

Minutes - Goshen Board of Zoning Appeals
Tuesday, August 22, 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: Bethany Campbell, Tom Holtzinger, Hesston Lauver, Lee Rohn, and Michael Potuck. Also present were Assistant City Planner Rossa Deegan, and Assistant City Attorney James Kolbus.

II. Approval of Minutes from 7/25/23: Lauver/Potuck 5-0

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

IV. Postponements/Withdrawals - None

V. Use & Developmental Variances – public hearing items

23-19DV – Humberto Esquivel Ruiz & Jessica Esquivel request developmental variances to allow a front building setback of 14’ along 2nd Street where 25’ is required for an approximately 280 Sf pergola, a front building setback of 5’ along 2nd Street where 25’ is required for an approximately 80 Sf shed, and building coverage of 40% where a maximum of 35% is permitted for the addition of the pergola and shed. The subject property is generally located at 302 Queen Street and is zoned Residential R-2 District.

Staff Report

Mr. Deegan explained this property is a narrow lot on the southwest corner of Queen Street and 2nd Street. The property contains a single family home with a detached garage. The request is to build an approximate 280 sf pergola between the home and the garage, requiring a developmental variance because the pergola will be approximately 14’ from the property line along 2nd Street where 25’ is required. A small, unapproved shed, installed by the previous owner, currently has a 2’ setback and the petitioner has agreed to move it to 5’ where 25’ is required.

Based on the small lot size, with frontage on two sides, the Planning Office recommends approval of the request. He noted for the record that the Planning Office received a couple phone calls regarding this request. The owner of 306 Queen Street stated he is not opposed to the request, provided it does not interfere with traffic. The owner of 219 W Oakridge also called asking for more details, but did not offer an opinion on the request.

Petitioner Presentation:

Jessica Esquivel along with Ruby Esquivel Diaz, 302 Queen Street spoke on behalf of the petitioner. Ms. Diaz translated for Ms. Esquivel that she is asking permission to build the pergola.

Audience Comments:

There was no one to speak to the petition.

The public hearing was closed.

Staff Discussion:

None

Action:

A motion was made and seconded, Rohn/Campbell, to adopt the Staff recommendations as the findings of the Board and based on these findings, approve 23-19DV with the 5 conditions as listed in the Staff Report. The motion passed unanimously by a vote of 5-0.

23-06UV & 23-20DV – John & Lois Nafziger request a use variance to allow the expansion of a non-conforming duplex use where two-family dwellings are a conditional use in the R-1S and B-2 districts and a permitted use in the R-2, R-3, and PUD districts, and a developmental variance to allow a 5’ rear (north) setback where 25’ is required for the addition

of an approximately 328 Sf garage. The subject property is generally located at 1807 Mayflower Place and is zoned Residential R-1 District.

Staff Report

Mr. Deegan explained this property is a non-conforming, two-family home, located in the R-1 district where only single-family homes are permitted. The first floor of the residence is owner occupied, with a second unit located in the basement. The property contains an existing one-stall garage (erroneously describe in the Staff Report as a two-stall garage), along with various small accessory structures. Today's request is to add an approximately 328 sf second stall on the north side of the existing garage, approximately 5' from the property line where 25' is required. For this reason a developmental variance is required, along with a use variance for expanding a non-conforming duplex use. Planning recommends approval of this request, pointing out that the rear yard functions more like a side yard, and having two garage stalls is reasonable. As a condition of approval the Planning Office recommends that two gravel areas in the front yard be removed and that existing accessory structures along the north property line be removed. He noted this has been discussed with the petitioner who appears to be agreeable to this request. No inquiries were received regarding this request.

Petitioner Presentation:

John Nafziger, 1807 Mayflower Place spoke on behalf of the petitioner. He stated he is familiar with the Staff Report and has nothing to add.

Audience Comments:

There was no one to speak to the petition.

The public hearing was closed.

Staff Discussion:

None

Action:

A motion was made and seconded, Potuck/Holtzinger, to adopt the Staff recommendations as the findings of the Board and based on these findings, approve 23-06UV & 23-20DV with the 6 conditions as listed in the Staff Report. The motion passed unanimously by a vote of 5-0.

23-21DV – SCF RC Funding IV LLC, Pride Properties, LLC and Yoder, Ainlay, Ulmer, & Buckingham, LLP request developmental variances to amend variance 13-25DV by removing 1524 Bashor Road (tax parcel 20-11-08-203-002.000-015) from the legal description/variance and adding a smaller tax parcel (20-11-08-203-068.000-015), and to allow 0' side yard setbacks for two existing driveways for the separation of two properties that have been part of the same zoning lot. The subject property is generally located at 1713 Elkhart Road and is zoned Commercial B-3 District.

Staff Report

Mr. Deegan explained that last month, the BZA approved developmental variances to allow an auto repair/oil change facility at the corner of Bashor Rd and Elkhart Rd. One condition of approval was that the eastern most parcel of the property be removed from the adjacent car wash property. He explained the parcel in question was included in a previous site plan and variance for the property. Today's request is to amend the variance, removing the parcel and any references to it. Developmental variances are also requested for zero foot setbacks for two existing driving aisles, one of which is a shared access.

Staff recommends approval of the request, pointing out the driveways are existing, and both access and shared use of the stormwater retention area are covered by recorded easements. He noted for the record that a representative of Spartan Nash, owner of Martin's Supermarket, requested additional information and had no comments.

Petitioner Presentation:

David Swihart, Yoder, Ainlay, Ulmer & Buckingham, LLP, 130 N Main Street, spoke to the petition. He stated there are some setback issues related to existing easements and the sale of the car wash property. A setback variance s required for

the driving aisle and for a driveway that accesses the vacuum area. A request to amend the variance is also requested because one of the parcels associated with the car was not conveyed to the current owner, requiring that the existing commitment be amended.

Audience Comments:

There was no one to speak to the petition.

The public hearing was closed.

Staff Discussion:

None

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 23-21DV with the 2 conditions and 3 commitments as 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 22-25DV, 2411 E Kercher Road, from 8/23/23 to 2/23/24

Mr. Deegan stated developmental variances for this property were approved in August, 2022 for setbacks and full bufferyard landscaping requirements for an addition to a storage building. This project is still in Tech Review so the petitioner is requesting a 6-month extension. He noted the review appears to be nearing completion and the request is reasonable.

Action:

A motion was made and seconded, Potuck/Lauver to grant a 6-month extension for 22-25DV, from 8/23/23 to 2/23/24. The motion passed unanimously by a vote of 5-0.

VIII. Adjournment: 4:16 pm Potuck/Rohn 5-0

Respectfully Submitted:

/s/ Lori Lipscomb

Lori Lipscomb, Recording Secretary

Approved By:

/s/ Tom Holtzinger

Tom Holtzinger, Chair

/s/ Lee Rohn

Lee Rohn, Secretary