

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

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

II. Approval of Minutes from 9/26/23: Potuck/Rohn 5-0

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

IV. Postponements/Withdrawals - None

V. Developmental & Use Variances – public hearing items

23-25DV – Chase Alfrey requests developmental variances to allow a 13’ front building setback along Harrison Street where 25’ is required for an approximately 163 Sf deck and open parking in the front yard setback along Harrison Street where open parking is not permitted, for the installation of an approximately 30’ x 24’ driveway and parking area. The subject property is generally located at 1021 W Lincoln Avenue and is zoned Residential R-2 District.

Staff Report

Mr. Deegan described this R-2 single family home as having frontage on both Lincoln Avenue and Harrison Street, with surrounding properties a mix of residential uses. He explained this home is approximately 768 sf in area and a shed, approximately 192 sf, was added to the property this year. In 2021, the home was renovated and at that time, the BZA approved a 9’ front setback along Harrison Street for an addition. Because of the small addition and small lot size, the encroachment into the setback was reasonable. He went on to say that as part of this renovation, a new gravel driveway, parking area, and deck were also added to the property without approval. These improvements were recently discovered by the City and require variances because the parking area adds open parking to the front yard setback along Harrison Street and the deck has an approximate 13’ setback along Harrison Street. He explained an updated plan which is slightly more accurate, has been provided to Board members.

Staff recommends approval, noting that because of its size and location on a corner, reasonable development of the property is basically impossible without variances. He pointed out the open parking will reduce the number of vehicles parked in the right-of-way and explained the gravel surface was recently approved by the Board of Works. He noted a large trailer was observed on the property during the staff report inspection and staff recommends removal of the trailer within 30 days.

The Planning Office received no public inquiries regarding this request.

Petitioner Presentation:

Chase Alfrey, 1021 W Lincoln Avenue, spoke on behalf of the petitioner. He stated the trailer observed on the property was being used for the construction and has been removed from the site.

Audience Comments:

Lisa Butler, 1019 W Lincoln Avenue, spoke to the petition. She stated she has concerns regarding the property line between the homes.

Mr. Alfrey stated he used a metal detector to locate the property lines and feels the setbacks he submitted are accurate.

The public hearing was closed.

Staff Discussion:

None

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 23-25DV with the 6 conditions as listed in the Staff Report. The motion passed unanimously by a vote of 5-0.

23-26DV – Donald L Beachy & Tami’s Trendy Hair request developmental variances to allow a 12 SF banner sign, a 6 SF non-illuminated wall sign, a 1.25 SF wall-mounted illuminated sign, a 1 SF illuminated window sign, and a 1 SF illuminated changeable copy sign, where only ground signs not exceeding 8 SF in aggregate area and one non-illuminated flush-mounted wall sign no greater than 2 SF in area is permitted for a home occupation. The subject property is generally located at 1011 S Main Street and is zoned Residential R-1 District.

Staff Report

Mr. Deegan explained this property is located on the west side of Main Street. This, and surrounding properties are all zoned Residential R-1 District. He described the property noting it’s a two-story, single family home, with a detached garage and an east/west alley adjacent on the north side of the property.

A portion of the first floor has been renovated to allow a hair salon as a home occupation. He explained that generally a home occupation is a use on a residentially zoned property where the primary use remains residential in nature, while the occupant also has an occupational profession conducted from the home. He went on to say the home occupation definition is very restrictive and prohibits the exterior appearance of the property from appearing commercial in nature. He explained that ground signs are permitted, no greater than 3 ft in height and 8 sf in aggregate area. One non-illuminated, flush-mounted wall sign is also permitted for the home occupation. He explained the petitioner is proposing an additional five signs in order to advertise her business. Included is an approximate 12 sf banner, a 6 sf non-illuminated flush mounted wall sign, and illuminated signs ranging in size from 1 sf to 1.25 sf. Staff recommends denial of the request, pointing out the nearby area is zoned residential and allowing additional signs on the property will adversely impact the character of the area. He went on to say there are also numerous signs on the property which were not submitted as part of the petition and should be removed as part of the denial of this request. As part of Planning’s recommendation of denial, he asked that the property be brought into compliance within three days. He noted the Planning Office was not contacted by the public regarding this request, but the matter was originally referred to Planning by a public complaint.

Petitioner Presentation:

Tamra Beachy, 1011 S Main Street, spoke on behalf of the petitioner. She stated the “no walk in” signs have been removed, along with the banner. She explained she needs the yard signs because when snow is on the ground they need to be visible above the snow. She also explained the state requires a sign by her doorway listing business hours. Other signs include a pink cosmetology sign which she hasn’t illuminated and some of the other lights have been removed. She went on to say there’s an alley between her and her neighbor and her illuminated open sign is in a window facing the alley. She commented that without signs on her property, customers can’t find her.

Donald Beachy, 1011 S Main Street also spoke to the petition. He stated three people saw the sign and called for an appointment, but now that the signs have been removed, she’s not getting any new customers.

Audience Comments:

Lillian Skinner, 1009 S Main Street, spoke in support of the request. She stated she lives across the alley from this property and has no concerns about the signs, including the illuminated sign.

