

Minutes - Goshen Board of Zoning Appeals
Tuesday, September 27, 2016 4:00 p.m.
Council Chambers, 111 E. Jefferson Street
Goshen, Indiana

- I.** The meeting was called to order with the following members present: Tom Holtzinger, Aracelia Manriquez, Kelly Huffman, and Ardean Friesen. Also present was Assistant City Planner Abby Wiles and Assistant City Attorney Jim Kolbus. Absent: Felipe Merino
- II.** Approval of Minutes from 8/23/16: Holtzinger/Manriquez 4-0
- III.** Filing of Zoning/Subdivision Ordinances and Official Staff Reports into Record: Holtzinger/Huffman 4-0
- IV.** Postponements/Withdrawals: None
- V. Variances** – public hearing items
16-24DV – Archie Sexton requests developmental variances to allow a front (south) yard setback of 27’ where 35’ is required along W Lincoln Avenue and to allow open parking spaces within the front yard setback (W Lincoln Avenue). The subject property is generally located at 102 N Riverside Blvd and is zoned Residential R-2 District.

Staff Report:

Ms. Wiles explained this is a single-family home with a one car garage, located on the northeast corner of N Riverside Blvd and W Lincoln Avenue. Today’s request is to allow a new open parking space in the front yard setback and a front (south) yard setback of 27 feet where 35 feet is required along W Lincoln Avenue. The Zoning Ordinance prohibits new open parking in the front yard or on the street side of a corner lot. The driveway would be approximately 12 feet wide by 78 feet long, extending the entire length of the backyard from the alley to the rear of the home. According to the petitioner, he cannot move the driveway farther north because a mature tree would have to be removed in order to extend the driveway all the way to the house.

The petitioner could move the proposed driveway to the north and shorten the length, adding an area that would meet the parking stall width and depth requirements and also meet setback requirements of the Zoning Ordinance. The neighboring property at 104 N Riverside has a parking area similar to what is recommended by Staff and a photo is included in the Staff Report. Any improvements would be required to be constructed with a durable, hard surface, such as concrete or asphalt.

Staff recommends denial of the variance as a parking area could easily be installed that meets the requirements of the Zoning Ordinance.

She noted for the record that four calls were received regarding this petition. One call was for clarification, two were generally opposed, and one was not opposed, but would like to ensure that the improved area looks neat.

Petitioner Presentation:

Archie Sexton, 102 N Riverside Blvd, spoke to the petition. He stated he cannot park in front of his house and has been told he cannot park in the yard. In order to meet the setback he would have to remove a mature tree in his backyard and he does not want to do that.

Mr. Holtzinger asked if he could park off of the alley, similar to the way his neighbor to the north does.

Mr. Sexton stated that would be difficult in the winter time to remove snow between the parking area and his house.

Mr. Friesen asked if he could put a sidewalk from the house to the parking area.

Mr. Sexton agreed that might be possible, but the parking pad would have to be 30 to 35 feet long.

Ms. Wiles pointed out that based upon the aerial; Mr. Sexton could construct a parking space approximately 30 feet long without removing the existing tree.

Mr. Sexton stated that would not be feasible because he would have to butcher the tree in order to make it work. He asked that the Board approve his request.

Audience Comments:

Marianne Hite, 102 S Riverside spoke to the petition. She stated she is neither for nor against the petition, but would prefer that the petitioner park off of the alley instead of in the side yard.

The public hearing was closed.

Staff Discussion:

Mr. Friesen stated he understands why the petitioner would like to park close to his house, but feels that would make a change to the neighborhood and that it could be just as nice if he installs a parking pad as recommended by Staff and put in a sidewalk to the back door. He pointed out no variance would be required in order to do that.

Action:

A motion was made and seconded, Friesen/Holtzinger, to find with the recommendations and conclusions of the Staff Analysis and deny 16-24DV with the reasons listed in the Staff Report. The motion passed unanimously by a vote of 4-0.

16-20UV – Rod N Reel Coffee, Inc and Premiere Signs request a use variance to allow two, 4' x 4' (16 square foot) non-illuminated roof-mounted signs on the north and east elevations where roof-mounted signs are not permitted. The proposed signs are in addition to one wall sign on each elevation. The subject property is generally located at 707 Lincolnway East and is zoned Commercial B-1 District.

Staff Report:

Ms. Wiles explained this property is Cabin Coffee and it was granted a use variance for a drive-thru restaurant in October 2015. With the approval, a number of conditions and commitments were included with approval. No developmental variances were requested as part of this approval and Planning records show the developmental requirements were communicated to the petitioner's agent and real estate broker before the petition was filed.

