

Minutes - Goshen Board of Zoning Appeals  
Tuesday, June 26, 2018, 4:00 p.m.  
Council Chambers, 111 E. Jefferson Street  
Goshen, Indiana

***Assistant Planner Hunsberger introduced James Ramer who has been appointed to the Board of Zoning Appeals by the City Council to replace Doug Nisley and welcomed him to the Board.***

**I.** The meeting was called to order with the following members present: James Ramer, Aracelia Manriquez, Richard Aguirre, Brad Hunsberger, and Tom Holtzinger. Also present was Assistant City Planner Jon Hunsberger and Assistant City Attorney Jim Kolbus.

**II.** Approval of Minutes from 5/22/18: Aguirre/Manriquez 5-0

**III.** Filing of Zoning/Subdivision Ordinances and Official Staff Reports into Record: Hunsberger/Aguirre 5-0

**IV.** Postponements/Withdrawals: None

**V. Variances** – public hearing items

**18-07UV** – Romelito & Patricia Chico request a use variance to allow a second dwelling unit in an R-1 zoning district where two-family dwelling units are permitted in the Residential R-2, R-3, and PUD Districts and conditional uses in the R-1S and B-2 zoning districts. The subject property is generally located at 205 S Greene Road and is zoned Residential R-1 District.

*Staff Report:*

Assistant Planner Hunsberger explained this request is to convert an existing 940 SF attached pool room addition into a separate dwelling unit for an in-law suite containing sleeping space, bathroom, common area, and kitchen which is physically separated from the other dwelling unit. He also explained the Goshen Zoning Ordinance definition of a two-family dwelling unit, explaining the proposed in-law suite meets the definition. He explained two-family dwelling units are not permitted in the R-1 zoning district, noting the intent is to permit single-family, detached dwelling units. He further noted if this property was zoned Residential R-2 it would meet the developmental requirements of the zoning district and a two-family unit would be permitted. He pointed out if the cooking space was removed from this proposal, the pool room addition could be renovated as planned, therefore not creating a second dwelling unit. This would satisfy the R-1 requirements and no variance would be required. He noted that existing parking would also be sufficient. Staff recommends denial of the requested variance.

*Petitioner Presentation:*

Patricia Chico, 205 S Greene Rd, spoke to the petition. She stated they have looked into other options, but have been unsuccessful in finding living arrangements that will allow them to be together in separate living quarters. She stated that because their goal is to provide care for one another, she asked the Board to approve the request.

Mr. Aguirre asked if the kitchen could be removed from the addition.

Ms. Chico stated they can do this if necessary, but her mother would like her personal space.

Mr. Holtzinger asked if a microwave would be sufficient.

Ms. Chico stated her mother can use a microwave, but it is unclear to them if a sink and cabinets would be permitted. She also pointed out in the future a wheelchair might be necessary and does not know if the kitchen in the main part of the house would be accessible with a wheelchair.

Naomi Chapman, 1628 Aspen Drive, also spoke in support of the petition. She stated she does not do much cooking, but would like to have the ability to make coffee and have a refrigerator. She would like to keep her independence.

*Audience Comments:*

Jacob Palcic, stated he represents Patricia Turco, at 203 S Greene Road, and is present to speak in opposition to the petition. He stated his client understands the request is for an in-law suite and while she has no problem with the in-law suite, she is concerned that this could become a duplex rental at some point. His client feels this could have an adverse effect on the neighborhood. He stated while the lack of kitchen would cause a slight inconvenience, he does not feel there is a practical necessity for a variance. He asked that the Board deny the request.

Janet Johns, 12 Greenway Drive, also spoke in opposition to the petition. She stated she does not have a problem with the proposed in-law suite, but is concerned with future use.

Sharon Barrick, 11 Westfield Park, also spoke in opposition to the petition. She stated this has the potential to open a can of worms and feels this should remain a single family home.

Jim Miller, 11 Meadow Lane, also spoke in opposition to the petition. He stated he feels this neighborhood needs to remain single family, explaining if this variance is allowed, others in the neighborhood might decide to do the same thing. He also noted there are already several homes with multiple vehicles on the property.

Teri Rink, 17 Westfield Park, also spoke in opposition to the petition. She stated she has noticed numerous changes in the neighborhood since she moved here in 2009. She stated she is afraid if this is permitted, it will continue and more and more properties will become multi-family dwellings. She also commented on properties with multiple vehicles.

Ron Hout, 17 Greenway Drive, also spoke in opposition to the petition. He voiced concerns that this will have an adverse effect on property values.

*Petitioner Rebuttal:*

Ms. Chico stated that there are currently more vehicles on neighboring properties than she has on her property, pointing out a neighbor with a pool has numerous cars all season. She stated she understands the reason for rules and when the rules are changed for one person, that opens it up for others as well. She asked that the Board approve this request.

