

Minutes - Goshen Board of Zoning Appeals
Tuesday, July 24, 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, and Kelly Huffman. Also present was City Planner Joe Hauflaire and Attorney James Kolbus.

II. Approval of Minutes from 6/26/2007 –McKenna/Huffman, 3-0.

III. The Zoning/Subdivision Ordinances were unanimously filed into Record – McKenna/Huffman, 3-0.

IV. Withdrawals/Postponements – none.

V. **Use Variances** – none

VI. **Developmental Variances – public hearing items**

07-21DV Raber Patio Enclosures requests a developmental variance to permit an addition to a lawful, non-conforming residential home in an Industrial M-1 district. The subject property is generally located at 1209 Egbert Avenue and zoned Industrial M-1.

Petitioner Presentation

Charles Rassi, 1209 Egbert Avenue, stated that he is the property owner. He stated that his salesperson, Dennis Mast, from Raber Patio was to be at the meeting to present their case but advised that he was not yet there.

Mr. Friesen inquired as to whether or not Mr. Rassi had reviewed a copy of the Staff Report. Mr. Rassi stated that he had not and Mr. Friesen advised him that the Staff Report provided a favorable recommendation for their addition. Mr. Rassi had no further comments.

Audience Comments - There was no one to speak to the petition.

Staff Report and Discussion

Mr. Hauflaire clarified for the Board that the portion of the description regarding the setback was an error. He advised the members to disregard that information. He explained that the residence is located in an industrial district and permitted as a non-conforming use. He stated that, for any non-conforming property, only day to day maintenance is allowed and that this addition would be considered more than day to day maintenance. He stated, however, that the setbacks are sufficient to ensure that no impact will be made upon the adjacent industrial uses because of the addition. He stated that he is recommending approval.

The public hearing was closed.

Action

A motion was made and seconded, Huffman/McKenna, to adopt the staff analysis and recommendations as the findings and conclusions of the Board, and based on these findings and conclusions, that petition 07-21DV be granted. The motion passed unanimously, 3-0.

07-22DV Hariomshiv Inc. and Mike Patel request developmental variances to permit development on a lot with no frontage on dedicated street, access to the property via an ingress/egress easement, placement of a sign on a lot with no frontage and to permit a sign with an area of approximately 116.5 sq. ft. where no sign is permitted. The subject property is generally located within the 1900 block of Lincolnway East to the rear of the existing Courtyard by Marriott. The property contains approximately 3.37 acres more or less and is zoned Commercial B-3.

Petitioner Presentation

Barry Pharis, Brads-Ko Engineering & Surveying, Inc. at 1009 S. 9th Street, stated that he is representing the petitioner. He stated that they have two requests. He stated that the first request is to be allowed to develop a lot with no street frontage and showed the Board a diagram pointing out the proposed location. He stated that the area was originally developed with this type of use in mind and he stated that this hotel would be a perfect fit. He pointed out that the staff recommendation is in favor of this portion of the variance.

Mr. Pharis stated that their second request is for a sign. As they will have no frontage, special permission is needed for any type of sign. He stated that the sign that was proposed at the time that the application was filed has been amended to more suitably fit the current sign ordinance. He stated that their proposal today is to have a sign that would be 32.2027 sq ft in area and 12.6' in height. He stated that the recommendation from Mr. Hauflaire in the Staff Report was to permit a 32 sq ft sign that would be 8' in height. He stated that the proposed sign would be a monument style sign that would be attractive in appearance and reasonable in size.

Mr. Friesen questioned the placement of the sign and whether or not it would be within the vision clearance area. Mr. Pharis pointed out on the diagram that it will meet the 5' setback that is required and will be set out of the vision clearance area along the entrance adjacent to the Lux Café. He advised that the sign will be 22" wide. Mr. Pharis stated that they will, however, be careful to not set the sign back too far so that their patrons will be able to recognize their entrance.

Mr. Hauflaire clarified for the Board that, even at 12' instead of 8', the sign will still be considered a monument style sign. He stated that he has no objection to the sign height of 12' and he advised that, per the Ordinance, this is still a smaller scale sign. He advised that a square footage difference of .2' is very minor and not a concern. He stated that his only request regarding the frontage issue would be that an access agreement be recorded and a copy provided for the file. Mr. Hauflaire stated that he is recommending approval.

Audience Comments

Sam Reeves, Operations Manager for the Courtyard by Marriott at 1930 Lincolnway East, stated that he is concerned about the visibility issue for their customers regarding the proposed sign's location. Mr. Pharis pointed out the location on the diagram for Mr. Reeves who was satisfied that it will not be a problem.