Today's request is to allow two 16 SF (4'x4') non-illuminated roof-mounted signs, one each, on the north and east elevations. Roof-mounted signs are not permitted in any zoning district in the City of Goshen. The attached artwork shows the two signs will be placed on two walls extending beyond the roofline, on the north and east elevations. These roof-mounted signs would be in addition to the one wall sign on each elevation. The Commercial B-1 zoning district allows only one wall sign on the façade of a wall facing a public street, flush-mounted and non-illuminated.

The October 2015 the Staff recommendation was to approve the variance, based on the minimal changes to the site and the small scale of the business. The request was supported, partially because the petitioner planned to meet all developmental requirements of the Zoning Ordinance, including parking, landscaping and signage. Approval of today's request is not consistent with the intent of the B-1 District and approval would allow two signs on both the north and east facades where the B-1 allows one. Staff recommends denial of the request.

Petitioner Presentation:

Brad Barber, 707 Lincolnway East, Goshen spoke to the petition. He stated that they have several Cabin Coffee locations in residential areas and neighbors feel the coffee shop is an asset to the area. He presented photographs (*Exhibits 16-20UV “A & B”*) stating that these are photos of various stores and were shared with the Board during the initial variance request last year. He explained that the photo (*Exhibit A*) is what the Goshen store looks like. He went on to say the purpose of the wall sign is to connect to the community, noting that customers like to have their photographs taken in front of the sign at different Cabin Coffee locations. He also provided photographs (*Exhibit 16-20UV #1 & #2*) showing what the star on the storefront will look like. He stated these stars will be unlighted, but its felt something is needed higher on the building to help customers find them.

Ms. Wiles pointed out when Mr. Pharis presented the petition at the October 2015 meeting, the meeting minutes indicate he told the Board the building would look residential in character, but when he provided the handout showing different Cabin Coffee locations, he did not say which building the Goshen location would look like. She explained that she did not feel those details were understood at the 2015 meeting.

Mr. Barber stated their intention at the first meeting was in getting approval to have a Cabin Coffee on this location and did not want to go through a lot of the process because they were trying to keep costs down in case the request was denied.

Mr. Holtzinger asked what their plans are if this request is denied by the Board.

Mr. Barber stated they would only have a four foot by four foot sign on the side of the building that is approximately six foot high.

Mr. Holtzinger asked if there would be an illuminated sign in front.

Mr. Barber stated there would also be a small illuminated monument sign, but felt the additional signs are critical to their business. He questioned how this sign would negatively affect the neighborhood.

Mr. Friesen stated Goshen has gone through several sign ordinances and they have determined that no roof mounted signs will be allowed; that is just Goshen’s standard.

Audience Comments:

Melanie Farver, 14933 Falcon Lane, Goshen, also spoke to the petition. She stated she is one of the owners and if she has to choose between the wall and star signs, she prefers to use the star sign.

Mr. Merino joined the meeting at 4:29 pm.

Mark Farver, 14933 Falcon Lane, Goshen, also spoke to the petition. He stated there is a car dealership on the north side which makes their building hard to see. He stated that he feels traffic might move past before they realize the coffee shop is there, but if the sign is visible, it will help alert drivers to the coffee shop.

Mr. Friesen asked if the star sign is approved in lieu of the wall sign, would they want to come back later for permission to have the sign lighted?

Mr. Farver stated they have no intention of lighting the star sign.

Junior Troyer, 1215 E Douglas Street, spoke in support of the petition. He stated he lives close by and feels this is a great asset to the neighborhood. He has no concerns regarding the star sign.

The public hearing was closed.

Staff Discussion:

Mr. Friesen noted for the record that 46 notices were mailed out.

Ms. Huffman stated she and other neighbors were concerned about traffic when this petition was originally heard, but this is a local family bringing a new franchise into the community and now we are arguing over the little star

they want to use. She stated they have done an amazing job with the outside of the building and all they want is this unlighted star. She stated she is in favor of allowing the unlighted stars and does not feel they need to trade the wall signs in order to have these star signs.

Mr. Holtzinger stated he is also in favor of allowing both the wall signs and the roof mounted star signs.

Action:

A motion was made and seconded, Huffman/Holtzinger, to accept the findings of the Board and approve 16-20UV with the following conditions and commitments:

Conditions:

1. An approved zoning clearance form is required before a Building permit is issued.
2. The variance shall become null and void unless a Building permit has been issued and substantial progress has been made within six (6) months of the date of approval.
3. Deviation from the requirements and conditions of the variance may result in the cancellation or termination of the approval or permit.
4. The City of Goshen Board of Zoning Appeals approval shall be effective when the executed and recorded Result Letter/Commitment form has been returned to the City of Goshen Board of Zoning Appeals staff and when all conditions of approval have been met.
5. No zoning clearance form will be issued until the executed and recorded Result Letter/Commitment form has been returned to the City of Goshen Board of Zoning Appeals staff and until all conditions of approval have been met.