*The public hearing was closed.*

*Staff Discussion:*

Mr. Holtzinger asked Assistant Planner Hunsberger how many people can live in a single family home and to explain what constitutes a kitchen.

Assistant Planner Hunsberger clarified for the audience and Board members that this is not a rezoning; this request is for a variance from the R-1 requirements. In this case, the request is for a second dwelling unit where one is permitted on the R-1 zoning lot. In answer to Mr. Holtzinger's question regarding the number of persons that can live in a single family home, he pointed out that the zoning ordinance does not address this question, but it is determined by building codes. Regarding the kitchen, he noted we generally look at the appliances and any additional sink. He pointed out a counter with a microwave and a small refrigerator is not considered a kitchen.

Attorney Kolbus clarified for Board members that while this is not a rezoning, the use variance is for a use that is permitted in the R-2 zoning district. He went on to say if the variance is approved and vested, it will run with the land, which would likely cause concern for neighbors.

Mr. Hunsberger asked if we can stipulate this does not run with the land.

Attorney Kolbus stated a commitment could be included stating when this is no longer used for this person's parent it must be returned to a single family dwelling, but that would require monitoring.

Mr. Aguirre asked if there are any two-family homes in the neighborhood.

Assistant Planner Hunsberger stated that during his research, he did not find any properties with a second dwelling unit.

Mr. Holtzinger noted if the Board denies this request, they can still move forward with their plans provided they do not install the kitchen. He pointed out they can install a microwave and a few convenience items that will not constitute a kitchen. He acknowledged allowing this would set a precedent and recommended the Board deny the request.

Ms. Manriquez suggested this could be approved with the commitment that if they leave or sell the property, it must be converted back to a single family residence.

Mr. Holtzinger pointed out that Attorney Kolbus discussed this and noted how difficult it is to monitor future uses of the property. He stated he does not feel removing the kitchen would present a hardship.

*Action:*

A motion was made and seconded, Holtzinger/Ramer to find with the recommendations and conclusions of the Staff Analysis and deny 18-07UV for the reasons listed in the Staff Report. The motion passed by a vote of 4-1 (Holtzinger, yes; Ramer, yes; Aguirre, yes; Hunsberger, yes; Manriquez, no.)

**18-14DV** – Lippert Components Manufacturing, Inc. and Construction Design by Rodman, request a developmental variance to allow the construction of a three-sided enclosure over an existing self-containment area with a 3' side setback where 5' is required. The subject property is generally located at 2703 College Avenue and is zoned Industrial M-1 District.

*Staff Report:*

Assistant Planner Hunsberger explained this request is to allow the construction of a three-sided enclosure over an existing self-containment area that was installed several years ago without approvals or permits. When Staff reviewed it was determined there are no immediate structures or buildings so fire protection or prevention is not an issue. The structure is adjacent to the railroad tracks and not residential dwelling units. The request is to cover the existing foundation which was constructed with less than the required setback. The 3' setback where 5' is required will not have an adverse impact on the site. Staff recommends approval of the requested variance.

*Petitioner Presentation:*

Nancy Greer, Construction Design by Rodman, 109 E Clinton Street spoke on behalf of the petitioner. She stated she is familiar with the Staff Report and has nothing to add.

Mr. Holtzinger asked if there will be a roof over this and if it will be open on one side.

Ms. Greer confirmed there will be a roof and open on one side only.

Mr. Holtzinger asked what is stored in this enclosure.

John Simon, Lippert, 2703 College Ave, also spoke to the petition. He stated this is a containment area for waste materials. He stated this cover will help protect from rain and snow, making this site more environmentally friendly.

Mr. Ramer asked when the foundation was installed.

Mr. Simon replied approximately three years ago.

*Audience Comments:*

There was no one to speak to the petition.

*The public hearing was closed.*

*Staff Discussion:*

There was no discussion amongst the Board.

*Action:*

A motion was made and seconded, Hunsberger/Aguirre to find with the recommendations and conclusions of the Staff Analysis and approve 18-14DV with the three conditions listed in the Staff Report. The motion passed unanimously by a vote of 5-0.

**18-15DV** – LaCasa Real Estate Holdings, LLC requests developmental variances to allow a 3.5' rear setback where 25' is required and lot size of 5428.5 sf where 8000 sf is required, for the construction of a new single-family home. The subject property is generally located at 123 N 6<sup>th</sup> Street and is zoned Residential R-1 District.