Paul Albrecht, 1105 Wilson Avenue, also spoke to the petition. He stated he’s concerned about traffic stopping abruptly to read her signs and feels the signs should not be permitted.

The public hearing was closed.

Staff Discussion:

There was no discussion amongst Board members.

Action:

A motion was made and seconded, Rohn/Lauver, to adopt the Staff recommendations as the findings of the Board and based on these findings, deny 23-26DV with the reasons listed in the Staff Report. The motion passed unanimously by a vote of 5-0.

23-07UV – Central Block, LLC and Hannah Minix request a use variance to allow a tattoo parlor in the Commercial B-2 District where the use is conditional in the Commercial B-3 and Industrial M-1 districts. The subject property is generally located at 108 E Washington and zoned Commercial B-2 HD DD District.

Staff Report

Mr. Deegan explained this property is located in the downtown district, on a parcel with several buildings, addresses, and uses. He noted surrounding uses consist of café's, upstairs apartments, etc. Today's request by the petitioner, is to use the unit at 108 for a one station, appointment based, tattoo parlor. Staff recommends approval, noting this is a relatively small space, located in a dense commercial area. He noted previous uses here have included a beauty shop and jewelry store, and this use doesn't appear to be significantly more intense.

Mr. Deegan noted for the record that there was no public input, with the exception of the signatures of support included with the staff report.

Petitioner Presentation:

Hannah Minix, 1375 Park 33 Blvd, Apt 1303, spoke to the petition. She stated she has a lot of support from downtown businesses and she looks forward to participating with First Friday events.

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 23-07UV with the 6 conditions listed in the Staff Report. The motion passed unanimously by a vote of 5-0.

23-27DV – PRIMECO, Inc. (Paul Pressler), Aby Mohamed of Aby Groups, and Woolpert request developmental variances to allow a 10' parking and driving aisle setback along Pike Street where 35' is required, a 3' parking and driving aisle setback along High Street where 25' is required, a 13' parking and driving aisle setback along Harrison Street where 25' is required, a 10' parking and driving aisle setback along the south property line adjacent to residential use and zoning where 20' is required, a dumpster enclosure 6' in height in the front yards along Pike Street and Harrison Street where fences and walls cannot exceed 4' in height, a privacy fence 6' in height where 4' is permitted in the front yards along Harrison Street and High Street, vehicle access points on Harrison Street and High Street where no access points from residential streets are permitted, and for the variance to be valid for one year, for the construction of a new restaurant. The subject property is generally located at 1102, 1106 & 1110 W Pike Street and is zoned Commercial B-3 District.

Staff Report

Mr. Deegan explained this B-3 zoned property consists of three parcels, with frontage on Pike Street, as well as Harrison and High Streets and two homes and a former auto repair business are presently located here. Properties immediately south are zoned Residential R-2 District. The proposal is to redevelop this site with a drive-thru restaurant, noting the following variances will be required:

- Two entrances to the property are from the side streets and the zoning ordinance requires access from an arterial or collector street.
- The dumpster location near the northwest corner of the property is located within the front yards of Harrison and Pike Streets and the wall and fence exceeds 4' in height
- The fence along the south property line will serve as a partial buffer between the commercial use and residential uses to the south. The variance is required because the fence exceeds the maximum 4' allowed.
- The wrap around drive encroaches in the front yard on all three streets and also encroaches into the 20' required setback adjacent to the residential use and zoning to the south.

Staff recommends approval of the request pointing out this is located along the Pike Street commercial corridor and restaurant use is common along this corridor. The request is reasonable and typical of other drive-thru restaurants along this corridor. He pointed out that access points are from residential streets, most of the traffic to and from the site won't pass through the residential neighborhood, but will enter and exit from Pike Street.

He also noted that due to stormwater retention and overhead power lines in the southeast portion of the property, the only feasible location for the dumpster is the proposed location near the northwest corner of the property. All other developmental requirements will be met and staff recommends approval of the request. He also noted for the record that the Planning Office received no public inquiries regarding this request.

Petitioner Presentation:

Ryan Walter, 3333 Warrenville Road, Lisle, IL spoke on behalf of the petitioner. He stated the summary was good, but pointed out there are existing homes with zero foot setbacks to the property line and this project would add quite a bit of green space along the perimeter of the site which will be an improvement from the existing conditions. He noted heavy landscaping will be added, especially to the south near the residential area. He pointed out the stormwater retention is also located to the south and will provide a natural buffer between the homes and the project. A site plan was provided to INDOT and they have expressed no concerns with the development, but an access will be removed from Pike Street, which will require an INDOT permit.

Mr. Holtzinger asked if there will be enough parking for a restaurant this size.

Mr. Walter stated parking is double what the code requires.

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/Lauver, to adopt the Staff recommendations as the findings of the Board and based on these findings, approve 23-27DV with the 9 conditions as listed in the Staff Report. The motion passed unanimously by a vote of 5-0.

VI. Audience Items

None

VII. Staff Board Items
None

VIII. Adjournment: 4:40 pm Potuck/Rohn

Respectfully Submitted:

/s/ Lori Lipscomb
Lori Lipscomb, Recording Secretary

Approved By:

/s/ Tom Holtzinger
Tom Holtzinger, Chair

/s/ Lee Rohn
Lee Rohn, Secretary