ is required. The new porch is actually a rebuild of a porch that once existed in the same location. He referred to a photo supplied by the petitioner which shows the original porch, noting this proposed replacement will not be detrimental to the area. He went on to explain the average setback of homes on this side of the street and in the same block is 14’, noting a photo in the staff report packet shows the house immediately south extends closer to 6<sup>th</sup> Street than this house does. The proposal here is characteristic of the neighborhood and no comments were received from the public regarding this request.

*Petitioner Presentation:*

Nate Kauffman, Kauffman Construction, 5593 Fir Road, Bremen, spoke on behalf of the petitioner. He stated the owner would like to bring this home back to its original glory and the plans are to match the original porch as much as possible.

*Audience Comments:*

There was no one to speak to the petition.

*The public hearing was closed.*

*Staff Discussion:*

Mr. Lauver asked if this is located within a historic district.

Mr. Deegan stated it is not; explaining that there is no zoning district for historic architectural standards in Goshen.

*Action:*

A motion was made and seconded, Lauver/Potuck, to adopt the Staff recommendations as the findings of the Board and based on these findings, approve 23-05DV with the 4 conditions listed in the Staff Report. The motion passed unanimously by a vote of 5-0.

**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 6<sup>th</sup> Street and is zoned Residential R-1 District.

*Staff Report*

Mr. Deegan gave background information on this R-1 property and explained the petitioners are renovating the interior of the home and also plan to demolish an existing garage and rebuild slightly larger to include a mudroom, connector, and upstairs room. A patio on the north side of the home will also be replaced and has received Board of Works approval for the portion of the patio that extends into the right-of-way. After all construction, lot coverage will be over 38% where the maximum permitted coverage is limited to 35%. He went on to say the construction is reasonable and approval is warranted, noting that a failing garage will also be removed which will update the property. He also pointed out the Board has routinely approved variances for similar properties, with some of these approvals on nearby properties. No public comments were received by the Planning Office.

*Petitioner Presentation:*

Allison and Kyle Stiffney, 702 S 6<sup>th</sup> Street, spoke on behalf of the petitioner. Kyle Stiffney stated they plan to live here for a long time and are excited for this project.

Mr. Lauver asked about the two chimneys shown on the site plan.

Mr. Stiffney stated the locations Mr. Lauver asked about are actually air conditioning units.

*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 23-06DV with the 4 conditions listed in the Staff Report. The motion passed unanimously by a vote of 5-0.

**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.

*Staff Report*

Mr. Deegan explained this is a mostly vacant parcel, located on the west side of Oak Ridge Cemetery and that this location will soon be open to the public as a recycling drop off site. The petitioners are requesting signage to identify the property and provide information within the site. The proposed signs include a 13 sf freestanding sign at the entrance, a freestanding sign internal to the site, 24 sf in area, and approximately 5 other signs internal to the site. He pointed out the R-1 zoning district limits allowable signs to ground signs, which are limited to 3' in height and a total aggregate area of 8 sf. Staff recommends approval of the request, noting that with the exception of the entrance sign, the majority of the signs will be internal to the site and stating that they will not affect the character of the area which includes a railroad and waste water treatment plant. He referred to a photo in member's packets which show the residential area to the north, noting that the houses are quite some distance away and will not be impacted by the signage. No public comments were received by the Planning Office.

*Petitioner Presentation:*

Dustin Sailor, City of Goshen, spoke on behalf of the petitioner. He stated he's in agreement with the Staff Report and is available to answer any questions.

Mr. Holtzinger asked if this is in cooperation with the county.

Mr. Sailor agreed that it is, noting that as of today, all county sites have been removed. The intention is to have this site up and operational by April 1<sup>st</sup>.

Mr. Holtzinger asked if this site will be accessible 24/7.

Mr. Sailor acknowledged that it will, pointing out that cameras and outdoor lighting will be at this site. He went on to say the site will be monitored to hopefully stop illegal dumping. He stated the wastewater treatment plant is across the street and they will be doing the day-to-day monitoring of the site.

Mr. Rohn asked if the drive is repurposed asphalt chips.

Mr. Sailor acknowledged that it is. He went on to say that we're not sure how long this will be in operation, noting that if the public doesn't treat this site well, it will go away. If we find we can maintain this site, the plan is to add hard surface.

*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, Lauver/Rohn, to adopt the Staff recommendations as the findings of the Board and based on these findings, approve 23-07DV with the 3 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 request for 22-34DV, 132 N Main Street, from April 25, 2023 to October 25, 2023

Mr. Deegan explained the façade variance for The Wholesome Tortilla at 132 N Main Street expires on April 25<sup>th</sup> and the petitioners have requested a 6-month extension. The project has not been scheduled for Technical Review so the extension is warranted.

*Action:*

A motion was made and seconded, Potuck/Lauver to grant a 6-month extension for 22-34DV, from 4/25/23 to 10/25/23. The motion passed unanimously by a vote of 5-0.

**VIII.** Adjournment: 4:22 pm Potuck/Rohn

Respectfully Submitted:

---

Lori Lipscomb, Recording Secretary

Approved By:

---

Tom Holtzinger, Chair

---

Lee Rohn, Secretary

**LOCATION:** 510 E Plymouth Avenue  
**CASE NUMBER:** 23-08DV

**DATE:** April 25, 2023  
**PREPARED BY:** Rossa Deegan

---

## **GENERAL INFORMATION**

---

**APPLICANT:** Nancy J. Miller & Gloria J. Banda (owners)

**REQUEST:** The applicants request a developmental variance to allow open parking in the front yard setback where open parking spaces are not permitted for an approximately 372 SF driveway expansion

**LOT SIZE:** ±4,950 SF; ±83' of frontage; ±60' depth

**APPLICABLE ZONING:** Residential R-1

**NOTICES SENT:** 34

---

## **SPECIAL INFORMATION**

---

**PUBLIC UTILITIES:** City water and sewer

**AREA DEVELOPMENT:** Residential, institutional

**NEIGHBORHOOD:** Parkside

**THOROUGHFARES:** Plymouth Avenue

**TOPOGRAPHY:** Level

## **VARIANCE OF DEVELOPMENTAL STANDARDS**

- ◇ Goshen Zoning Ordinance, *Section 5110.3*, Design Standards for Parking
  - A.1 Open parking spaces may be located in any yard, except a front yard or the street side of a corner lot

## **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 one-story single-family home located on Plymouth Avenue on the northern edge of the Parkside Neighborhood. The home has a footprint of approximately 1,780 SF and includes a one-stall garage with drive access from Plymouth Avenue and the adjacent alley to the east. Properties in the vicinity are largely single-family homes; Water Tower Park is located directly across the alley to the east and the 9<sup>th</sup> Street pedestrian bike path and Norfolk Southern Railroad are located one-half block to the east.

The petitioner is proposing to install approximately 372 SF of new concrete on the property for an expanded parking area. The new paving will be used for vehicle parking, and will be located entirely within the front yard, which is the first 35' from the property line along Plymouth Avenue. Because open parking in the front yard is prohibited by the Zoning Ordinance, a developmental variance is needed.

The proposed parking expansion, which comes within 2' of the sidewalk along Plymouth Avenue, is less than ideal. However, there are a number of factors that warrant approval of the request:

- The existing home is limited to a one car garage
- There is no adjacent street parking
- The current Zoning Ordinance requires a minimum of two on-site parking spaces, so the request for parking in addition the existing one-stall garage is reasonable.

- The visual field along the same side of the same block of Plymouth Avenue is already broken by the position of the adjacent property to the west, which has a home and two open parking spaces within the front yard setback along Plymouth Avenue. The proposed parking area will not be out of character with the surrounding area.
- The BZA has recently approved open parking under similar circumstances on nearby properties, including approvals at 416 E Douglas Street in July 2022 and 620 S 7<sup>th</sup> Street in October 2020.

### **FINDINGS OF FACT**

Staff recommends **approval** of a developmental variance to allow open parking in the front yard setback where open parking spaces are not permitted for an approximately 372 SF driveway expansion, 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 parking expansion maintains a grassed gap between paving and the adjacent sidewalk, and the increase in onsite parking area will reduce the likelihood that parked vehicles project into the right of way. *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 visual field along the same side of the same block of Plymouth Avenue is already broken by the position of the adjacent property to the west, which has a home and two open parking spaces within the front yard setback along Plymouth Avenue. The proposed parking area will not be out of character with the surrounding area. *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 existing home has a one stall garage and there is no nearby street parking. The current Zoning Ordinance requires a minimum of two on-site parking spaces, so the request for parking in addition the existing one-stall garage is reasonable. *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. The driveway expansion shall be durable hard surface.
5. All portions of the driveway expansion shall be installed on the subject property, with no new encroachment into the right of way.





Looking south across Plymouth Avenue



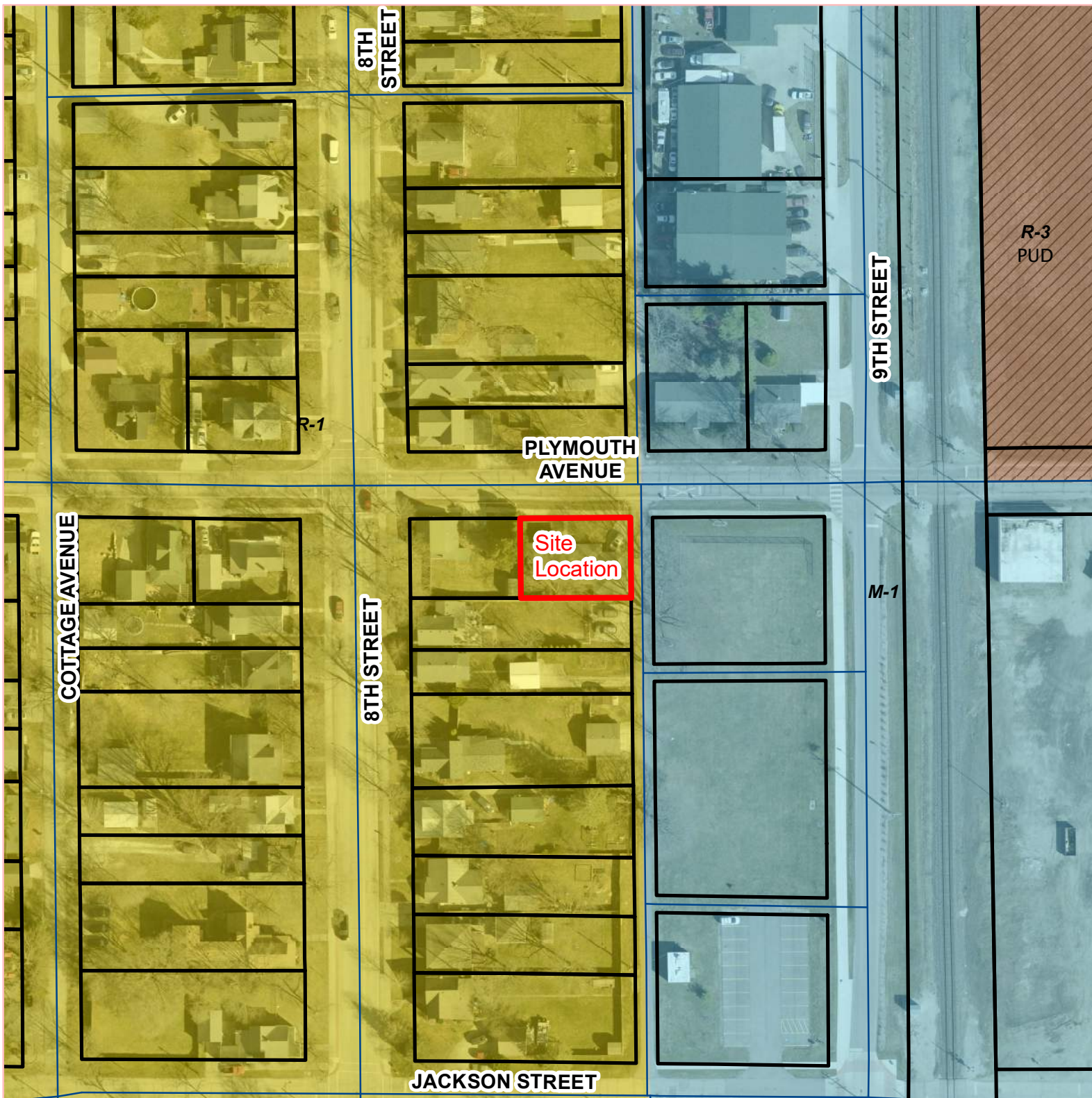
Looking southwest



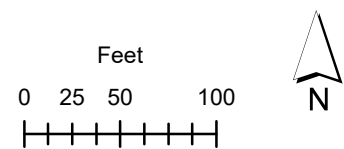
Looking west



Looking east



The City of Goshen's Digital Data is the property of the City of Goshen and Elkhart County, Indiana. All graphic data supplied by the city and county has been derived from public records that are constantly undergoing change and is not warranted for content or accuracy. The city and county do not guarantee the positional or thematic accuracy of the data. The cartographic digital files are not a legal representation of any of the features depicted, and the city and county disclaim any assumption of the legal status they represent. Any implied warranties, including warranties of merchantability or fitness for a particular purpose, shall be expressly excluded. The data represents an actual reproduction of data contained in the city's or county's computer files. This data may be incomplete or inaccurate, and is subject to modifications and changes. City of Goshen and Elkhart County cannot be held liable for errors or omissions in the data. The recipient's use and reliance upon such data is at the recipient's risk. By using this data, the recipient agrees to protect, hold harmless and indemnify the City of Goshen and Elkhart County and its employees and officers. This indemnity covers reasonable attorney fees and all court costs associated with the defense of the city and county arising out of this disclaimer.

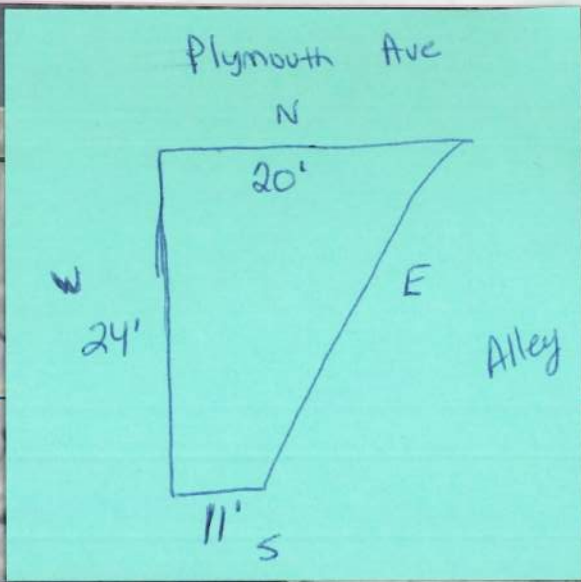


510 E Plymouth

1 inch = 100 feet

2021 Aerial  
Printed April 3, 2023

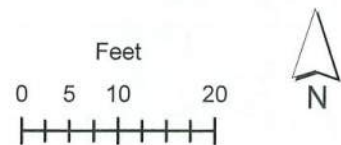
The City of Goshen  
Department of  
Planning & Zoning  
204 East Jefferson Street, Goshen, Indiana 46528  
Phone: 574-534-3600 Fax: 574-533-8626



PLYMOUTH AVENUE

CEMENT

The City of Goshen's Digital Data is the property of the City of Goshen and Elkhart County, Indiana. All graphic data supplied by the city and county has been derived from public records that are constantly undergoing change and is not warranted for content or accuracy. The city and county do not guarantee the positional or thematic accuracy of the data. The cartographic digital files are not a legal representation of any of the features depicted, and the city and county disclaim any assumption of the legal status they represent. Any implied warranties, including warranties of merchantability or fitness for a particular purpose, shall be expressly excluded. The data represents an actual reproduction of data contained in the city's or county's computer files. This data may be incomplete or inaccurate, and is subject to modifications and changes. City of Goshen and Elkhart County cannot be held liable for errors or omissions in the data. The recipient's use and reliance upon such data is at the recipient's risk. By using this data, the recipient agrees to protect, hold harmless and indemnify the City of Goshen and Elkhart County and its employees and officers. This indemnity covers reasonable attorney fees and all court costs associated with the defense of the city and county arising out of this disclaimer.