***Mr. Hunsberger recused himself at 4:40 pm***

***Assistant Planner Hunsberger stated for the record that Brad Hunsberger is the petitioner for this case and has moved to the audience. He will not vote on this petition.***

*Staff Report:*

Assistant Planner Hunsberger explained this request is for a 3.5' rear setback where 25' is required for the construction of a new single-family home. He explained that there will be reasonable separation between the proposed structure and adjacent buildings for fire protection. He also pointed out this is an older neighborhood and several of the homes in the neighborhood have similar setbacks. He noted that it is necessary to relax the developmental standards in many of the older neighborhoods in order to allow improvements. In this case two lots were combined and still require a developmental variance to allow improvements. All other developmental requirements will be met and Staff recommends approval of the request.

*Petitioner Presentation:*

Brad Hunsberger, LaCasa, 202 N Cottage, spoke on behalf of the petitioner. He stated they previously demolished two dilapidated houses on these lots and have combined the lots in order to rebuild one, four bedroom house. He asked that the Board approve the request.

*Audience Comments:*

There was no one to speak to the petition.

*The public hearing was closed.*

*Staff Discussion:*

Mr. Aguirre asked if there were any neighborhood comments.

Assistant Planner Hunsberger stated one call was received from a neighboring property owner asking if he had to be at the meeting. There were no calls or comments regarding the proposal.

*Action:*

A motion was made and seconded, Aguirre/Manriquez, to find with the recommendations and conclusions of the Staff Analysis and approve 18-15DV based upon the three conditions listed in the Staff Report. The motion passed unanimously by a vote of 4-0.

***Mr. Hunsberger rejoined the meeting at 4:43 pm***

**18-16DV** – Zehr Construction, Inc. and John Blount & Tara Sparks request developmental variances to allow an addition to an existing detached garage with a rear setback of approximately 2' 6" where 5' is required and a side setback of 4' 6" where 5' is required. The subject property is generally located at 518 S 5<sup>th</sup> Street and is zoned Residential R-1 District.

*Staff Report:*

Assistant Planner Hunsberger explained this request is to allow an addition to an existing detached garage where the side setback is 4' 6" where 5' is required. He noted the rear setback, currently 2' 6", will remain unchanged. He pointed out there will be reasonable separation between this and any adjacent buildings for fire protection and also noted this setback will be consistent with neighborhood standards. He recommended approval of the request.

*Petitioner Presentation:*

David Zehr, Zehr Construction, 914 N 3<sup>rd</sup> Street, spoke on behalf of the petitioner. He stated he is familiar with Staff's recommendation and has nothing to add.

*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, Aguirre/Hunsberger to find with the recommendations and conclusions of the Staff Analysis and approve 18-16DV based upon the three conditions listed in the Staff Report. The motion passed unanimously by a vote of 5-0.

**18-17DV** – Insite Development, Creative Design, Inc., and City of Goshen Redevelopment request the following developmental variances, for the construction of 40 new multi-family dwelling units:

1. Parking stall dimensions (90 degrees) 8' and 8' 6" wide x 19' deep, where 9' wide x 20' deep is required and aisle width of 22' 11" where 24' is required;
2. 60 onsite parking spaces where 63 parking spaces are required;
3. Six studio apartments with 630 sf of living space where 720 sf of living space is required.
4. Building height of 4 stories, where 3 stories is permitted;
5. 90% building coverage where a maximum of 35% is permitted;
6. A 0' front yard building setback along 3<sup>rd</sup> Street and Jefferson Street where 35' is required;
7. A 0' side yard building setback along River Race Drive where 25' is required;
8. A 0' rear yard (north) building setback where 25' is required;
9. 30,201 sf of lot area where 80,000 sf is required and density of 58 units per acre where 20 units per acre are permitted;
10. 7 street side trees where 21 street side trees are required.

The subject property is generally located at 213, 219, & 223 S 3<sup>rd</sup> Street and 209 W Jefferson Street and is zoned Commercial B-2 District.

*Staff Report:*

Assistant Planner Hunsberger explained this 0.69 acre property is four tax parcels, bounded by three streets and one alley. The previous homes on these lots have been demolished. The intent is to construct a single, four story residential building that would accommodate up to 40 units. The complex, known as the River Art Apartments,

would include 60 on-site parking spaces on the ground level with the remaining three floors utilized for residential units, active spaces, and open spaces.

Assistant Planner Hunsberger noted other nearby, upcoming projects include the redevelopment of the north end of the nearby Hawks Building, a multi-use park, and a new 60 space City parking lot on the south side of Jefferson Street, 20 spaces of which will be reserved for the new River Art Apartments.

Staff feels this is a unique development where new construction and opportunities are limited by available space. He explained that most of these variances are required because there is no commercial use on the main level which is required in the B-2 District. He went on to explain that development in the B-2 with no commercial use on the main level is considered a residential structure and defers to the R-3 zoning requirements. If commercial space was included with this proposal, they could have a zero lot line, and up to 90% lot coverage would be permitted.

Staff recommends approval of the requested variances.

