

Minutes - Goshen Board of Zoning Appeals
Tuesday, March 27, 2007, 4:00 p.m.
Council Chambers, 111 E. Jefferson Street
Goshen, Indiana

I. The meeting was called to order with the following members present: Ardean Friesen, Angela McKenna, Kelly Huffman and Karen Fairfield. Also present was City Planner Joe Hauflaire and Attorney James Kolbus.

Ardean Friesen acting as chair for today's meeting in place of Jay Rounds.

II. Approval of Minutes from 2/27/2007 – McKenna/Fairfield, 4-0.

III. The Zoning/Subdivision Ordinances were unanimously filed into Record – McKenna/Fairfield, 4-0.

IV. Withdrawals/Postponements – none.

V. **Use Variances** – public hearing items

07-03UV Thomas W. Berkey & April Allen (Berkey's Bargains) request a variance to permit retail sales such as antiques, furniture, jewelry, and tools in a residential zoning district. The subject property is generally located at 516 N. 9th St. and zoned Residential R-2.

Petitioner Presentation

April Allen & Thomas Berkey, 701 Middlebury Street, appeared as the petitioners. They advised that they had no further information to provide to the Board.

Ron Schmucker, 14991 CR 22, stated that he is the owner of the subject property. He advised that he has rented to the petitioners in the past and has had no problems with them. He advised that they are very clean and neat.

Mr. Friesen inquired as to whether or not it would be acceptable to revoke all previous variances granted to the property. Mr. Schmucker advised that he foresees no problem with this and stated that the only similarity between this variance and the past variances is that this variance *may* sell appliances on an irregular basis. He advised that it will not be an appliance repair shop as it has been in the past.

Mr. Friesen requested that the petitioners come forward to clarify for the Board the type of items they intend to sell. Ms. Allen stated that their inventory will be continuously changing due to what is available to them but stated that it will be items such as antiques, crafts, furniture, and antique clothing. Mr. Friesen inquired as to whether or not they will be selling any appliances and she advised that they may if there are appliances available to them but reiterated that it will be on an irregular basis.

Mr. Friesen inquired as to whether or not there will be any outside sales at the establishment. Ms. Allen advised that they do not plan to have any outside sales.

Audience Comments

James Boyer, 72299 CR 9, Nappanee, stated that he is the current owner of 514 N. 9th Street and that he maintains the property as a rental. He advised that his concern is that the business will be bringing more traffic into the neighborhood and he does not want the customers of the business parking in his tenant's driveway or yard. He advised that he would like to see a fence constructed between the two properties to prevent any parking issues. He stated that he would like to see a privacy fence but would be satisfied with a chain link fence.

Mr. Schmucker advised that he would be agreeable to constructing a fence but is opposed to the privacy fence due to the amount of graffiti that he deals with at his rental properties. He advised that he would be willing to split the cost of the fence construction with Mr. Boyer to have a chain link fence installed.

Staff Report and Discussion

Mr. Hauflaire informed the Board that 28 neighboring property owner notices have been sent in this case. He stated that the property has been used for commercial usages for the past several years and advised that it appears to have been constructed for commercial purposes. He advised that he recommends granting the variance with the five conditions listed in the Staff Report and an additional condition requiring the installation of a 4' chain link fence. He clarified that the fence would begin at the front lot line and extend the depth of the rear wall of the building. He stated that any additional footage or height would be acceptable if agreeable by both property owners.

The public hearing was closed.

Ms. Fairfield inquired as to the Board's opinion of requiring a fence. Mr. Hauflaire advised that he feels it is acceptable if all parties agree. Mr. Friesen stated that he feels it would be a good way to prevent any parking issues.

Action

A motion was made and seconded, McKenna/Huffman, to approve petition 07-03UV with the five conditions listed in the staff report and the change from today to require:

1. A 4' chain link fence shall be installed between 516 N. 9th Street and 514 N. 9th Street beginning at the front lot line and extending at a minimum to the rear wall of the building. The fence may extend further if agreed upon by both property owners.

The motion carried, 4-0.

VI. Audience Items – none

VII. Staff/Board Items

06-15 DV Mario Camacho requests a six-month extension for the variance granted on March 28, 2006 permitting a driveway up to the side lot line where a 5' setback is required for subject property generally located at 308 New Street and zoned Commercial B-1.

Mr. Hauflaire gave the Board a brief history of 06-15DV. He advised that the original variance was granted twelve months ago. He stated that, although the project was not completed in the time that was allowed, he would recommend granting the extension. He advised that the condition of the neighborhood has not changed since the time that the variance was granted.

Ms. Fairfield requested clarification on the location of the property. Mr. Hauflaire pointed it out to her on the map and she advised that she feels that permitting the extension and allowing the construction of the driveway would most likely improve the street congestion in the area.

Mr. Kolbus informed the Board that the original variance passed, 3-0.

A motion was made and seconded, McKenna/Huffman, to approve an extension for petition 06-15DV with the condition that the project be completed by September 27, 2007. The motion carried, 4-0.

VIII. Adjournment – 4:20 PM