1 inch = 20 feet

510 E Plymouth

2021 Aerial  
Printed March 17, 2023

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

**LOCATION:** 220 N Main Street  
**CASE NUMBER:** 23-09DV

**DATE:** April 25, 2023  
**PREPARED BY:** Rossa Deegan

---

## **GENERAL INFORMATION**

---

**APPLICANT:** Elks of Goshen 798, Inc. (owner); Signtech Sign Services (agent)

**REQUEST:** The applicants request a developmental variance to allow an approximately 14.5 Sf electronic message center (EMC) where EMCs are not permitted in the core Historic District for the installation of a new approximately 69 SF illuminated wall sign

**LOT SIZE:** ±10,890' SF; ±66' of frontage; ±165' of depth

**APPLICABLE ZONING:** Commercial B-2 Historic District

**NOTICES SENT:** 32

---

## **SPECIAL INFORMATION**

---

**PUBLIC UTILITIES:** City water and sewer

**AREA DEVELOPMENT:** Commercial, institutional

**NEIGHBORHOOD:** Downtown

**THOROUGHFARES:** Main Street

**TOPOGRAPHY:** Level

## **VARIANCE OF DEVELOPMENTAL STANDARDS**

- ◇ Goshen Zoning Ordinance, *Section 4280.2*, Permitted Sign Types
  - G. Electronic Message Center (EMC) signs shall be permitted in the non-core Historic District only

## **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 quarter-acre lot in the Downtown. The existing building on the property has an approximate footprint of 8,343 SF and covers over 76% of the lot, which is typical for buildings along Main Street in the Downtown. The building is an Elks Lodge and the earliest Planning records available indicate such use has been in place since at least 1980. The property is bounded to the east and south by public alleys, and nearby properties are business offices and commercial retail stores.

The property is located in the Commercial B-2 District and the Historic District (HD). The HD is an overlay district that regulates signs, and it includes a core of properties along Main Street and 5<sup>th</sup> Street between Madison Street and Pike Street. Properties outside the Core are in the non-Core area of the HD, where there are greater sign allowances.

The building currently has two wall signs on its front façade facing Main Street. One of the signs is an approximately 37 SF illuminated rectangular wall sign in the center of the façade. The other is an approximately 32 SF illuminated changeable copy sign in the upper third of the façade; it includes flashing lights, where such lights are not permitted in the HD. There is no record of approval for these signs.

In December 2022, the petitioners requested a developmental variance to replace the changeable copy sign with a smaller electronic message center (EMC) sign approximately 24 SF in area. EMCs are not permitted in the core of the HD, so a developmental variance was required. Additionally, only one wall sign per street frontage per establishment is permitted in the HD, and the petitioners proposed signage included two wall signs. The petitioners stated that their need for the EMC arises from their members' inability to continually change the sign, especially in times of harsh weather, and that an EMC would allow greater ease in changing messages. The BZA denied the request on the basis that the visual elements of an EMC did not fit the character of Goshen's historic Downtown.

The petitioners have modified their plans and submitted a new request to the BZA. The new request includes an approximately 14.5 SF EMC to be included in a single new illuminated wall sign approximately 69 SF in area. The existing changeable copy sign will be eliminated. The difference between the new application and the December application is that the proposed EMC is smaller (14.5 SF compared with 24 SF) and the proposed number of wall signs is one instead of two.

The intention behind prohibiting EMCs in the core of the Historic District is to limit the possible adverse impacts they may have on the aesthetic of the historic Downtown area. Staff is unaware of any similar EMC signs in the core area. In July 2020, the BZA granted approval (20-12DV) to 216 S Main Street (the Goshen Theater) to allow two TV monitors to be placed inside the building facing the street through first floor windows. These TV monitors met the definition of EMC signs and were approved as such. The approval included numerous commitments, most important of which was a prohibition against permanently attaching the monitors to any interior or exterior portion of the building.

Staff recommends denial of the request based on the same rationale as the denial made in December 2022. The proposed EMC will be flush mounted on the exterior wall of the building and will be visually incompatible with the intentions of the standards of the Historic Core. While the petitioners have a valid reason for wishing to seek a change to the current changeable copy sign, there is ample space on the lower façade to redesign a single wall sign that incorporates a section for changeable copy lower on the façade.

### **FINDINGS OF FACT**

Staff recommends **denial** of the request for a developmental variance to allow an approximately 14.5 Sf electronic message center (EMC) where EMCs are not permitted in the core Historic District for the installation of a new approximately 69 SF illuminated wall sign, 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 EMC is flush mounted to the subject building wall and will not obstruct access to and around the property. The proposed sign can be changed without having to climb a ladder in harsh weather. *The standard is confirmed.*
2. **The use and value of the area adjacent to the subject property will be affected in a substantially adverse manner.** Visual elements of the proposed EMC, such as dense illumination and computerized advertising, are visually incompatible with the aesthetic of Goshen's historic Downtown. *The standard is not confirmed.*
3. **Strict application to the terms of the Zoning Ordinance will not result in practical difficulties in the use of the subject property.** There is ample room on the façade of the subject building to redesign a sign incorporating a changeable copy sign so that it is lower to the ground. *The standard is not confirmed.*



Looking east across Main Street



Looking east



Looking south east



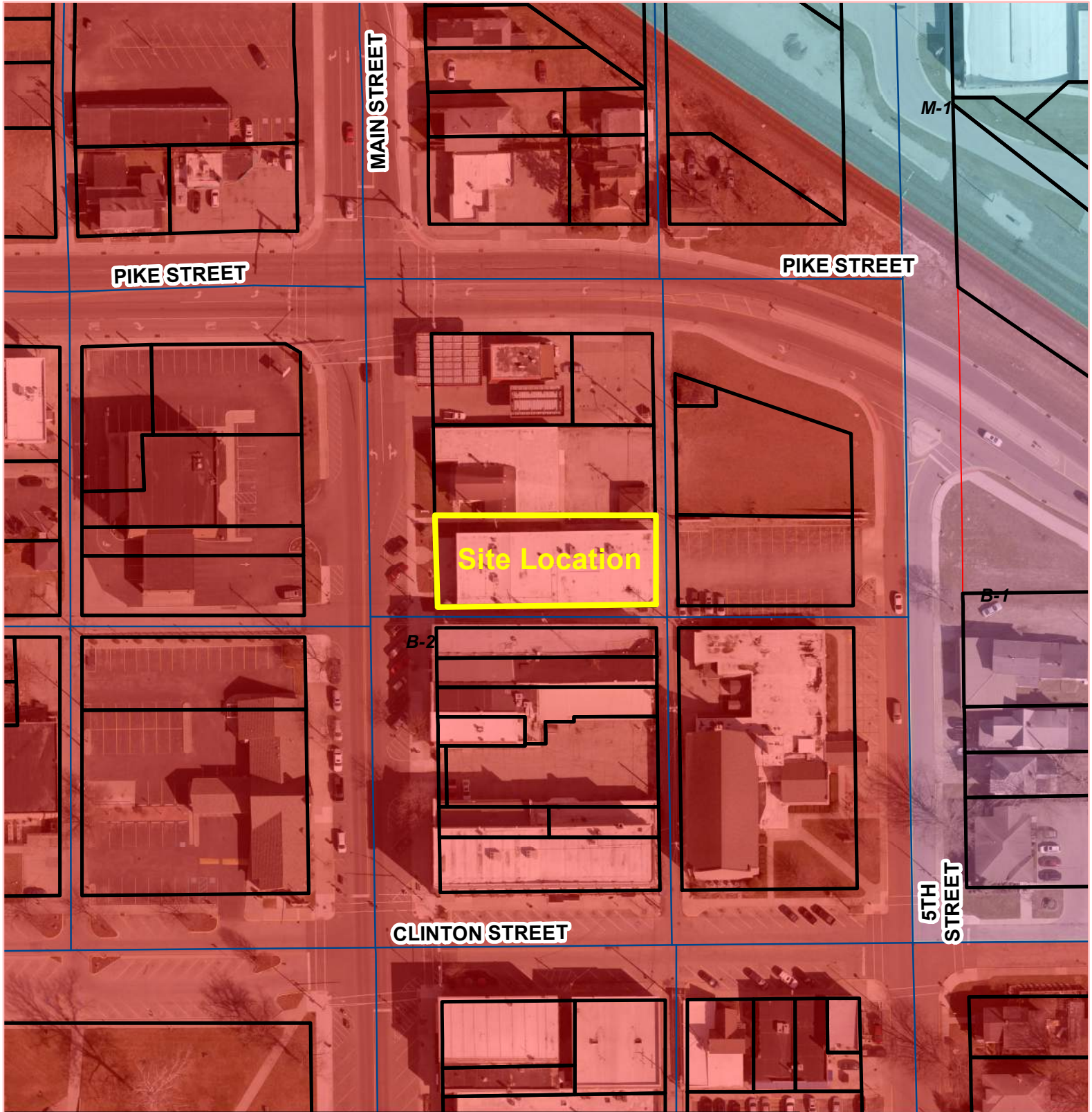
Looking northeast





Looking east from Main Street at one of two TV monitors approved by variance in July 2020 at 216 S Main St





The City of Goshen's Digital Data is the property of the City of Goshen and Elkhart County, Indiana. All graphic data supplied by the city and county has been derived from public records that are constantly undergoing change and is not warranted for content or accuracy. The city and county do not guarantee the positional or thematic accuracy of the data. The cartographic digital files are not a legal representation of any of the features depicted, and the city and county disclaim any assumption of the legal status they represent. Any implied warranties, including warranties of merchantability or fitness for a particular purpose, shall be expressly excluded. The data represents an actual reproduction of data contained in the city's or county's computer files. This data may be incomplete or inaccurate, and is subject to modifications and changes. City of Goshen and Elkhart County cannot be held liable for errors or omissions in the data. The recipient's use and reliance upon such data is at the recipient's risk. By using this data, the recipient agrees to protect, hold harmless and indemnify the City of Goshen and Elkhart County and its employees and officers. This indemnity covers reasonable attorney fees and all court costs associated with the defense of the city and county arising out of this disclaimer.

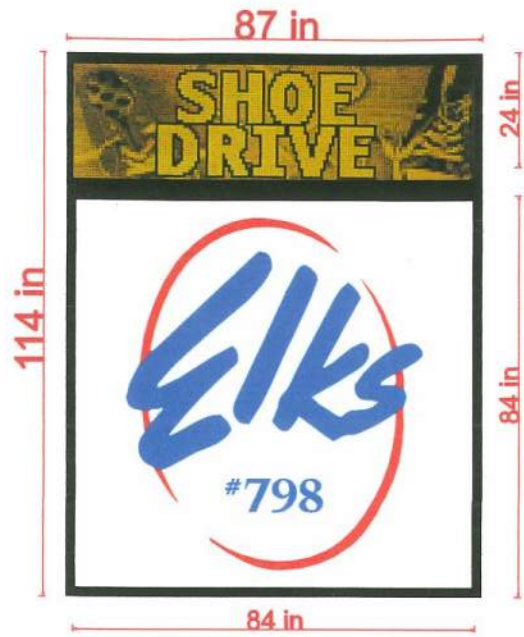
220 N Main Street

2021 Aerial  
Printed December 6, 2022



Feet  
0 25 50 100  
|-----|  
1 inch = 100 feet

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



## CITY OF GOSHEN BZA DEVELOPMENTAL VARIANCE PRESENTATION

1. THE APPROVAL WILL NOT BE INJURIOUS TO THE PUBLIC HEALTH, SAFETY, MORALS, AND GENERAL WELFARE OF THE COMMUNITY:

The Electronic Message Center will not be injurious to the Community as it will Auto Dim from Dusk to Dawn & will be anchored securely to the bldg.

2. THE USE AND VALUE OF THE AREA ADJACENT TO THE PROPERTY INCLUDED IN THE VARIANCE WILL NOT BE AFFECTED IN A SUBSTANTIAL ADVERSE MANNER:

The Electronic Message Center will be constructed out of quality materials and will add to the value of the property.

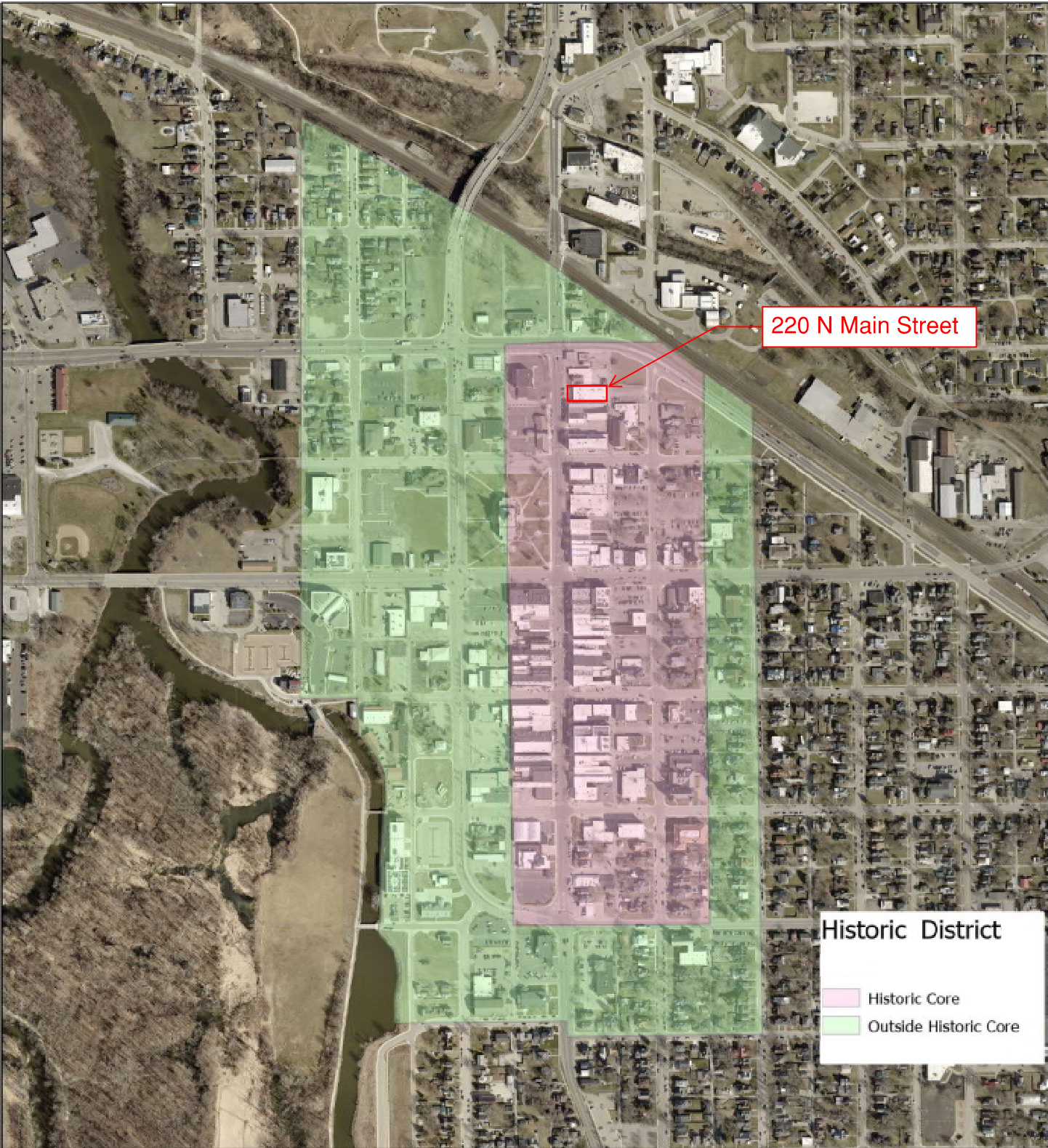
3. STRICT APPLICATION OF THE TERMS OF THE ZONING ORDINANCE WILL RESULT IN PRACTICAL DIFFICULTIES IN THE USE OF THE SUBJECT PROPERTY:

The Electronic Message Center will be used to inform the Community & bring awareness of activities at the ELKS.