*Petitioner Presentation:*

Scott Sivan, Insite Development, 117 W Grove St, Mishawka, spoke on behalf of the petitioner. He stated they have been working closely with City staff to come up with a plan that will continue the revitalization of the downtown district. He noted the proposed ice skating rink and the redevelopment of the Hawk's Building as part of this revitalization. He stated their proposal also adds a park and open space and feels this project will be a win-win for everyone.

Mr. Holtzinger asked the reason for a four story building as opposed to a three story building.

Mr. Sivan stated comprehensively this is not a four story building, but stepping, noting apartments on the west will have a view of the park and rink, and terraces will be on the third floor roof, which is part of the reason for the 4<sup>th</sup> story. He explained part of this stepping came out of a previous meeting because one of the neighbors was concerned about shadows. He pointed out they stepped the building to allow more light to the north side of the building, so it's not a full 4<sup>th</sup> floor. He pointed out three floors are residential, with parking on the entire ground floor. He also pointed out the building is "U" shaped with the central portion of the building an outdoor podium on the second floor.

Mr. Aguirre asked what type housing this will be.

Mr. Sivan stated the intent is for this to cover the entire demographic range of people. Apartments will range from studio to three-bedroom apartments.

Mr. Holtzinger asked if they are also designing the proposed park.

Mr. Sivan stated it will be designed by them, but in cooperation with the City. The park will eventually become a City park.

*Audience Comments:*

Jeremy Stutsman, 202 S 5<sup>th</sup> Street, spoke in support of the petition. He stated the City supports this project and feels this will be a good fit for the area. He asked for support from Board members.

Mr. Sivan explained one of the reasons they did not include a commercial retail use on the ground floor in the building is because he doesn't feel they should be competing with downtown storefronts, but should instead be bringing consumers to those storefronts.

Rick Crowder, 211 S 3<sup>rd</sup> Street spoke to the petition. He stated he is generally supportive of the request, but has concerns regarding the parking and asked how parking requirements are determined. He also noted that during winter months he will not have sunlight coming into his building. He stated he appreciates the stepping that is proposed for the building and hope that will offset some of his concerns.

Assistant Planner Hunsberger explained to the Board how parking requirements are determined, noting that based upon the breakdown of the units, 63 spaces would be required with 60 spaces available onsite and the other three could be part of the 20 spaces dedicated to the River Art. The 20 spaces could be used for the residents or visitors.

*Petitioner Rebuttal:*

Mr. Sivan stated the 63 required spaces in the request is based on 40 units, but there are currently 37 units, so 60 spaces should cover everyone in the building.

He stated the stepping of the building was motivated by discussion from one of the last meetings. He noted in consideration of the neighboring property they also did shadow studies and feel they did what they could to allow more light to filter through.

Mark Brinson, 204 E Jefferson Street, explained plans for a left turn lane from 3<sup>rd</sup> Street onto Jefferson Street, noting the Engineering Department did a traffic study and determined traffic would flow quite well. The current plan is to remove a portion of the existing median from 3<sup>rd</sup> Street to allow left turns onto Jefferson Street.

*The public hearing was closed.*

*Staff Discussion:*

Mr. Aguirre asked what calls were received regarding this request.

Assistant Planner Hunsberger stated one call asking for more information was received from David Mehas of David George and Associates. The request was clarified for Mr. Mehas.

*Action:*

A motion was made and seconded, Aguirre/Holtzinger to find with the recommendations and conclusions of the Staff Analysis and approve 18-17DV based upon the three conditions listed in the Staff Report. The motion passed unanimously by a vote of 5-0.

**VI.** Audience Items:  
None

**VII.** Staff Board Items:

- *Assistant Planner Hunsberger noted for the record that a residency form has been received from James Ramer.*
- *6-month extension for 18-01DV & 18-01UV, 125 S 6<sup>th</sup> Street, from 7/23/18 to 1/23/19*

Mr. Hunsberger stated Mr. Koch needs additional time to assess amending his variance and to ensure he understands his options moving forward. Mr. Koch obtained a use variance in January 2018 to permit a sewing business along with a developmental variance for signs. As part of that variance, he asked to retain two freestanding signs which Staff recommended in their report to the Board, be removed. Mr. Koch inadvertently asked that the sign along 6<sup>th</sup> Street be allowed to remain, instead of asking that the sign along Washington be permitted to remain. This will require that he return to the Board with a new petition to amend the variance.

*Action:*

A motion was made and seconded Hunsberger/Aguirre to grant a six-month extension for 18-01DV & 18-01UV for 125 S 6<sup>th</sup> Street, from 7/23/18 to 1/23/19. The motion passed unanimously by a vote of 5-0.

**VIII.** Adjournment: 5:15 pm

Respectfully Submitted:

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Lori Lipscomb, Recording Secretary

Approved By:

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Tom Holtzinger, Chair

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Richard Aguirre, Secretary