Commitments:

1. The roof-mounted signs must be as shown on the photographs presented by the petitioner to the City of Goshen Board of Zoning Appeals at its September 27, 2016 meeting and marked as “Exhibit 16-20UV #1 & #2”.
2. The roof-mounted signs must be non-illuminated.

The motion passed by a vote of 4-0 with Mr. Merino abstaining.

16-25DV – MR Realty, LLC, Construction Design by Rodman, and Genesis Products request developmental variances to allow a 28’ side (west) yard setback where 100’ is required for a building abutting a residential zoning district for an approximate 29,660 square foot building addition and to allow an alternative landscape plan in lieu of full bufferyard landscaping where full bufferyard landscaping is required between an Industrial M-1 zoning district and a single-family residential land use along the south property line. The subject property is generally located at 2515 Industrial Park Drive and is zoned Industrial M-1 District.

Staff Report:

Ms. Wiles explained this property is Genesis, located in the Goshen Industrial Park. Today’s request is for developmental variances for an approximate 29,660 square foot building addition and parking expansion. The first request is to allow a 28’ side (west) setback for the building addition, where 100’ is required abutting a residential zoning district. The properties located immediately west (not east as stated in the Staff Report) are zoned Residential R-1 and owned by the City of Goshen, with plans to utilize these properties for a retention pond to address drainage issues in the Industrial Park. A reduced setback between the building and retention pond is acceptable.

A variance is also requested to allow an alternative landscape plan in lieu of full bufferyard landscaping where full bufferyard landscaping is required between an Industrial M-1 zoning district and a single-family residential land use. She explained what full bufferyard landscaping consists of, noting the petitioners propose only partial landscaping. The City Forester recommends that the petitioner meet full bufferyard landscaping which would be consistent with the landscaping across the street and east, except that the neighboring property does not have deciduous trees.

According to the petitioner's agent, the dumpsters located along Industrial Park Drive will be relocated out of the front yard setback as part of this project.

Staff recommends approval of the reduced setback adjacent to the R-1 zoning district and denial of the alternative landscape plan.

Petitioner Presentation:

Brad Rodman, CDR Construction, 109 E Clinton Street, Goshen spoke on behalf of the petition. He stated after speaking with Ms. Wiles, he understands what can be done to meet the Zoning Ordinance requirements and does not require a variance. He stated there was misunderstanding regarding the trees and the possibility they would grow into the power lines.

Ms. Wiles stated their request is to meet approximately half of the requirements, explaining how the full landscape plan would look and how it compares to what has been submitted by the petitioner. She stated the intent here is to create a buffer, so if the requirements are relaxed, she prefers to see shrubs and coniferous trees over the deciduous trees shown on the site plan. She explained that the petitioner would need to add more to the landscape plan in order to meet the requirements.

Mr. Rodman stated he understands.

Mr. Friesen asked for verification that the dumpsters will be moved.

Mr. Rodman stated that yes, they will be moved.

Mr. Holtzinger asked if they could duplicate the landscaping across the street to the east.

Ms. Wiles stated a variance would still be required since there are no deciduous trees across the street.

Ms. Huffman asked if the petitioner is requesting to withdraw the variance request.

Mr. Rodman stated they would like to ask for relief from part of the landscape requirements, so they are not required to plant something that will likely grow into the power lines.

Ms. Wiles clarified that if they choose small trees over medium trees, growing into the power lines will not be an issue.

Mr. Rodman stated he has nothing to add regarding the setback.

Audience Comments:

There was no one to speak to the petition.

The public hearing was closed.

Staff Discussion:

Mr. Friesen noted that this section of town looks good and he is hesitant to lessen the landscape requirements. He stated he would be willing to have him work with the Planning Office to come up with a plan.

Action:

A motion was made and seconded, Huffman/Holtzinger, to find with the recommendations and conclusions of the Staff Analysis and approve the developmental variances to allow a 28' side (west yard setback where 100' is required) and to deny the developmental variance to allow alternative landscaping in lieu of full bufferyard landscaping for 16-25DV with the five conditions listed in the Staff Analysis. The motion passed unanimously by a vote of 5-0.

16-26DV – LaCasa, Inc. requests developmental variances to allow a front (east) yard setback of 14' where 30' is required along Olive Street and a rear (west) yard setback of 9' where 25' is required for the construction of a new

single-family home. The subject property is generally located at 323 Olive Street and is zoned Residential R-2 District.

Staff Report:

Ms. Wiles explained this is a vacant parcel at the southwest corner of Olive and Center Streets and one of several residential infill sites that LaCasa plans to develop over the next few years. Today's request is for a front (east) yard setback of 14 feet where 30 feet is required. While there is a provision in the Zoning Ordinance to meet the average setback of the houses on the same side of the street in the same block, a developmental variance is still required as the proposed setback is less than the average.