Sign rendering from December 2022 BZA application





220 N Main Street

**Historic District**

- Historic Core
- Outside Historic Core

The City of Goshen's Digital Data is the property of the City of Goshen and Elkhart County, Indiana. All graphic data supplied by the city and county has been derived from public records that are constantly undergoing change and is not warranted for content or accuracy. The city and county do not guarantee the positional or thematic accuracy of the data. The cartographic digital files are not a legal representation of any of the features depicted, and the city and county disclaim any assumption of the legal status they represent. Any implied warranties, including warranties of merchantability or fitness for a particular purpose, shall be expressly excluded. The data represents an actual reproduction of data contained in the city's or county's computer files. This data may be incomplete or inaccurate, and is subject to modifications and changes. City of Goshen and Elkhart County cannot be held liable for errors or omissions in the data. The recipient's use and reliance upon such data is at the recipient's risk. By using this data, the recipient agrees to protect, hold harmless and indemnify the City of Goshen and Elkhart County and its employees and officers. This indemnity covers reasonable attorney fees and all court costs associated with the defense of the city and county arising out of this disclaimer.

0 165 330 660  
  
 1 inch equals 600 feet

**Historic District - Core & Non-Core**

2021 Aerial  
 Printed on 11/30/2022

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

**LOCATION:** 412 James Place  
**CASE NUMBER:** 23-10DV

**DATE:** April 25, 2023  
**PREPARED BY:** Rossa Deegan

---

### **GENERAL INFORMATION**

---

**APPLICANT:** Susan M. Kyle (owner)

**REQUEST:** The applicant requests a developmental variance to allow open parking in the front yard setback where open parking spaces are not permitted for an approximately 400 SF driveway expansion

**LOT SIZE:** ±10,475 SF; ±75' of frontage; ±140' of depth

**APPLICABLE ZONING:** Residential R-1

**NOTICES SENT:** 41

---

### **SPECIAL INFORMATION**

---

**PUBLIC UTILITIES:** City water and sewer

**AREA DEVELOPMENT:** Residential

**NEIGHBORHOOD:** West Goshen

**THOROUGHFARES:** James Place

**TOPOGRAPHY:** Level

### **VARIANCE OF DEVELOPMENTAL STANDARDS**

- ◇ Goshen Zoning Ordinance, *Section 5110.3*, Design Standards for Parking
  - A.1 Open parking spaces may be located in any yard, except a front yard or the street side of a corner lot

### **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 located on the east side of James Place in the West Goshen Neighborhood. The home on the property has an approximate footprint of 1,941 SF and includes a one-stall garage with a narrow driveway. Surrounding properties are predominantly single-family homes on similarly sized subdivision lots.

The petitioner is proposing to replace the concrete in the existing concrete driveway and expand the driveway southward, adding approximately 10' of width to the drive and expanding the available surface level parking. The proposed expansion will be in the front yard, where open parking is not permitted, so a developmental variance is needed.

Staff recommends approval of the request. Because the property is only served by a one-stall garage with an approximately 9.5' wide driveway, there is no where else on the property to park. The proposed expansion will increase available on-site parking to two spaces, which is reasonable given that the current Zoning Ordinance requires new single-family homes to have two onsite parking spaces. While street parking is available, the petitioner states that street parking adjacent to the property is often limited because other residents in the neighborhood use the right of way for parking. The proposed expansion will meet all other developmental requirements, including the minimum 5' side (south) setback.

Numerous other properties in the vicinity have one-stall garages and open parking pads in the front yard, including 407 James Place and 418 James Place. In November 2020, the BZA approved a similar request (20-21DV) for open parking at 509 Glenwood Drive, which is located one block to the west.

### **FINDINGS OF FACT**

Staff recommends **approval** of a developmental variance to allow open parking in the front yard setback where open parking spaces are not permitted for an approximately 400 SF driveway expansion, 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 parking expansion will meet all developmental requirements and will reduce the number of vehicles parked in the City right of way. *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.** Numerous other properties in the vicinity have one-stall garages and open parking pads in the front yard, including 407 James Place and 418 James Place. *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 proposed expansion will increase available on-site parking to two spaces, which is reasonable given that the current Zoning Ordinance requires new homes to have two onsite parking spaces. *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. All new and replaced parking and driving aisle shall be durable hard surface.
5. A right of way permit approved by the Engineering Department is required.



Looking northeast

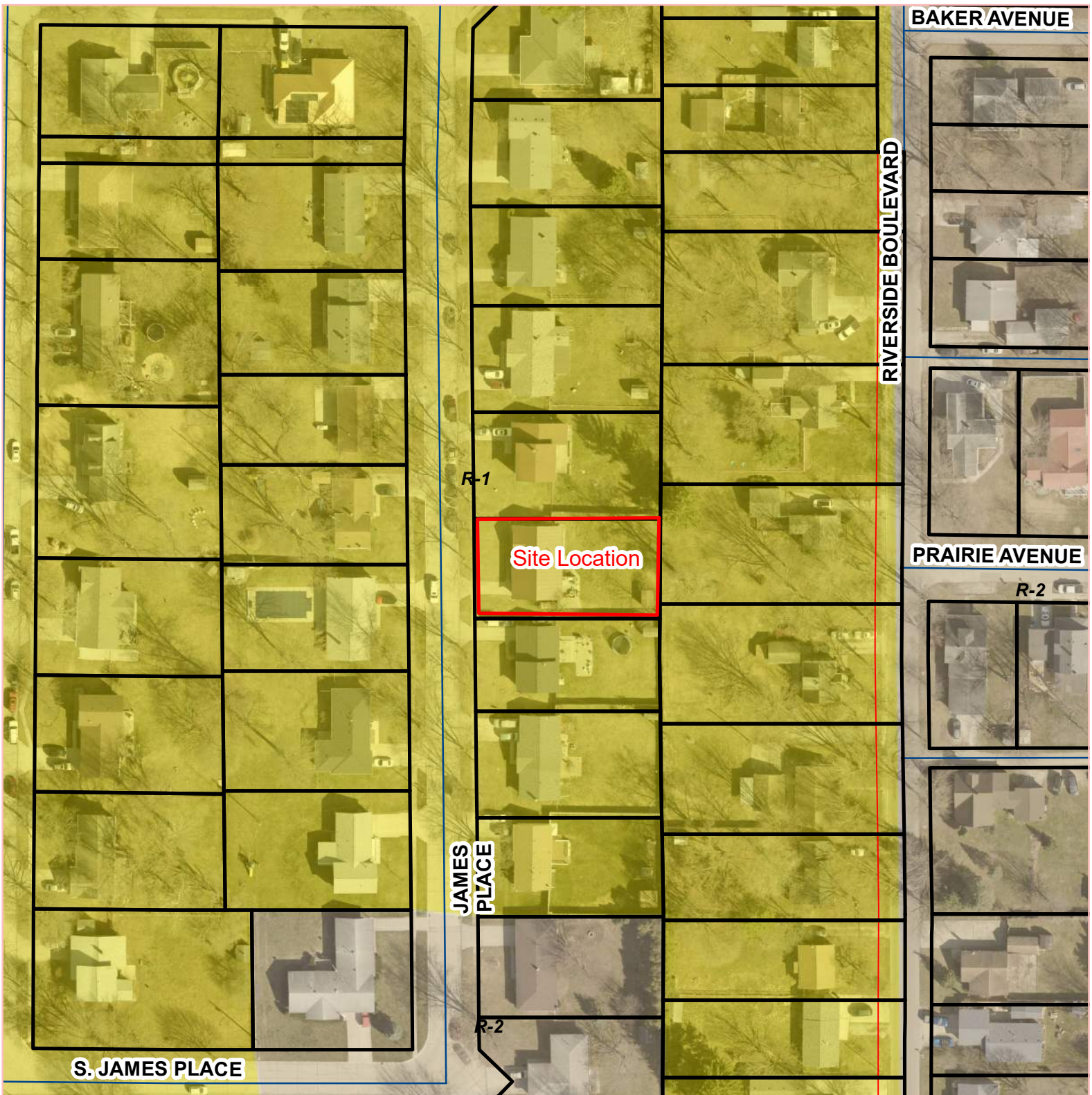




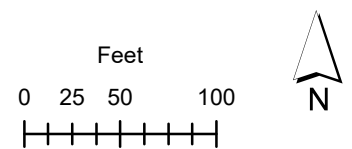
Looking east



Looking south



The City of Goshen's Digital Data is the property of the City of Goshen and Elkhart County, Indiana. All graphic data supplied by the city and county has been derived from public records that are constantly undergoing change and is not warranted for content or accuracy. The city and county do not guarantee the positional or thematic accuracy of the data. The cartographic digital files are not a legal representation of any of the features depicted, and the city and county disclaim any assumption of the legal status they represent. Any implied warranties, including warranties of merchantability or fitness for a particular purpose, shall be expressly excluded. The data represents an actual reproduction of data contained in the city's or county's computer files. This data may be incomplete or inaccurate, and is subject to modifications and changes. City of Goshen and Elkhart County cannot be held liable for errors or omissions in the data. The recipient's use and reliance upon such data is at the recipient's risk. By using this data, the recipient agrees to protect, hold harmless and indemnify the City of Goshen and Elkhart County and its employees and officers. This indemnity covers reasonable attorney fees and all court costs associated with the defense of the city and county arising out of this disclaimer.



412 James Place

2021 Aerial  
 Printed April 4, 2023

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



JAMES PLACE

James Pl

412 JAMES PL

412 JAMES PLACE

SUSAN KYLE

4-5-23

75

139.55



**LOCATION:** 417 Gra-Roy Drive  
**CASE NUMBER:** 23-11DV

**DATE:** April 25, 2023  
**PREPARED BY:** Rossa Deegan

---

### **GENERAL INFORMATION**

---

**APPLICANT:** Dale E. Klassen & Beverly K. Lapp

**REQUEST:** The applicants request a developmental variance to allow an approximately 432 SF detached two-story workshop 21' in height where the maximum height permitted for an accessory building shall not exceed the height of the residential dwelling on site

**LOT SIZE:** ±16,553 SF; ±140' of frontage; depth varies

**APPLICABLE ZONING:** Residential R-1

**NOTICES SENT:** 18

---

### **SPECIAL INFORMATION**

---

**PUBLIC UTILITIES:** Connected to City sewer; in process of connecting to City water

**AREA DEVELOPMENT:** Residential

**NEIGHBORHOOD:** Historic Racemere Peninsula

**THOROUGHFARES:** Gra-Roy Drive

**TOPOGRAPHY:** Level, slopes downward to Millrace Canal along west property line

### **VARIANCE OF DEVELOPMENTAL STANDARDS**

- ◇ Goshen Zoning Ordinance, *Section 4140.2*, Height Regulations in the R-1 District
  - B. The maximum height permitted for an accessory building shall not exceed the height of the residential dwelling on site.

### **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 on the west side of Gra-Roy Drive in the Historic Racemere Peninsula Neighborhood. The property is over one-third acre in size and is bounded to the west by the Millrace Canal. Surrounding properties are predominantly single-family homes. The home on the property has an approximate footprint of 1,996 SF, includes a single-stall garage, and has a peak height of approximately 16'.

The petitioner is proposing to construct an accessory building along the north property line, the details of which include the following:

- 18'x24' (432 SF) footprint
- Two-stories, with outside stairway access to second story on west side, for an overall height of 21'
- Single door on south side, overhead door on east side, and dormer window on south side of second story
- Proposed use is a workshop and storage
- Petitioner states that 2<sup>nd</sup> story may be used for possible "hang out" space in future

Because the height of the proposed building exceeds that of the home, a developmental variance is required.

Prior to 2017, the Zoning Ordinance limited all residential accessory buildings to no greater than 14' in height. Developmental variances were routinely sought from that standard (there were four such requests for accessory structures and detached garages in 2014 alone). In April 2017, amendments to the Zoning Ordinance relaxed height limitations on accessory structures so that they can now match the height of the dwelling. Since the amendment, there have been no variance requests from the current residential accessory structure height standards, and the subject request is the first of its kind.

Denial of the request will not result in practical difficulties in the use of the property. There is ample space on the property to expand the current home or design one or more one-story accessory buildings with larger footprints than what is proposed. Nevertheless, approval of the two-story building is warranted. The proposed structure will meet all other developmental standards. At 21' in height, it will only exceed the height of the home by 5'. Crucially, it will be set back approximately 70' from the front property line and well behind the front line of the home, so that it is unlikely to dominate the visual field along Gra-Roy Drive. The dense, mature tree canopy in the neighborhood also affords greater variations in building heights without upsetting the character of the area.

