

Minutes - Goshen Board of Zoning Appeals
Tuesday, November 25, 2008, 4:00 p.m.
Council Chambers, 111 E. Jefferson Street
Goshen, Indiana

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

II. Approval of Minutes from 10/28/08

Ms. Fairfield stated that she doesn't believe that she used the word "horrible" on Page 15 of the 10/28/08 minutes.

Ms. Hershberger advised that she will go back and listed to the transcript and correct it if necessary.

A motion was made and seconded, Huffman/Holtzinger, to approve the minutes for the 10/28/08 meeting subject to verification by the Staff. The motion passed, 4-0.

III. The Zoning/Subdivision Ordinances & official Staff Reports were unanimously filed into Record: Fairfield/Huffman, 4-0.

IV. Postponements/Withdrawals: None.

V. Variances – public hearing items

08-48DV Javier Espinoza-Silva requests a developmental variance to permit the expansion of a non-conforming, residential use to allow for the addition of an unenclosed roof over an existing porch and to permit an 18' front yard setback where 25' is required. The subject property is generally located at 1001 Sanders Avenue and zoned Commercial B-1.

Petitioner Presentation

Javier Espinoza-Silva, 1001 Sanders Avenue, stated that he wanted to do this and found out when he went for the permits that he needed to apply for a variance. He stated that he is familiar with the Staff Report and the conditions listed. He noted that he originally had two (2) designs but that the plan before them is what his wife wants. He also stated that he would like to have a railing if allowed.

Mr. Friesen informed the petitioner that a railing would be fine as long as the porch remains unenclosed.

Audience Comments

There was no one to speak to the petition.

Staff Report & Discussion

Mr. Hauflaire stated that the Board has a fairly good idea of what the petitioner is wanting. He informed the Board that it is only before them because the area is zoned Commercial B-1 and has been historically zoned as such. He noted that the residential homes have been there for a number of years. Based on the information provided in the Staff Report, he stated that he is recommending approval of the request as submitted.

The public hearing was closed.

Motion

A motion was made and seconded, Fairfield/Huffman, to approve petition 08-48DV with the one (1) condition listed in the Staff Report.

Ms. McKenna entered the meeting at 4:10 pm.

Mr. Hauflaire indicated that he worded the condition to ensure that it remains unenclosed but does not prohibit screening. He stated that the screening is not so much of an issue.

Ms. Huffman clarified that the intent is that it not be converted in to living space.

Mr. Friesen questioned whether or not windows could be installed. Attorney Kolbus stated that a three (3) season's room would be an option but that it is not what he is requesting. He noted that the motion is accurate for what the petitioner requested.

The motion passed, 5-0.

08-25UV John Huber requests a use variance to permit a three (3) unit, multi-family dwelling in a Commercial B-2 zoning district where the Residential R-3 requirements are not met, including minimum lot area and on-site parking requirements. The subject property is generally located at 120 N. 5th Street and zoned Commercial B-2.

Petitioner Presentation

John Huber, 19862 Bluff Drive, stated that he is representing Gene Lange who is the current property owner. Mr. Huber noted that the property owner is in Florida with his wife who is battling cancer and has asked him to sell the property for him. He stated that they believe that this request will give them more options when selling the property.

Mr. Holtzinger questioned whether the petitioner feels that they have adequate parking. Mr. Huber stated that they do and, if an issue arises, they could purchase parking passes from the City to allow them to park in the City-owned parking lots as needed.

Audience Comments

There was no one to speak to the petition.

The public hearing was closed.

Staff Report & Discussion

Mr. Hauflaire advised that he is recommending approval of the use variance. He noted that it is before the Board because the lot area is insufficient to meet the R3 requirements. He stated that it is just shy of the 6,000 square feet that is needed. He advised that parking is not an issue because they are in excess of 750 square feet. He pointed out that the house was built as resident and has more recently been used as a residential property. He advised that he would allow for the two (2) units upstairs to remain with the option of having either a business or a single residential unit downstairs.

Mr. Friesen asked if the units are subject to rental inspections. Mr. Hauflaire confirmed that they would have to be inspected as rentals.

The public hearing was closed.

The public hearing was reopened.

Mr. Huber asked if any new owners would also be subject to the inspections. Mr. Hauflaire advised that they would.

The public hearing was closed.

Motion

A motion was made and seconded, Holtzinger/Fairfield, to approve petition 08-25UV with the one (1) condition listed in the Staff Report. The motion passed, 5-0.

VII. Audience Items - none

VIII. Staff/Board Items

Ms. McKenna stated that she doesn't like the tattoo sign on Elkhart Road. Mr. Hauflaire advised that the Board approved a sign of a certain size. Ms. McKenna stated that she believes that they approved a certain sign only. Attorney Kolbus stated that the staff will review the minutes.

Ms. Fairfield asked if the Board has any say over the sign if it is the correct size. Ms. Huffman noted that it then becomes a free speech issue.

Ms. Fairfield inquired about the person that sells puppies in the Market Center parking lot and asked if doing so is allowed. Ms. Huffman pointed out that he is out there every weekend selling puppies. Mr. Hauflaire advised that the Planning Office will look into the matter.

Regarding the order of proceedings during meetings, Ms. Huffman asked if it can be changed to have the Staff Report first. Attorney Kolbus noted that it can be done that way.

A motion was made and seconded, Huffman/McKenna, to amend the Rules of Procedure to change the order of proceedings for cases to first have the introduction, the Staff recommendations, petitioner comments, remonstrations (if any) and then any possible changes to the Staff recommendation. The motion passed, 5-0.

IX. Adjournment: 4:40 pm

Respectfully Submitted:

Becky Hershberger, Recording Secretary

Approved By:

Ardean Friesen, Chair

Karen Fairfield, Secretary