Staff Report and Discussion

Ms. Huffman expressed concern regarding the speed limit along Lincolnway East and any safety issues that it would cause. Mr. Pharis stated that there is currently a south-bound left turn lane. He also advised that there is a through-lane coming from the north and also a controlled traffic light just south of their entrance. He stated that 35mph should not be a problem. He stated that their location would actually be good for their clients as they are off of Lincolnway East where it will be quieter and he advised that they will have access to 3-5 restaurants without going onto Lincolnway East.

Ms. Huffman inquired as to how the figure of what is allowed is being determined if there is no sign permitted without any frontage. Mr. Friesen explained that there are different sizes allowed for establishments with different amounts of frontage. Mr. Hauflaire stated that he was inclined to grant them the smallest sign permitted but is willing to allow what is proposed because it is still smaller than the next size up.

Mr. Friesen pointed out that they have compromised from their original proposal and are asking for an attractive sign. He stated that the proposed sign will be big enough to see but not too large. He stated that he sees this proposal as a good compromise.

The public hearing was closed.

Action

A motion was made and seconded, McKenna/Huffman, to adopt the staff analysis and recommendations as the findings and conclusions of the Board, and based on these findings and conclusions, that petition 07-22DV be granted as amended

today permitting a monument style sign no more than 32.5 sq ft in area and 12.6' in height and with the recommendations listed in the Staff Report. The motion passed unanimously, 3-0.

07-23DV Jon & Maria Horsch and Bail Home Services request a developmental variance to permit an 8' rear setback for a deck where a 25' setback is required. The subject property is generally located at 1409 Elmherst Court and zoned Residential R-1 PUD.

Petitioner Presentation

Ed Swoveland, Bail Homes Services at 1912 Elkhart Road, stated that he is representing the property owners in this matter. He stated that he has spoken with the Home Owners Association for College Green and they have given their approval. In addition, he stated that the adjacent neighbors are not opposed to the deck despite the reduced setback.

Ms. Huffman inquired as to whether or not he had anything in writing from the Association. He stated that he does not but will be happy to get documentation of their approval if necessary.

Audience Comments – There was no one to speak to the petition.

Staff Report and Discussion

Mr. Hauflaire stated that he is recommending approval. He stated that the 8' setback is equivalent to what would be required for a side yard setback. He pointed out that the lot is not a typical shape and that the unusual configuration is what makes the variance necessary. He stated that there is some existing landscaping which acts as a buffer, as well.

Ms. Huffman stated for the record that she is a resident of the College Green subdivision but not close enough to have a conflict with sitting on the Board for this decision.

The public hearing was closed.

Action

A motion was made and seconded, McKenna/Huffman, to adopt the staff analysis and recommendations as the findings and conclusions of the Board, and based on these findings and conclusions, that petition 07-23DV be granted. The motion passed unanimously, 3-0.

07-24DV Dennis Beadle and Wightman Petrie request a developmental variance to permit a 2' parking setback along the east property line where a 5' setback is required. The subject property is generally located at 2302 Dierdorff Road. The property contains approximately 9.68 acres more or less and is zoned Industrial M-1.

Mr. Hauflaire read a copy of the letter submitted by Michael Miller of Wightman Petrie, Inc. requesting that this petition be withdrawn as the plans were refigured for the property and the variance is no longer necessary.

Action

A motion was made and seconded, Huffman/McKenna, to accept the request for a withdrawal of petition 07-24DV. The motion passed unanimously, 3-0.

VII. Audience Items – none

VIII. Staff/Board Items

07-18DV Keven Privett requests a variance to permit a paved driveway at 0' setback (north property line) where 5' is required and to allow an additional paved area within the front yard setback at the subject property generally located at 916 N. 5th Street.

- *Petitioner has amended his request and the case is before the Board to determine whether or not the change is significant enough to come back again in August to request the new plan as opposed to observing the standard six month waiting period.*

Mr. Hauflaire stated that the petitioner has amended his request to include only having the driveway paved up to the lot line. He stated that he will not longer be asking for the additional paved parking area in the front of the home adjacent to the street. He inquired to the Board as to whether or not they would consider it a significant enough change to allow it to come back for next month's meeting.

Ms. Huffman stated that he is obviously attempting to improve the property and she sees it as a good thing.

Mr. Friesen stated that he would much rather see pavement than gravel.

Action

A motion was made and seconded, Huffman/McKenna, to waive the six-month waiting period for the petitioner and to allow the case to come back for the August 2007 BZA meeting with the proposed site plan amendment. The motion passed unanimously, 3-0.

IX. Adjournment – 4:40 PM

Respectfully Submitted:

Becky Hershberger, Recording Secretary

Approved By:

Jay Rounds, Chair

Karen Fairfield, Secretary