### **FINDINGS OF FACT**

---

Staff recommends **approval** of a developmental variance to allow an approximately 432 SF detached two-story workshop 21' in height where the maximum height permitted for an accessory building shall not exceed the height of the residential dwelling on 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 structure meets all other developmental requirements, including minimum setbacks from the adjacent property lines, and will be built to Building Code standards. *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 structure will meet all other developmental standards. At 21' in height, it will only exceed the height of the home by 5'. It will be set back approximately 70' from the front property line and well behind the front line of the home, so that it is unlikely to dominate the visual field along Gra-Roy Drive. The dense, mature tree canopy in the neighborhood also affords greater variations in building heights without upsetting the character of the area. *The standard is confirmed.*
3. **Strict application to the terms of the Zoning Ordinance will not result in practical difficulties in the use of the subject property.** There is ample space on the property to expand the current home or design one or more one-story accessory buildings with larger footprints than what is proposed. *The standard is not 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 northwest



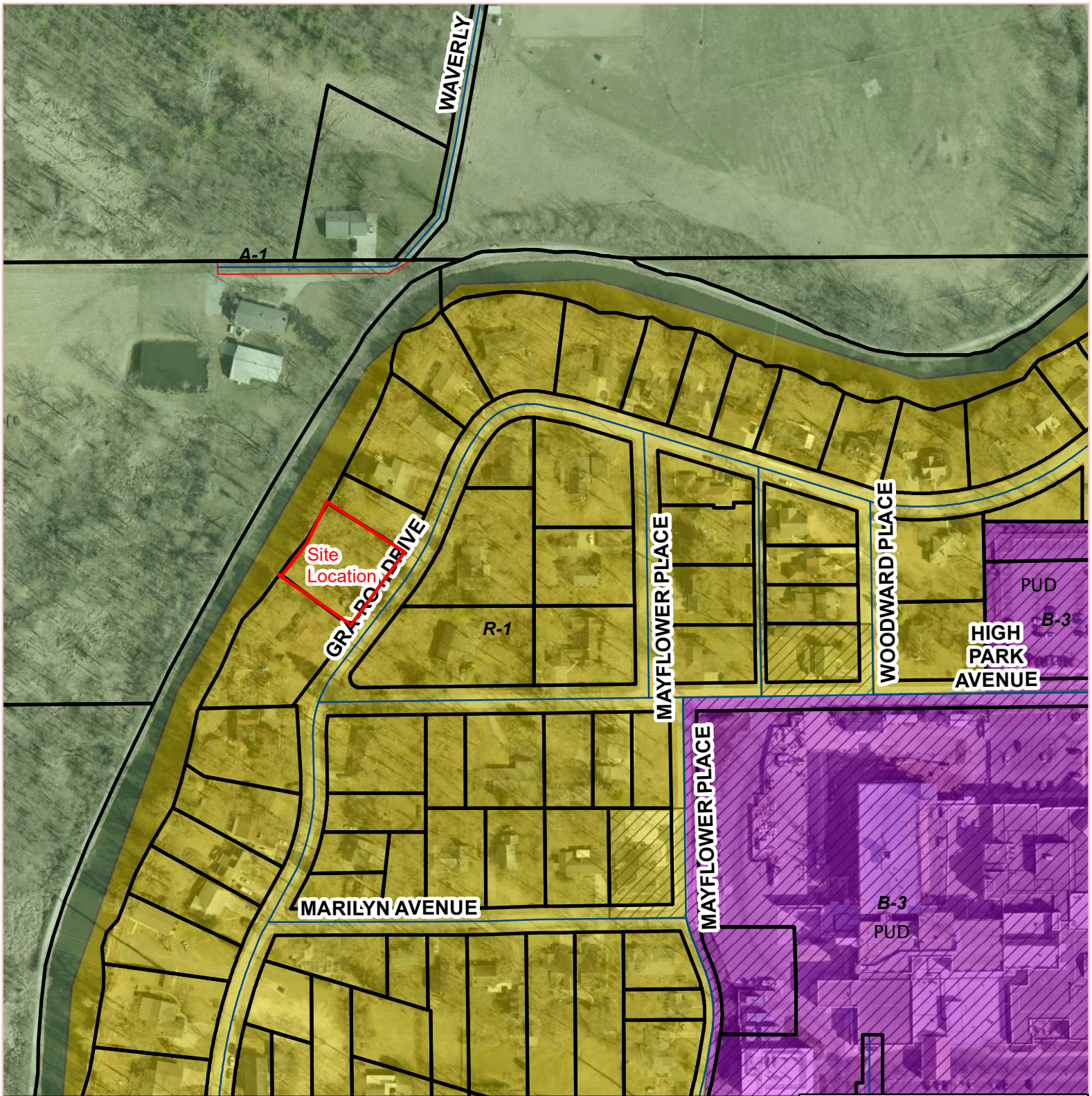
Looking west



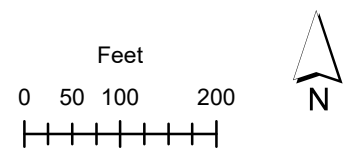
Looking west



Looking northeast



The City of Goshen's Digital Data is the property of the City of Goshen and Elkhart County, Indiana. All graphic data supplied by the city and county has been derived from public records that are constantly undergoing change and is not warranted for content or accuracy. The city and county do not guarantee the positional or thematic accuracy of the data. The cartographic digital files are not a legal representation of any of the features depicted, and the city and county disclaim any assumption of the legal status they represent. Any implied warranties, including warranties of merchantability or fitness for a particular purpose, shall be expressly excluded. The data represents an actual reproduction of data contained in the city's or county's computer files. This data may be incomplete or inaccurate, and is subject to modifications and changes. City of Goshen and Elkhart County cannot be held liable for errors or omissions in the data. The recipient's use and reliance upon such data is at the recipient's risk. By using this data, the recipient agrees to protect, hold harmless and indemnify the City of Goshen and Elkhart County and its employees and officers. This indemnity covers reasonable attorney fees and all court costs associated with the defense of the city and county arising out of this disclaimer.



1 inch = 200 feet

417 Gra Roy

2021 Aerial  
Printed April 4, 2023

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



3/31/23

To: Goshen City Board of Zoning Appeals

From Dale Klassen, Beverly Lapp Owner of 417 Gra-Roy, Goshen IN.

Re: Work shop proposal.

Dear BZA.

I Dale Klassen & Beverly Lapp the owners of 417 Gra-Roy wish to build a workshop on our property. The current attached one car garage is too small to be used for anything other than possibly parking a small car or filling with garden tools. I wish to build a modest sized workshop for my own needs and also to store garden tools, lawn mower, other tools/ ladder, bicycles etc... The second floor will be storage space or as a potential "hang out" space at some future date.

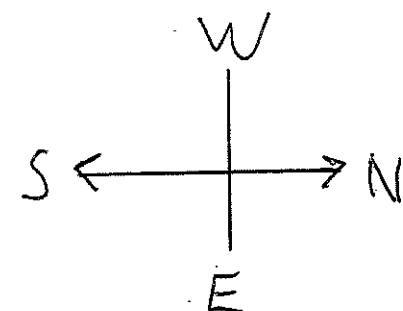
The proposed shop will be on the North West side of the house and parallel the North property line. The proposed size is 18' wide by 24' deep. The front edge of the shop will be parallel with the neighbors existing garden shed. I feel the obstruction to the neighbors view will be minimal due to the fact that they already have a garden shed along the property line and there is an existing line of trees and other landscaping on the boundary line between our two properties.

I am asking for a variation on height to allow for 21' of total height. My adjacent house has a peak height of 16'

Thank you for considering my request.

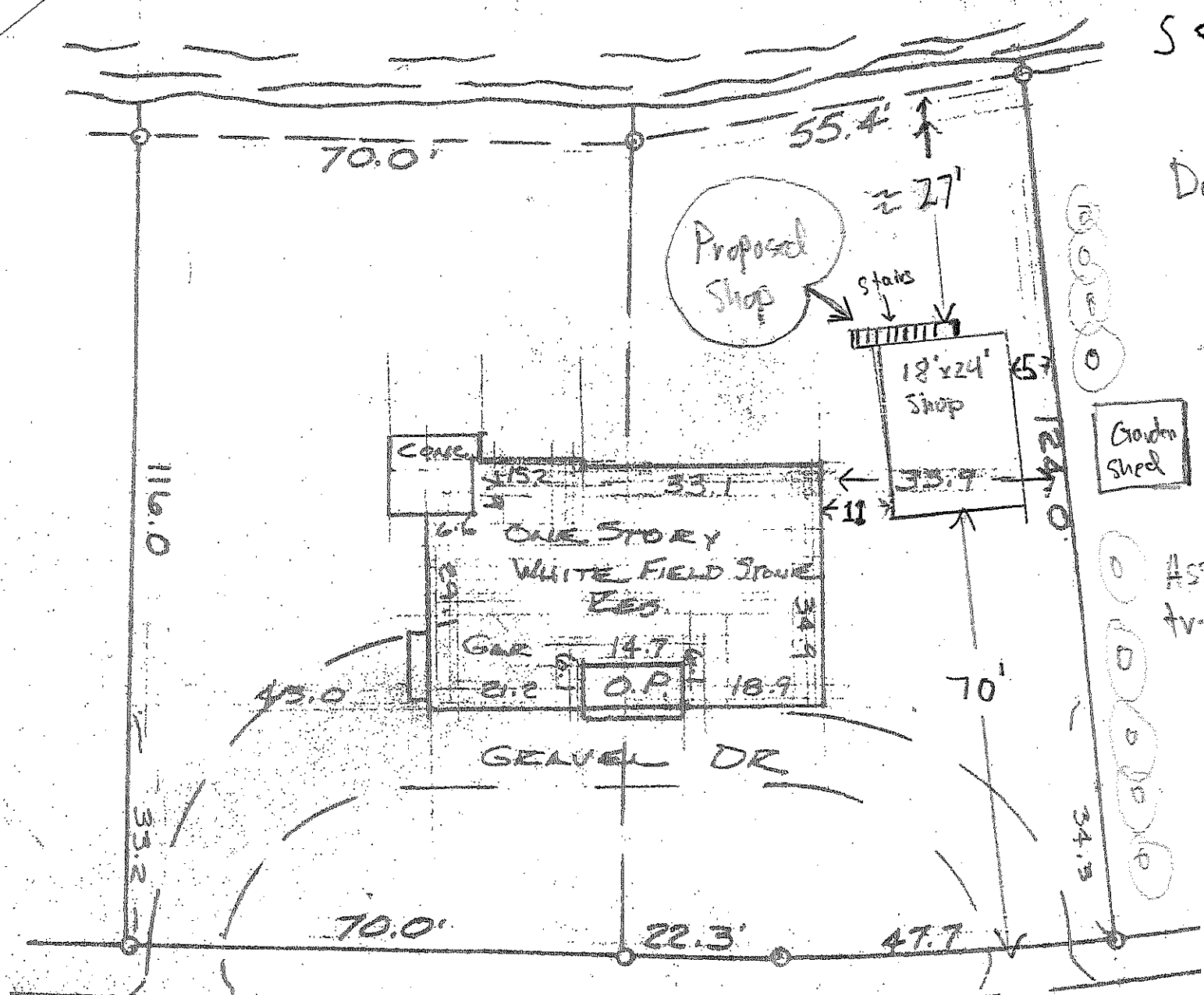
Sincerely ----Dale Klassen, Beverly Lapp

# HYDRAULIC CANAL



Duane & Karen  
Stolzhus Property

set backs shown to  
overhangs of  
workshop

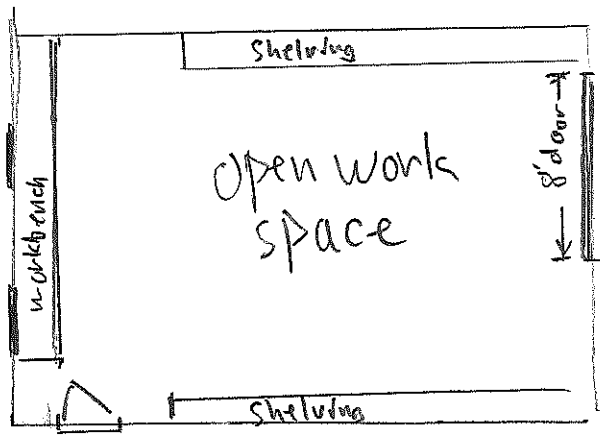


ASPH DRIVE

417 GRA-ROY DR 40' R/W

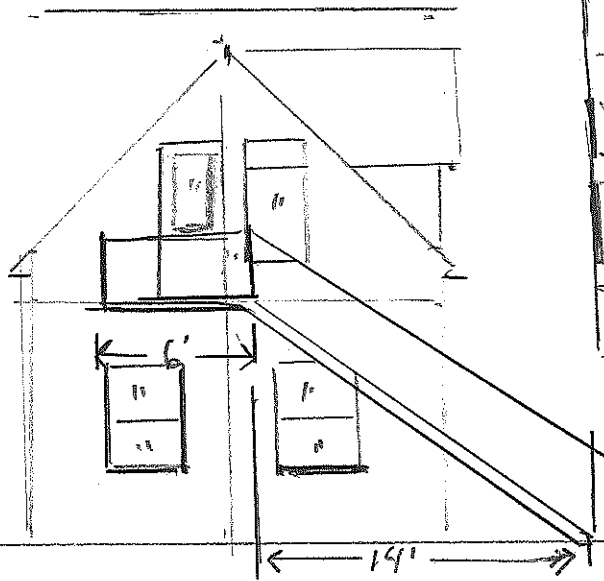
Drawing not to Scale

Thane Hoffman

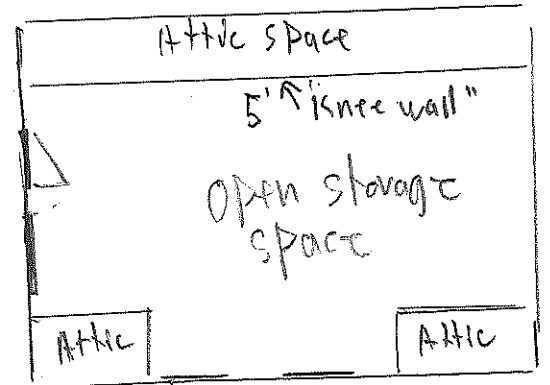


1st floor Plan

West face



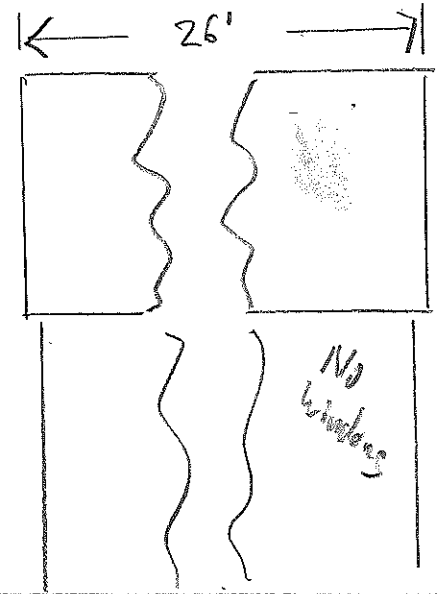
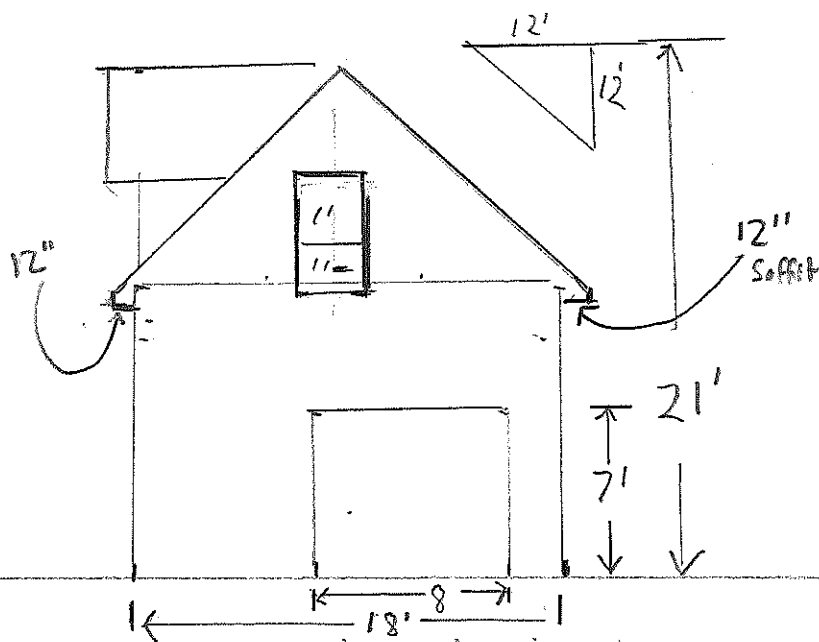
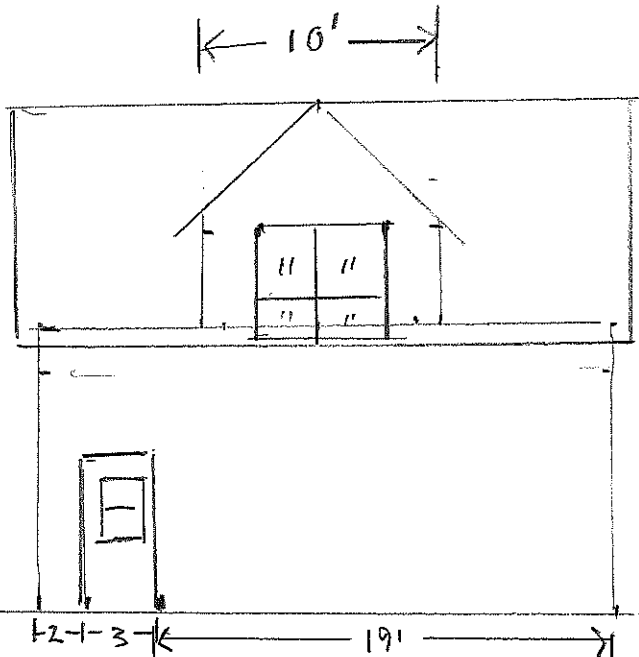
East Face



2nd floor plan  
(not to scale)

North face

South face



417 Gra-Roy 18'x24' Proposed workshop by Dale Klassen 3/21/23 1/8 scale

**To:** Goshen City Board of Zoning Appeals  
**From:** Rhonda L. Yoder, Planning & Zoning Administrator  
**Subject:** 23-01AA – Appeal of the Zoning Administrator's Decision, 207 Queen Street  
**Date:** April 25, 2023

Ronald E. Davidhizar and John William Davis, Jr., appeal the Zoning Administrator's decision that the Planning office could not review or approve a General (Remodel) Permit Request and the associated zoning clearance form because a second-floor only residence does not meet the Zoning Ordinance definition of single family dwelling and because a complete submittal was not received because dimensioned, labeled floor plans for each floor, with the use of all spaces labeled, were not provided. The subject property is generally located at 207 Queen Street and is zoned Residential R-2 District.

The Zoning Administrator's decision is based on the following Zoning Ordinance references (copies included):

- Article II, Definitions, Section 2110, Definitions of Words and Phrases
  - Dwelling Unit. A Single-Family. A detached residential dwelling other than a mobile home, separated from other residential dwellings by open space, designed for and occupied by one family.
  - Open Space. A public or private outdoor area expressly set aside for the use and benefit of many unrelated people. ... Streets, parking areas, structures for habitation and the like shall not be included in open space area calculations.
- Article VI, Administration and Enforcement, Section 6180, Improvement Location Permit. A. An application for an improvement location permit shall be accompanied with a Sketch Plan, preferably drawn to scale, that provides sufficient data for the Zoning Administrator to be assured that the provisions of this ordinance are being complied with.

The key components of the Zoning Administrator's decision are:

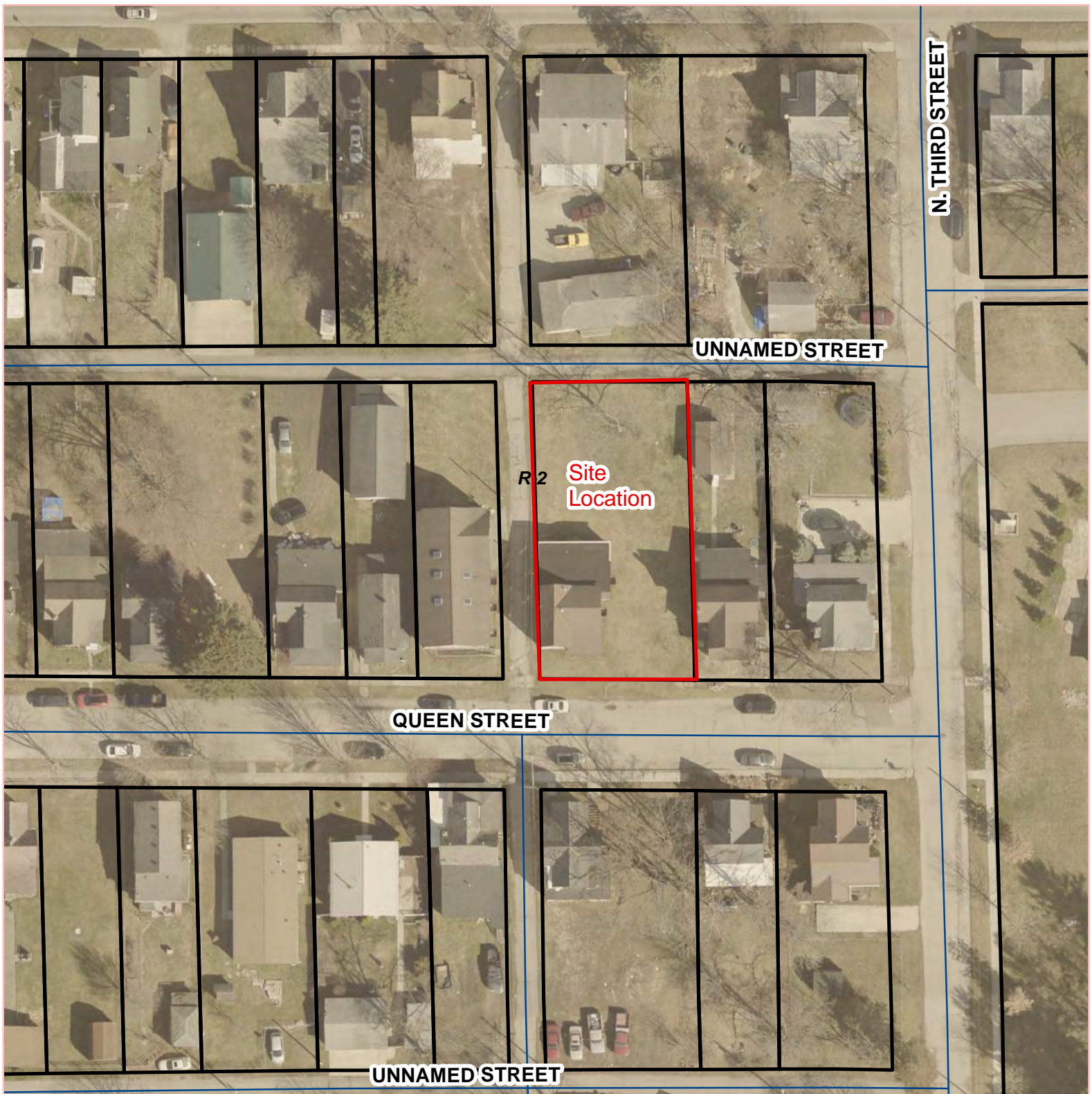
- By definition, a detached single family dwelling must be physically separated from another dwelling by open space, and a single floor in a multi-floor building is not physically separated by open space.
- An improvement location permit (also called zoning clearance) cannot be issued or fully evaluated if the information provided is not adequate to confirm Zoning Ordinance requirements are being met. A floor plan is needed because each zoning district requires minimum square footage of occupied space, so the square footage and use of each room must be confirmed.

Current submittal timeline:

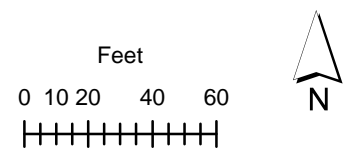
- January 6, 2023 – Bill Davis submitted General (Remodel) Permit Request
- January 9, 2023 – Bill Davis submitted a zoning clearance form
- January 12, 2023 – Planning sent email to Bill Davis indicating the submittal could not be reviewed/approved
- March 13, 2023 – Bill Davis submitted a site layout, confirming the site layout was for the second-floor only single family residence.

The property at 207 Queen Street is allowed to be a single family detached dwelling provided the entire structure is dedicated to the use, and provided all developmental requirements are met. Based on the file history, the property owner may want to use the property as a two or three-unit dwelling, in which case the appropriate procedure is for the property owner to submit an application to the Board of Zoning Appeals for the specific use and for any developmental deficiencies.

Per the BZA Rules of Procedure, Section III.1.c, "In deciding an appeal, the Board's decision shall be based upon the Goshen City Zoning and/or Subdivision Ordinances, Rules and Procedures established by the Board, and/or any other relevant statutes or case law. The Board shall make a decision which upholds the intent and purposes of the above Ordinances, rules or other authority, and shall enter written findings of fact on all appeal decisions." Exceptions to the Zoning Ordinance should be granted through the variance process, and not through appeals.



The City of Goshen's Digital Data is the property of the City of Goshen and Elkhart County, Indiana. All graphic data supplied by the city and county has been derived from public records that are constantly undergoing change and is not warranted for content or accuracy. The city and county do not guarantee the positional or thematic accuracy of the data. The cartographic digital files are not a legal representation of any of the features depicted, and the city and county disclaim any assumption of the legal status they represent. Any implied warranties, including warranties of merchantability or fitness for a particular purpose, shall be expressly excluded. The data represents an actual reproduction of data contained in the city's or county's computer files. This data may be incomplete or inaccurate, and is subject to modifications and changes. City of Goshen and Elkhart County cannot be held liable for errors or omissions in the data. The recipient's use and reliance upon such data is at the recipient's risk. By using this data, the recipient agrees to protect, hold harmless and indemnify the City of Goshen and Elkhart County and its employees and officers. This indemnity covers reasonable attorney fees and all court costs associated with the defense of the city and county arising out of this disclaimer.



207 Queen Street

2021 Aerial  
Printed April 10, 2023

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



- B. Installing a manufactured home on a site, preparing a site for a manufactured home or installing a recreational vehicle on a site for more than 180 days;
- C. Installing utilities, erection of walls and fences, construction of roads, or similar projects;
- D. Construction of flood control structures such as levees, dikes, dams, channel improvements, etc.;
- E. Mining, dredging, filling, grading, excavation, or drilling operations;
- F. Construction and/or reconstruction of bridges or culverts;
- G. Storage of materials; or
- H. Any other activity that might change the direction, height, or velocity of flood or surface waters.

Development does not include activities such as:

- A. The maintenance of existing structures and facilities, such as painting and re-roofing;
- B. Resurfacing roads; or
- C. Gardening, plowing, and similar agricultural practices that do not involve filling, grading, excavation, or the construction of permanent structures.

**District.** A section of the city for which uniform regulations governing the use, height, area, size, bulk and density of buildings and land are herein established.

**Drive-In.** A commercial establishment so developed that its operation is dependent wholly or in part on providing a driveway approach or parking spaces for motor vehicles so as to serve patrons while in the motor vehicle rather than within a building or structure. "Drive-Through Restaurants" shall also be included in this definition.

**Dwelling Unit.** A room or series of rooms containing independent cooking, sleeping and sanitary facilities intended for use by one or more persons constituting an independent household or family, physically separated from any other dwelling unit in the same structure, and excluding hotels, motels, boarding and lodging houses or any other group quarters. For the purposes of this ordinance, the following types of dwelling units shall be allowed and referred to:

- A. **Single-Family.** A detached residential dwelling other than a mobile home, separated from other residential dwellings by open space, designed for and occupied by one family.
- B. **Two-Family.** A structure designed and occupied exclusively as a residence for two families with each unit being completely independent of the other. The design may locate the units side by side or one over the other.
- C. **Single-Family Attached.** A building designed for and occupied exclusively as a single-family residence having a common party wall with an adjacent single-family residence. Single-family attached structures shall contain no more than six dwelling units.
- D. **Multi-Family.** A building designed for and occupied exclusively as a residence for three or more families with each unit being completely independent of the other.
- E. **Manufactured Home, Type I.** A dwelling unit designed for occupancy by one family, fabricated in a manufacturing facility for installation and assembly at a building site, bearing a seal of compliance with Federal HUD Code, being made up of more than one section, having at least 950 square feet of occupied space and being installed on a permanent foundation and perimeter wall in accordance with standards as shown in the one and two-family building code. All exterior materials shall be in compliance with the Approved Materials List in Appendix A of this ordinance.
- F. **Manufactured Home, Type II.** A dwelling unit designed for occupancy by one family, bearing the seal of compliance with the Federal HUD Code, constructed prior to January 1, 1981, and which has at least 320 square feet of occupied space. It may or may not be installed on a permanent foundation or perimeter wall. Its pitched roof and siding shall be of materials customarily used for site-constructed homes.

**Nursing Home.** A facility licensed by a department of state or local government to serve as a residence for more than six individuals who are not related and who are either:

- A. Orthopedically handicapped, aged, deaf, blind or developmentally disabled; or
- B. In need of supervision; or
- C. Provided room and board, supervision and other services in accordance with their individual needs.
- D. Nursing homes can be called convalescent homes.

**Obstruction.** For purposes of Section 4270, Flood Control District (Overlay) Regulations, obstruction includes, but is not limited to, any dam, wall, wharf, embankment, levee, dike, pile, abutment, protection, excavation, canalization, bridge, conduit, culvert, building, wire, fence, rock, gravel, refuse, fill, structure, vegetation, or other material in, along, across or projecting into any watercourse which may alter, impede, retard or change the direction and/or velocity of the flow of water; or due to its location, its propensity to snare or collect debris carried by the flow of water, or its likelihood of being carried downstream.

**Occupancy Permit.** See "Certificate of Occupancy."

**Occupied Space.** The total area of earth horizontally covered by a manufactured or single family detached dwelling unit, excluding accessory structures such as, but not limited to, garages, patios, carports, porches, etc.

**Odor.** A smell that can be pleasant or unpleasant.

**Official Zoning Map.** The official map(s) showing the location and boundaries of districts established by this ordinance.

**One and Two-Family Building Code.** Indiana Public Law 360, Acts of 1971, including those supplements and amendments promulgated by the Indiana Administrative Building Council (ABC) and is hereafter referred to as the One and Two-Family Building Code.

**One-hundred Year Flood (100-year Flood).** The flood that has a one percent (1%) chance of being equaled or exceeded in any given year. Any flood zone that begins with the letter A is subject to the one-percent annual chance flood. See "Flood, Regulatory."

**One-percent Annual Chance Flood.** The flood that has a one percent (1%) chance of being equaled or exceeded in any given year. Any flood zone that begins with the letter A is subject to the one-percent annual chance flood. See "Flood, Regulatory."

**Open Sales Lot.** Land used or occupied for the purpose of buying or selling merchandise stored or displayed out-of-doors prior to sale. Such merchandise includes, but is not limited to, passenger cars, trucks, motor scooters, motorcycles, boats and monuments.

**Open Space.** A public or private outdoor area expressly set aside for the use and benefit of many unrelated people. The area may include, along with the natural environmental features, water areas, swimming pools, tennis courts and other outdoor recreational facilities that the Plan Commission deems permissive. Streets, parking areas, structures for habitation and the like shall not be included in open space area calculations.

**Open Space, Unimproved.** Open space kept free of structures or improvements except for hiking, horseback riding, bicycle trails, ponds, picnic areas and nature parks.

**Ordinance.** Any legislative action, however denominated, of a local government which has the force of law, including the amendment or repeal of any ordinance.

**Outside Display.** The placement of goods and merchandise for sale at a location on a zoning lot visible to public view, other than within a building.

**Outside Storage.** The keeping of manufacturing products, materials used in manufacturing, and other similar materials and/or equipment in an area on a zoning lot outside of a building.



- G. Variance
- H. Amendment
- I. Non-conforming Lots of Record, Structures and Uses

**Section 6180**                      **Improvement Location Permit.**

After the effective date of this ordinance, no permit shall be issued by any office, department or employee of the City of Goshen for the erection or alteration and use of or improvements to land unless an improvement location permit shall have been issued by the Zoning Administrator.

- A. An application for an improvement location permit shall be accompanied with a Sketch Plan, preferably drawn to scale, that provides sufficient data for the Zoning Administrator to be assured that the provisions of this ordinance are being complied with. Said provisions may include:
  - 1. A sketch plan showing existing property lines and dimensions, all existing buildings or structures, with their size and location on the lot, if any exist.
  - 2. Location and size of proposed uses, including height and bulk of buildings and structures, open space, screening and landscaping, outdoor lighting, and signs where required.
  - 3. The location, dimensions, and character of construction of proposed streets, alleys, driveways, curb cuts, entrances, and exits, loading areas, and parking areas, including numbers of parking and loading spaces except in the R-1, R-2, and R-3 Districts.
  - 4. A letter from the City Engineer, when necessary, indicating that city sewer and water are available and that storm water drainage plan has been accepted.
- B. **Procedure for Lapse of Permit.** An improvement location permit shall become null and void unless a building permit shall have been issued and work thereon is substantially under way within six months of the issuance of said improvement location permit, or within the period of time beyond six months that may be granted by the Board of Zoning Appeals in accordance with the provisions of this ordinance.

**Section 6190**                      **Reserved.**

**Section 6200**                      **Reserved.**

**Section 6210**                      **Reserved.**

**Section 6220**                      **Appeals.**

- A. An appeal from a decision of the Building Commissioner or the Zoning Administrator in all zoning matters may be taken to the Board of Zoning Appeals. The appeals procedure shall be carried out in accordance with the applicable statutes of the State of Indiana, and shall be as follows:



Building Department  
CITY OF GOSHEN

204 East Jefferson Street, Suite 5 • Goshen, IN 46528-3405

Phone (574) 534-1811 • Fax (574) 533-8626 • TDD (574) 534-3185  
building@goshencity.com • www.goshenindiana.org

Recvd from Bill Davis  
1/6/23 2pm

### GENERAL (REMODEL) PERMIT REQUEST

PROJECT ADDRESS: 207 Green Street, Goshen, IN 46528

PROPERTY OWNER'S CONTACT INFO:

- Name: Ronald E. Davidhizer
- Address (IF DIFFERENT FROM PROJECT ADDRESS): 203 Middlebury St., Goshen, IN 46528
- Phone: 574-536-1559

NEW CONSTRUCTION OR REMODEL: Remodel START DATE: \_\_\_\_\_

TYPE OF WORK: (DETAILED AS POSSIBLE)

To address the concerns raised in the Verified Petition for Rule to Show Cause attached hereto and to fit out the second floor only to serve as a single-family residence

SQUARE FOOTAGE: 1,443 footprint \*\*APPROX. COST: \_\_\_\_\_

**\*(IF PROJECT COST IS UNDER \$1,000.00, DOCUMENTATION WILL BE REQUIRED)**

GENERAL CONTRACTOR:

- Company Name: Self
- Contact Name: \_\_\_\_\_
- Street Address: \_\_\_\_\_
- City \_\_\_\_\_ Zip: \_\_\_\_\_
- Phone: \_\_\_\_\_
- Email (for inspections): rondavidhizer@gmail.com & 574urbanhousing@gmail.com

10:45  
11:10

**ELECTRICAL SUBCONTRACTOR: (MUST BE LICENSED IN THE CITY OF GOSHEN)**

- Company Name: To be decided
- Address: \_\_\_\_\_ City: \_\_\_\_\_ Zip: \_\_\_\_\_
- Phone : \_\_\_\_\_
- Contractor Name: \_\_\_\_\_

**HVAC CONTRACTOR: (MUST BE LICENSED IN THE CITY OF GOSHEN)**

- Company Name: None Needed
- Address: \_\_\_\_\_ City: \_\_\_\_\_ Zip: \_\_\_\_\_
- Phone : \_\_\_\_\_
- Contractor Name: \_\_\_\_\_

**PLUMBING CONTRACTOR: (MUST HAVE STATE OF INDIANA PLBG. LICENSE ON FILE)**

- Company Name: Self
- Address: \_\_\_\_\_ City: \_\_\_\_\_ Zip: \_\_\_\_\_
- Phone : \_\_\_\_\_
- Contractor Name: \_\_\_\_\_

SIGNATURE: Ron Davidhizer

DATE OF APPLICATION: \_\_\_\_\_

**NOTE: INSPECTIONS ARE REQUIRED. PLEASE GIVE 24-48 HOURS NOTICE**

STATE OF INDIANA, COUNTY OF ELKHART, SS:  
IN THE ELKHART COUNTY SUPERIOR COURT NO. 3

City of Goshen, )  
Petitioner, )  
v. ) Cause No. 20D03-1708-PL-190  
Ronald E. Davidhizar, )  
Respondent. )

**VERIFIED PETITION FOR RULE TO SHOW CAUSE AND  
FINDING OF CONTEMPT**

Comes now Petitioner, City of Goshen, Indiana (“Goshen”), by its Building Enforcement Inspector and its counsel, and respectfully requests this Court to issue a citation against the Respondent, Ronald E. Davidhizar (“Davidhizar”), and find Davidhizar in Contempt, and is a basis therefore shows the Court as follows:

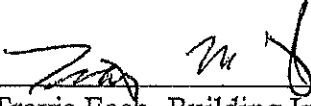
1. On February 7, 2019, the Elkhart Superior Court No. 3 approved and adopted the Order of Joint Stipulation and Agreed Judgment (“Agreed Order”) between Goshen and Davidhizar.
2. As part of the Agreed Order, Davidhizar was to complete repairs to the residential structure at 207 Queen Street, Goshen, Indiana to address the following violations by November 1, 2020:
  - a. The floorboards are loose and damaged with open holes between the floors and ceilings;
  - b. All of the interior wall and ceiling coverings have been removed;
  - c. The exterior entrances lack any porches or steps;
  - d. The heating system is not functional;

- e. The plumbing system has been removed;
  - f. Electrical components have been minimized to only provide basic lighting;
  - g. The interior landing at the rear door has collapsed; and
  - h. The house is being used to store flammable materials.
3. Previously, Goshen filed a Verified Petition for Imposition of Suspended Fine and for Rule to Show Cause and Finding of Contempt in this cause on November 18, 2020. That filing was eventually resolved via a Stipulation of Agreed Judgment filed by the parties and approved by the Court on August 16, 2021, where Davidhizar acknowledged he had not complied with the Court's February 7, 2019 Order concerning repairs to the subject property in this cause, the Court imposed the suspended fine of Two Thousand-Five Hundred Dollars (\$2,500.00) against Davidhizar, with Davidhizar to pay said fine within thirty (30) days of the stipulation. Davidhizar paid said fine and Goshen filed its Acknowledgment of the Satisfaction of the Judgment fine and release with the Court on October 26, 2021.
4. Davidhizar has failed to schedule any inspection of the residential structure located at 207 Queen Street, Goshen, Indiana, for the purpose of determining whether the residential structure's condition is now in compliance with the requirements of the Agreed Order.

5. Davidhizar has continued to fail to comply with the terms of the Agreed Order by failing to complete required repairs to the residential structure located at 207 Queen Street, Goshen, Indiana.

WHEREFORE, The City of Goshen, Indiana respectfully requests that the Respondent, Ronald E. Davidhizar, be ordered to appear before this Court to show cause why he should not be held in further contempt of the Order of this Court, with sanctions as deemed appropriate by the Court for his continued contempt, and for all other relief just in proper on the premises.

*"I affirm, under the penalties for perjury, that the foregoing statements are true and accurate to the best of my knowledge and belief."*

  
\_\_\_\_\_  
Travis Eash, Building Inspector,  
City of Goshen, Indiana

Respectfully Submitted this \_\_\_\_\_ day of February, 2022

BARKES, KOLBUS, RIFE & SHULER, LLP

By:           /s/ Donald R. Shuler            
Donald R. Shuler, #26587-71  
BARKES, KOLBUS, RIFE & SHULER, LLP  
118 North Main Street  
Goshen, Indiana 46526  
Ph: 574.533.3181  
[drs@goshenlaw.net](mailto:drs@goshenlaw.net)  
Attorney for Petitioner

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on February \_\_\_\_\_, 2022, the foregoing document was electronically filed using the Indiana E-Filing System (IEFS) and was served upon the following counsel of record using the IEFS:

John William Davis, Jr  
Counsel for Respondent

Respectfully submitted,

By:           /s/ Donald R. Shuler            
Donald R. Shuler, #26587-71

**ENGINEERING & ZONING CLEARANCE - BUILDING PERMIT APPLICATION  
CITY OF GOSHEN, INDIANA**

Landowner/Applicant: Ronald E. Davidhizar Phone: 574-536-159 Date: 01/06/23  
Mailing Address: 203 Middlebury Street, Goshen, IN Zip Code: 46528

PROPOSED USE/CONSTRUCTION: Single family residence; see the application for building permit  
Building Address: 207 Queen Street, Goshen, IN 46528 Twp: \_\_\_\_\_

PROPOSED CONSTRUCTION: \_\_\_\_\_ Zoning District: \_\_\_\_\_  
Contractor: Self Address: see above \*reduced by 201 sq. ft. due to irregular shape

Phone: see above Email: rondavidhizar@gmail.com Approx. Cost: unknown, but >\$1,000

Lot No. 271 & 272 Corner  Interior  Through  Subdivision: Wilden's Third Addition  
Lot Width: 70 Lot Depth: 130 SF/Acres: 9,100 sq. ft. Existing Use: not occupied

Public Sewer  Public Water  Well  Septic System  Flood Zone Designation: \_\_\_\_\_  
Dedicated Road  Private Road  Sidewalk Required  Landscaping Required   
Size: 31 x 54 Square Footage: 1473\* Coverage: 16.2% Height: 3 ft/story/story

Setbacks measured from the furthest projection to the property line:  
Front 12 Rear 65 E  Side 35 W  Side 5

Conventional  Manufactured Home Type I (HUD Certified)  Modular Home (PL 360 Certified)  Mobile Home

For Manufactured/Modular/Mobile Homes, Installer's State ID #: \_\_\_\_\_

Deck \_\_\_\_\_ sq. ft. Patio \_\_\_\_\_ sq. ft. Porch \_\_\_\_\_ sq. ft. Basement: \_\_\_\_\_ Finished  \_\_\_\_\_ sq. ft.  
1st story \_\_\_\_\_ sq. ft. 2nd story \_\_\_\_\_ sf Garage: Attached  Detached  \_\_\_\_\_ sq. ft. Total sq. ft.: \_\_\_\_\_

Subcontractors: Electrical to be determined Mechanical self Plumbing self

Temp electric: Yes  No  Central air: Yes  No  IPC  IRC  Total # plumbing fixtures \_\_\_\_\_

Principal Building  Accessory Structure  Addition  Remodeling  Rental unit: Yes  No

Parking required \_\_\_\_\_ Parking provided: \_\_\_\_\_

Parking/Driving aisle setbacks: Front \_\_\_\_\_ ft Rear \_\_\_\_\_ ft N Side \_\_\_\_\_ ft S Side \_\_\_\_\_ ft

*The information on this application together with attachments thereto are true and complete. I agree that all structures and uses, as indicated, will comply with the standards and restrictions for the Zoning District in which they are located, and that any deviation there from will render this certificate null and void.*

Date: 01/06/20 1/9/23 Signed: [Signature] Owner/agent

**ENGINEERING CLEARANCE**

The following have been approved by Goshen Engineering:

Water/Sewer  Site Plan  Stormwater Clearance  Post-construction Plan   
Driveway Permit: Commercial  Residential  Industrial  Date Issued: \_\_\_\_\_

Engineering Project Number: \_\_\_\_\_

Conditions of Approval: \_\_\_\_\_

*I have examined the above application for compliance with Engineering Department requirements. On the basis of the information submitted it is hereby determined that Engineering Department requirements have been met to allow a Zoning Clearance to be granted.*

Date: \_\_\_\_\_ Signed: \_\_\_\_\_ By/For City Engineer

**ZONING CLEARANCE**

Sign: Temporary/Mobile Location: \_\_\_\_\_ Dates used: \_\_\_\_\_ Time Left: \_\_\_\_\_  
Staff Comments: \_\_\_\_\_

**PLANNING INSPECTION REQUIRED BEFORE CERTIFICATE OF OCCUPANCY IS ISSUED**

Variance: Granted  Denied  Board Action Date: \_\_\_\_\_  
Conditions: \_\_\_\_\_

Zoning Clearance Fee for Primary Buildings: Paid: \_\_\_\_\_

*I have examined the above application, including site plan, for compliance with all requirements of the Zoning Ordinance. On the basis of the information submitted it is hereby determined that a Zoning Clearance shall be granted.*

Date: \_\_\_\_\_ Signed: \_\_\_\_\_ By \_\_\_\_\_ Zoning Administrator

*This certificate applies to Zoning Clearance only and does not satisfy the requirements of any applicable building or engineering codes or permits required.*



## Yoder, Rhonda

---

**From:** Yoder, Rhonda  
**Sent:** Thursday, January 12, 2023 1:44 PM  
**To:** Bill Davis  
**Cc:** Don Shuler; Rossa Deegan; Travis Eash; Lori Lipscomb; Betty Warlick  
**Subject:** 207 & 209 Queen Street - Remodel Permit Review  
**Attachments:** 2110 Dwelling Unit.pdf; 207 Queen Street-Review Ltr 2-21-17.pdf; 209 Queen Street-Review Ltr 4-3-17.pdf

Hello Bill,

Regarding the General (Remodel) Permit Requests for 207 Queen Street and 209 Queen Street, received on January 6, 2023, and the associated zoning clearance forms for each property received on January 9, 2023, the Planning office has the following comments:

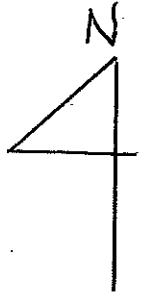
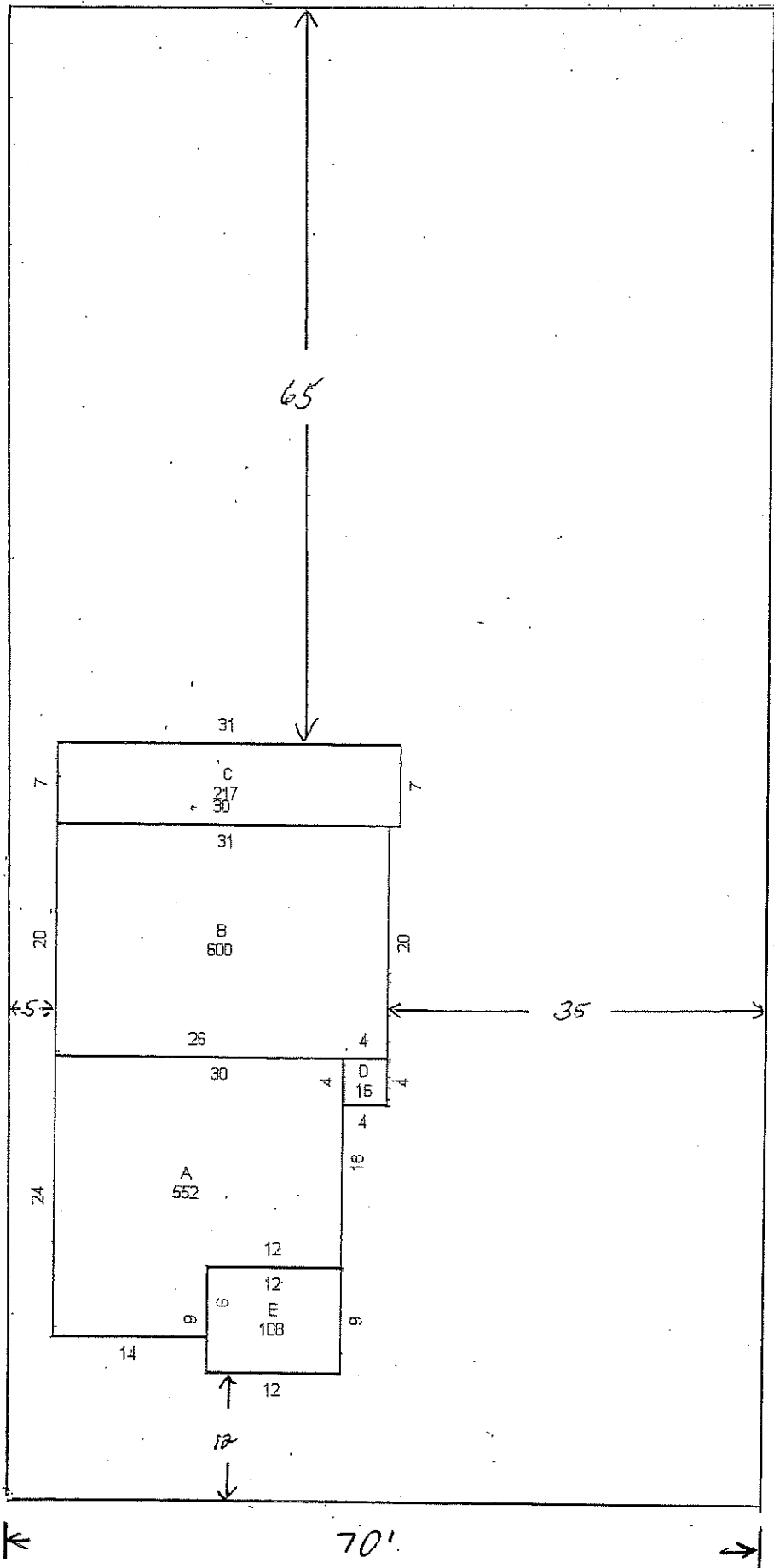
- Each permit request was submitted as "...to fit out the second floor only to serve as a single-family residence."
  - The Goshen Zoning Ordinance defines a single-family dwelling unit as "a detached residential dwelling other than a mobile home, separated from other residential dwellings by open space, designed for and occupied by one family." A copy of the definition is attached.
  - A second-floor only residence does not meet the Zoning Ordinance definition of single family dwelling.
  - As has been communicated in review letters for each property (207 Queen Street, dated February 21, 2017, and 209 Queen Street, dated April 3, 2017; copies attached) anything other than a single family dwelling unit requires an application to the Board of Zoning Appeals (BZA) for a use variance, along with any associated developmental variances, and no such BZA variance applications have been formally submitted/received.
- A complete submittal was not received for review. Items required for review include:
  - A dimensioned site plan including a scale and north arrow and length of all property lines;
  - Dimensioned, labeled floor plans for each floor, with the use of all spaces labeled.
  - Floor plans that match the site plan.

As submitted, the permit applications cannot be reviewed or approved by the Planning office.

Sincerely,  
Rhonda Yoder, AICP  
Planning & Zoning Administrator

Goshen City Planning  
204 E Jefferson, Suite 4  
Goshen, IN 46528  
574-537-3815

207 Queen Street



Scale: 1" = 14.45'

130'

Revd  
3/13/23

70'

**To:** Goshen City Board of Zoning Appeals  
**From:** Rhonda L. Yoder, Planning & Zoning Administrator  
**Subject:** 23-02AA – Appeal of the Zoning Administrator's Decision, 209 Queen Street  
**Date:** April 25, 2023

Ronald E. Davidhizar and John William Davis, Jr., appeal the Zoning Administrator's decision that the Planning office could not review or approve a General (Remodel) Permit Request and the associated zoning clearance form because a second-floor only residence does not meet the Zoning Ordinance definition of single family dwelling and because a complete submittal was not received because dimensioned, labeled floor plans for each floor, with the use of all spaces labeled, were not provided. The subject property is generally located at 209 Queen Street and is zoned Residential R-2 District.

The Zoning Administrator's decision is based on the following Zoning Ordinance references (copies included):

- Article II, Definitions, Section 2110, Definitions of Words and Phrases
  - Dwelling Unit. A. Single-Family. A detached residential dwelling other than a mobile home, separated from other residential dwellings by open space, designed for and occupied by one family.
  - Open Space. A public or private outdoor area expressly set aside for the use and benefit of many unrelated people. ... Streets, parking areas, structures for habitation and the like shall not be included in open space area calculations.
- Article VI, Administration and Enforcement, Section 6180, Improvement Location Permit. A. An application for an improvement location permit shall be accompanied with a Sketch Plan, preferably drawn to scale, that provides sufficient data for the Zoning Administrator to be assured that the provisions of this ordinance are being complied with.

The key components of the Zoning Administrator's decision are:

- By definition, a detached single family dwelling must be physically separated from another dwelling by open space, and a single floor in a multi-floor building is not physically separated by open space.
- An improvement location permit (also called zoning clearance) cannot be issued or fully evaluated if the information provided is not adequate to confirm Zoning Ordinance requirements are being met. A floor plan is needed because each zoning district requires minimum square footage of occupied space, so the square footage and use of each room must be confirmed.

Current submittal timeline:

- January 6, 2023 – Bill Davis submitted General (Remodel) Permit Request
- January 9, 2023 – Bill Davis submitted a zoning clearance form
- January 12, 2023 – Planning sent email to Bill Davis indicating the submittal could not be reviewed/approved
- March 13, 2023 – Bill Davis submitted a site layout, confirming the site layout was for the second-floor only single family residence.

The property at 209 Queen Street is allowed to be a single family detached dwelling (and was approved as a detached single family dwelling in 1996) provided the entire structure is dedicated to the use, and provided all developmental requirements are met. Based on the file history, the property owner may want to use the property as a four-unit dwelling, in which case the appropriate procedure is for the property owner to submit an application to the Board of Zoning Appeals for the specific use and for any developmental deficiencies.

Per the BZA Rules of Procedure, Section III.1.c, "In deciding an appeal, the Board's decision shall be based upon the Goshen City Zoning and/or Subdivision Ordinances, Rules and Procedures established by the Board, and/or any other relevant statutes or case law. The Board shall make a decision which upholds the intent and purposes of the above Ordinances, rules or other authority, and shall enter written findings of fact on all appeal decisions." Exceptions to the Zoning Ordinance should be granted through the variance process, and not through appeals.



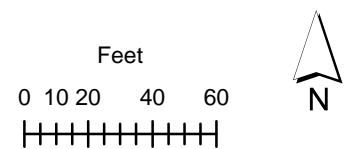
Site  
Location

R-2

The City of Goshen's Digital Data is the property of the City of Goshen and Elkhart County, Indiana. All graphic data supplied by the city and county has been derived from public records that are constantly undergoing change and is not warranted for content or accuracy. The city and county do not guarantee the positional or thematic accuracy of the data. The cartographic digital files are not a legal representation of any of the features depicted, and the city and county disclaim any assumption of the legal status they represent. Any implied warranties, including warranties of merchantability or fitness for a particular purpose, shall be expressly excluded. The data represents an actual reproduction of data contained in the city's or county's computer files. This data may be incomplete or inaccurate, and is subject to modifications and changes. City of Goshen and Elkhart County cannot be held liable for errors or omissions in the data. The recipient's use and reliance upon such data is at the recipient's risk. By using this data, the recipient agrees to protect, hold harmless and indemnify the City of Goshen and Elkhart County and its employees and officers. This indemnity covers reasonable attorney fees and all court costs associated with the defense of the city and county arising out of this disclaimer.

209 Queen Street

2021 Aerial  
Printed April 10, 2023



1 inch = 60 feet

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



- B. Installing a manufactured home on a site, preparing a site for a manufactured home or installing a recreational vehicle on a site for more than 180 days;
- C. Installing utilities, erection of walls and fences, construction of roads, or similar projects;
- D. Construction of flood control structures such as levees, dikes, dams, channel improvements, etc.;
- E. Mining, dredging, filling, grading, excavation, or drilling operations;
- F. Construction and/or reconstruction of bridges or culverts;
- G. Storage of materials; or
- H. Any other activity that might change the direction, height, or velocity of flood or surface waters.

Development does not include activities such as:

- A. The maintenance of existing structures and facilities, such as painting and re-roofing;
- B. Resurfacing roads; or
- C. Gardening, plowing, and similar agricultural practices that do not involve filling, grading, excavation, or the construction of permanent structures.

**District.** A section of the city for which uniform regulations governing the use, height, area, size, bulk and density of buildings and land are herein established.

**Drive-In.** A commercial establishment so developed that its operation is dependent wholly or in part on providing a driveway approach or parking spaces for motor vehicles so as to serve patrons while in the motor vehicle rather than within a building or structure. "Drive-Through Restaurants" shall also be included in this definition.

**Dwelling Unit.** A room or series of rooms containing independent cooking, sleeping and sanitary facilities intended for use by one or more persons constituting an independent household or family, physically separated from any other dwelling unit in the same structure, and excluding hotels, motels, boarding and lodging houses or any other group quarters. For the purposes of this ordinance, the following types of dwelling units shall be allowed and referred to:

- A. **Single-Family.** A detached residential dwelling other than a mobile home, separated from other residential dwellings by open space, designed for and occupied by one family.
- B. **Two-Family.** A structure designed and occupied exclusively as a residence for two families with each unit being completely independent of the other. The design may locate the units side by side or one over the other.
- C. **Single-Family Attached.** A building designed for and occupied exclusively as a single-family residence having a common party wall with an adjacent single-family residence. Single-family attached structures shall contain no more than six dwelling units.
- D. **Multi-Family.** A building designed for and occupied exclusively as a residence for three or more families with each unit being completely independent of the other.
- E. **Manufactured Home, Type I.** A dwelling unit designed for occupancy by one family, fabricated in a manufacturing facility for installation and assembly at a building site, bearing a seal of compliance with Federal HUD Code, being made up of more than one section, having at least 950 square feet of occupied space and being installed on a permanent foundation and perimeter wall in accordance with standards as shown in the one and two-family building code. All exterior materials shall be in compliance with the Approved Materials List in Appendix A of this ordinance.
- F. **Manufactured Home, Type II.** A dwelling unit designed for occupancy by one family, bearing the seal of compliance with the Federal HUD Code, constructed prior to January 1, 1981, and which has at least 320 square feet of occupied space. It may or may not be installed on a permanent foundation or perimeter wall. Its pitched roof and siding shall be of materials customarily used for site-constructed homes.

**Nursing Home.** A facility licensed by a department of state or local government to serve as a residence for more than six individuals who are not related and who are either:

- A. Orthopedically handicapped, aged, deaf, blind or developmentally disabled; or
- B. In need of supervision; or
- C. Provided room and board, supervision and other services in accordance with their individual needs.
- D. Nursing homes can be called convalescent homes.

**Obstruction.** For purposes of Section 4270, Flood Control District (Overlay) Regulations, obstruction includes, but is not limited to, any dam, wall, wharf, embankment, levee, dike, pile, abutment, protection, excavation, canalization, bridge, conduit, culvert, building, wire, fence, rock, gravel, refuse, fill, structure, vegetation, or other material in, along, across or projecting into any watercourse which may alter, impede, retard or change the direction and/or velocity of the flow of water; or due to its location, its propensity to snare or collect debris carried by the flow of water, or its likelihood of being carried downstream.

**Occupancy Permit.** See "Certificate of Occupancy."

**Occupied Space.** The total area of earth horizontally covered by a manufactured or single family detached dwelling unit, excluding accessory structures such as, but not limited to, garages, patios, carports, porches, etc.

**Odor.** A smell that can be pleasant or unpleasant.

**Official Zoning Map.** The official map(s) showing the location and boundaries of districts established by this ordinance.

**One and Two-Family Building Code.** Indiana Public Law 360, Acts of 1971, including those supplements and amendments promulgated by the Indiana Administrative Building Council (ABC) and is hereafter referred to as the One and Two-Family Building Code.

**One-hundred Year Flood (100-year Flood).** The flood that has a one percent (1%) chance of being equaled or exceeded in any given year. Any flood zone that begins with the letter A is subject to the one-percent annual chance flood. See "Flood, Regulatory."

**One-percent Annual Chance Flood.** The flood that has a one percent (1%) chance of being equaled or exceeded in any given year. Any flood zone that begins with the letter A is subject to the one-percent annual chance flood. See "Flood, Regulatory."

**Open Sales Lot.** Land used or occupied for the purpose of buying or selling merchandise stored or displayed out-of-doors prior to sale. Such merchandise includes, but is not limited to, passenger cars, trucks, motor scooters, motorcycles, boats and monuments.

**Open Space.** A public or private outdoor area expressly set aside for the use and benefit of many unrelated people. The area may include, along with the natural environmental features, water areas, swimming pools, tennis courts and other outdoor recreational facilities that the Plan Commission deems permissive. Streets, parking areas, structures for habitation and the like shall not be included in open space area calculations.

**Open Space, Unimproved.** Open space kept free of structures or improvements except for hiking, horseback riding, bicycle trails, ponds, picnic areas and nature parks.

**Ordinance.** Any legislative action, however denominated, of a local government which has the force of law, including the amendment or repeal of any ordinance.

**Outside Display.** The placement of goods and merchandise for sale at a location on a zoning lot visible to public view, other than within a building.

**Outside Storage.** The keeping of manufacturing products, materials used in manufacturing, and other similar materials and/or equipment in an area on a zoning lot outside of a building.

- G. Variance
- H. Amendment
- I. Non-conforming Lots of Record, Structures and Uses

**Section 6180**                      **Improvement Location Permit.**

After the effective date of this ordinance, no permit shall be issued by any office, department or employee of the City of Goshen for the erection or alteration and use of or improvements to land unless an improvement location permit shall have been issued by the Zoning Administrator.

- A. An application for an improvement location permit shall be accompanied with a Sketch Plan, preferably drawn to scale, that provides sufficient data for the Zoning Administrator to be assured that the provisions of this ordinance are being complied with. Said provisions may include:
  - 1. A sketch plan showing existing property lines and dimensions, all existing buildings or structures, with their size and location on the lot, if any exist.
  - 2. Location and size of proposed uses, including height and bulk of buildings and structures, open space, screening and landscaping, outdoor lighting, and signs where required.
  - 3. The location, dimensions, and character of construction of proposed streets, alleys, driveways, curb cuts, entrances, and exits, loading areas, and parking areas, including numbers of parking and loading spaces except in the R-1, R-2, and R-3 Districts.
  - 4. A letter from the City Engineer, when necessary, indicating that city sewer and water are available and that storm water drainage plan has been accepted.
- B. **Procedure for Lapse of Permit.** An improvement location permit shall become null and void unless a building permit shall have been issued and work thereon is substantially under way within six months of the issuance of said improvement location permit, or within the period of time beyond six months that may be granted by the Board of Zoning Appeals in accordance with the provisions of this ordinance.

**Section 6190**                      **Reserved.**

**Section 6200**                      **Reserved.**

**Section 6210**                      **Reserved.**

**Section 6220**                      **Appeals.**

- A. An appeal from a decision of the Building Commissioner or the Zoning Administrator in all zoning matters may be taken to the Board of Zoning Appeals. The appeals procedure shall be carried out in accordance with the applicable statutes of the State of Indiana, and shall be as follows:





Building Department  
CITY OF GOSHEN

204 East Jefferson Street, Suite 5 • Goshen, IN 46528-3405

Phone (574) 534-1811 • Fax (574) 533-8626 • TDD (574) 534-3185  
building@goshencity.com • www.goshenindiana.org

Revd from Bill Davis

1/4/23 2pm

### GENERAL (REMODEL) PERMIT REQUEST

PROJECT ADDRESS: 209 Queen Street, Goshen, IN 46528

PROPERTY OWNER'S CONTACT INFO:

- Name: Ronald E. Davidhizar
- Address (IF DIFFERENT FROM PROJECT ADDRESS): 203 Midway St., Goshen, IN 46528
- Phone: 574-536-1559

NEW CONSTRUCTION OR REMODEL: New START DATE: \_\_\_\_\_

TYPE OF WORK: (DETAILED AS POSSIBLE)

To address the concerns raised in the Verified Petition for Rule to Show Cause attached hereto and to fit out the second floor only to serve as a single-family residence

SQUARE FOOTAGE: 1,535 footprint \*\*APPROX. COST: \_\_\_\_\_

\*(IF PROJECT COST IS UNDER \$1,000.00, DOCUMENTATION WILL BE REQUIRED)

GENERAL CONTRACTOR:

- Company Name: Self
- Contact Name: \_\_\_\_\_
- Street Address: \_\_\_\_\_
- City: \_\_\_\_\_ Zip: \_\_\_\_\_
- Phone: \_\_\_\_\_
- Email (for inspections): ron.davidhizar@gmail.com & 574urbanhousing@gmail.com

**ELECTRICAL SUBCONTRACTOR: (MUST BE LICENSED IN THE CITY OF GOSHEN)**

- Company Name: To be decided
- Address: \_\_\_\_\_ City: \_\_\_\_\_ Zip: \_\_\_\_\_
- Phone : \_\_\_\_\_
- Contractor Name: \_\_\_\_\_

**HVAC CONTRACTOR: (MUST BE LICENSED IN THE CITY OF GOSHEN)**

- Company Name: To be decided
- Address: \_\_\_\_\_ City: \_\_\_\_\_ Zip: \_\_\_\_\_
- Phone : \_\_\_\_\_
- Contractor Name: \_\_\_\_\_

**PLUMBING CONTRACTOR: (MUST HAVE STATE OF INDIANA PLBG. LICENSE ON FILE)**

- Company Name: Self
- Address: \_\_\_\_\_ City: \_\_\_\_\_ Zip: \_\_\_\_\_
- Phone : \_\_\_\_\_
- Contractor Name: \_\_\_\_\_

SIGNATURE: Ron Davidhizer

DATE OF APPLICATION: \_\_\_\_\_

**NOTE: INSPECTIONS ARE REQUIRED. PLEASE GIVE 24-48 HOURS NOTICE**

STATE OF INDIANA, COUNTY OF ELKHART, SS:  
IN THE ELKHART COUNTY SUPERIOR COURT NO. 3

City of Goshen, )  
Petitioner, )  
v. ) Cause No. 20D03-1708-PL-189  
Ronald E. Davidhizar, )  
Respondent. )

**VERIFIED PETITION FOR RULE TO SHOW CAUSE AND  
FINDING OF CONTEMPT**

Comes now Petitioner, City of Goshen, Indiana (“Goshen”), by its Building Enforcement Inspector and its counsel, and respectfully requests this Court to issue a citation against the Respondent, Ronald E. Davidhizar (“Davidhizar”), and find Davidhizar in Contempt, and is a basis therefore shows the Court as follows:

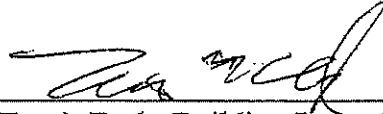
1. On February 7, 2019, the Elkhart Superior Court No. 3 approved and adopted the Order of Joint Stipulation and Agreed Judgment (“Agreed Order”) between Goshen and Davidhizar.
2. As part of the Agreed Order, Davidhizar was to complete repairs to the residential structure at 209 Queen Street, Goshen, Indiana to address the following violations by November 1, 2020:
  - a. The roof shingles are falling off the East and West sides of the structure;
  - b. There are no electrical circuits, no plumbing system, and no heating.
3. Previously, Goshen filed a Verified Petition for Imposition of Suspended Fine and for Rule to Show Cause and Finding of Contempt in this cause on November 18, 2020. That filing was eventually resolved via a Stipulation of

Agreed Judgment filed by the parties and approved by the Court on August 16, 2021, where Davidhizar acknowledged he had not complied with the Court's February 7, 2019 Order concerning repairs to the subject property in this cause, the Court imposed the suspended fine of Two Thousand-Five Hundred Dollars (\$2,500.00) against Davidhizar, with Davidhizar to pay said fine within thirty (30) days of the stipulation. Davidhizar paid said fine and Goshen filed its Acknowledgment of the Satisfaction of the Judgment fine and release with the Court on October 26, 2021.

4. Davidhizar has failed to schedule any inspection of the residential structure located at 209 Queen Street, Goshen, Indiana, for the purpose of determining whether the residential structure's condition is now in compliance with the requirements of the Agreed Order.
5. Davidhizar has continued to fail to comply with the terms of the Agreed Order by failing to complete required repairs to the residential structure located at 209 Queen Street, Goshen, Indiana.

WHEREFORE, The City of Goshen, Indiana respectfully requests that the Respondent, Ronald E. Davidhizar, be ordered to appear before this Court to show cause why he should not be held in further contempt of the Order of this Court, with sanctions as deemed appropriate by the Court for his continued contempt, and for all other relief just in proper on the premises.

*"I affirm, under the penalties for perjury, that the foregoing statements are true and accurate to the best of my knowledge and belief."*



Travis Eash, Building Inspector,  
City of Goshen, Indiana

Respectfully Submitted this \_\_\_\_\_ day of February, 2022

BARKES, KOLBUS, RIFE & SHULER, LLP

By:           /s/ Donald R. Shuler            
Donald R. Shuler, #26587-71  
BARKES, KOLBUS, RIFE & SHULER, LLP  
118 North Main Street  
Goshen, Indiana 46526  
Ph: 574.533.3181  
[drs@goshenlaw.net](mailto:drs@goshenlaw.net)  
Attorney for Petitioner

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on February \_\_\_\_\_, 2022, the foregoing document was electronically filed using the Indiana E-Filing System (IEFS) and was served upon the following counsel of record using the IEFS:

John William Davis, Jr  
Counsel for Respondent

Respectfully submitted,

By:           /s/ Donald R. Shuler            
Donald R. Shuler, #26587-71

**ENGINEERING & ZONING CLEARANCE - BUILDING PERMIT APPLICATION  
CITY OF GOSHEN, INDIANA**

Landowner/Applicant: Ronald E. Davidhizar Phone: 574-536-1559 Date: 01/06/23

Mailing Address: 203 Middlebury Street, Goshen, IN Zip Code: 46528

PROPOSED USE/CONSTRUCTION: Single family residence; see the application for building permit

Building Address: 209 Queen Street, Goshen, IN Twp: \_\_\_\_\_

PROPOSED CONSTRUCTION: \_\_\_\_\_ Zoning District: \_\_\_\_\_

Contractor: Self Address: see above

Phone: see above Email: rondavidhizar@gmail.com Approx. Cost: unknown, but >\$1,000

Lot No. 273 & pt. 274 Corner  Interior  Through  Subdivision: Wilden's Third

Lot Width: 38' Lot Depth: 130' SF/Acres: approx. 4940 sq. ft. Existing Use: not occupied

Public Sewer  Public Water  Well  Septic System  Flood Zone Designation: \_\_\_\_\_

Dedicated Road  Private Road  Sidewalk Required  Landscaping Required

Size: 28 X 37 Square Footage: 1596 Coverage: 32.3 % Height: 2 1/2 story

Setbacks measured from the furthest projection to the property line:

Front N/A Rear 30 E  Side 4 W  Side 4

Conventional  Manufactured Home Type I (HUD Certified)  Modular Home (PL 360 Certified)  Mobile Home

For Manufactured/Modular/Mobile Homes, Installer's State ID #: \_\_\_\_\_

Deck \_\_\_\_\_ sq. ft. Patio \_\_\_\_\_ sq. ft. Porch \_\_\_\_\_ sq. ft. Basement: \_\_\_\_\_ Finished  \_\_\_\_\_ sq. ft.

1st story \_\_\_\_\_ sq. ft. 2nd story \_\_\_\_\_ sf Garage: Attached  Detached  \_\_\_\_\_ sq. ft. Total sq. ft.: \_\_\_\_\_

Subcontractors: Electrical to be determined Mechanical self Plumbing Self

Temp electric: Yes  No  Central air: Yes  No  IPC  IRC  Total # plumbing fixtures \_\_\_\_\_

Principal Building  Accessory Structure  Addition  Remodeling  Rental unit: Yes  No

Parking required \_\_\_\_\_ Parking provided: \_\_\_\_\_

Parking/Driving aisle setbacks: Front \_\_\_\_\_ ft Rear \_\_\_\_\_ ft N Side \_\_\_\_\_ ft S Side \_\_\_\_\_ ft

The information on this application together with attachments thereto are true and complete. I agree that all structures and uses, as indicated, will comply with the standards and restrictions for the Zoning District in which they are located, and that any deviation there from will render this certificate null and void.

Date: 1/9/23 Signed: [Signature] Owner/agent

**ENGINEERING CLEARANCE**

The following have been approved by Goshen Engineering:

Water/Sewer  Site Plan  Stormwater Clearance  Post-construction Plan

Driveway Permit: Commercial  Residential  Industrial  Date Issued: \_\_\_\_\_

Engineering Project Number: \_\_\_\_\_

Conditions of Approval: \_\_\_\_\_

I have examined the above application for compliance with Engineering Department requirements. On the basis of the information submitted it is hereby determined that Engineering Department requirements have been met to allow a Zoning Clearance to be granted.

Date: \_\_\_\_\_ Signed: \_\_\_\_\_ By/For City Engineer

**ZONING CLEARANCE**

Sign: Temporary/Mobile Location: \_\_\_\_\_ Dates used: \_\_\_\_\_ Time Left: \_\_\_\_\_

Staff Comments: \_\_\_\_\_

**PLANNING INSPECTION REQUIRED BEFORE CERTIFICATE OF OCCUPANCY IS ISSUED**

Variance: Granted  Denied  Board Action Date: \_\_\_\_\_

Conditions: \_\_\_\_\_

Zoning Clearance Fee for Primary Buildings: Paid: \_\_\_\_\_

I have examined the above application, including site plan, for compliance with all requirements of the Zoning Ordinance. On the basis of the information submitted it is hereby determined that a Zoning Clearance shall be granted.

Date: \_\_\_\_\_ Signed: \_\_\_\_\_ By \_\_\_\_\_ Zoning Administrator

This certificate applies to Zoning Clearance only and does not satisfy the requirements of any applicable building or engineering codes or permits required.

## Yoder, Rhonda

---

**From:** Yoder, Rhonda  
**Sent:** Thursday, January 12, 2023 1:44 PM  
**To:** Bill Davis  
**Cc:** Don Shuler; Rossa Deegan; Travis Eash; Lori Lipscomb; Betty Warlick  
**Subject:** 207 & 209 Queen Street - Remodel Permit Review  
**Attachments:** 2110 Dwelling Unit.pdf; 207 Queen Street-Review Ltr 2-21-17.pdf; 209 Queen Street-Review Ltr 4-3-17.pdf

Hello Bill,

Regarding the General (Remodel) Permit Requests for 207 Queen Street and 209 Queen Street, received on January 6, 2023, and the associated zoning clearance forms for each property received on January 9, 2023, the Planning office has the following comments:

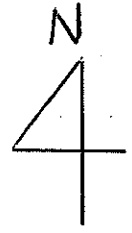
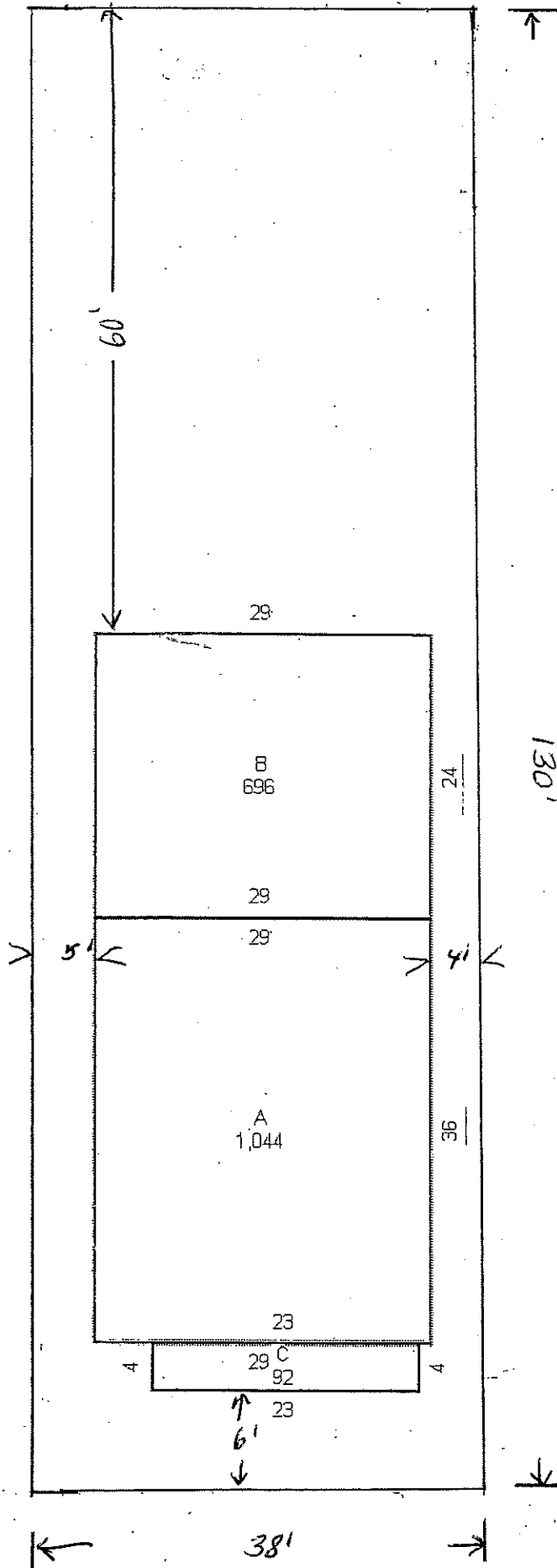
- Each permit request was submitted as "...to fit out the second floor only to serve as a single-family residence."
  - The Goshen Zoning Ordinance defines a single-family dwelling unit as "a detached residential dwelling other than a mobile home, separated from other residential dwellings by open space, designed for and occupied by one family." A copy of the definition is attached.
  - A second-floor only residence does not meet the Zoning Ordinance definition of single family dwelling.
  - As has been communicated in review letters for each property (207 Queen Street, dated February 21, 2017, and 209 Queen Street, dated April 3, 2017; copies attached) anything other than a single family dwelling unit requires an application to the Board of Zoning Appeals (BZA) for a use variance, along with any associated developmental variances, and no such BZA variance applications have been formally submitted/received.
- A complete submittal was not received for review. Items required for review include:
  - A dimensioned site plan including a scale and north arrow and length of all property lines;
  - Dimensioned, labeled floor plans for each floor, with the use of all spaces labeled.
  - Floor plans that match the site plan.

As submitted, the permit applications cannot be reviewed or approved by the Planning office.

Sincerely,  
Rhonda Yoder, AICP  
Planning & Zoning Administrator

Goshen City Planning  
204 E Jefferson, Suite 4  
Goshen, IN 46528  
574-537-3815

209 Queen Street



Scale: 1" = 12'

Revd  
3/13/23