A rear (west) yard setback of nine feet where 25 feet is required is also requested. Detached garages require a minimum rear yard setback of five feet, but attached garages meet the setback requirements for the primary structure, which is 25 feet. The single-family home will meet all other developmental requirements, including lot area, lot coverage, parking and connection to City water and sewer. Infill development is also supported in the Comprehensive Plan. Staff recommends approval of the requested variances.

Petitioner Presentation:

Brad Hunsberger, LaCasa, 202 N Cottage Avenue, Goshen spoke on behalf of the petition. He stated he is familiar with the Staff report 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 the Board members.

Action:

A motion was made and seconded, Holtzinger/Merino, to find with the recommendations and conclusions of the Staff Analysis and approve 16-26DV with the four conditions listed in the Staff Report. The motion passed unanimously by a vote of 5-0.

16-27DV – LaCasa, Inc. requests a developmental variance to allow a rear (west) yard setback of 11' where 25' is required for the construction of a new single-family home. The subject property is generally located at 701 N 5th Street and is zoned Residential R-1 District.

Staff Report:

Ms. Wiles explained this is a vacant parcel located at the northwest corner of N 5th Street and E Oakridge Avenue and another infill site that LaCasa plans to develop over the next several years. In 2008, a developmental variance was granted to allow a lot area of 4,717 SF where 8,000 SF is required, along with a reduced rear yard setback. The reduced rear yard setback variance has expired, but the reduced lot area was vested through the Replat of the 700 Block of N 5th Street.

Today's request is to allow a rear yard setback of 11 feet where 25 feet is required for the construction of a new single-family home. The home will meet the average front (east) setback, which is permitted by the Zoning Ordinance. A south (front) setback along E Oakridge will also meet the average in that block. The proposed single-family home is proportionate to the lot and consistent with developmental patterns of the surrounding area. Infill development is also supported in the Comprehensive Plan. Staff recommends approval of the requested variance.

Petitioner Presentation:

Brad Hunsberger, LaCasa, 202 N Cottage Avenue, Goshen spoke on behalf of the petition. He stated, as noted in the Staff report, this is part of a larger plan to build single-family homes on infill lots throughout the City. He asked that the variance be granted.

Audience Comments:

Mike Weaver, 708 N 5th Street spoke in opposition to the request. He stated his only concern is that this is a dangerous corner and this house will block the view of traffic at the intersection. He noted there is a park across the street and he is concerned about the safety of children in the neighborhood.

Mr. Friesen questioned if a house was on this lot previously.

Mr. Weaver stated there was, but it was setback farther on the lot and faced the opposite direction.

Mr. Friesen stated the new house will be setback farther than the house immediately north.

Mr. Merino questioned if there are stop signs here.

Mr. Weaver stated there are stop signs for the east/west traffic, but not for the north/south traffic. He reiterated this is a dangerous intersection.

Mr. Hunsberger stated the previous house was torn down three or four years ago, but his recollection is that the new house is in line with the house to the north. He noted for the record they are outside the 50 foot vision clearance area.

The public hearing was closed.

Staff Discussion:

There was no discussion amongst Board members.

Action:

A motion was made and seconded, Merino/Holtzinger, to find with the recommendations and conclusions of the Staff Analysis and approve 16-27DV with the five conditions listed in the Staff Report. The motion passed unanimously by a vote of 5-0.

16-28DV – Vinhan Enterprises III, LLC and Jones Petrie Rafinski request developmental variances to amend the commitments of 14-22DV to permanently allow recreational vehicle sales and display on a lot without a primary building, to allow recreational vehicle sales and display in the front yard setback along Elkhart Road, to allow 15 parking spaces where 83 spaces are required, and to allow recreational vehicles to be parked/stored on an unimproved (grassy) surface. The subject property is generally located at 3208 Elkhart Road and is zoned Commercial B-3 District.

Staff Report:

Ms. Wiles explained the BZA approved developmental variances in August 2014 for the development of a RV sales and display lot on Lot 1A in Vinhan Enterprises 3 Subdivision. The petitioner now wishes to expand the lot to the western section of Lot 2A as well. The 2014 approval permitted RV sales and display on a lot without a permanent building, but required that a building be constructed within three years from the date of approval. The 2014 approval also permitted 15 parking spaces where 23 spaces are required.

Today's request is for several developmental variances associated with the expansion of the RV sales and display lot. The first is to amend the commitments of the 2014 approval (14-22DV) to permanently allow RV sales and display on a lot without a permanent building. The Zoning Ordinance requires that all business activity shall be conducted in a completely enclosed building and per Attachment A in the packets; sales and business activity for the Goshen RV Supercenter currently takes place within the existing Goshen Motors buildings, north and adjacent

to Lot 1. She stated that during a site inspection of the property on September 19, 2016, Planning staff noted that sales and business activity appears to be taking place in a recreational vehicle parked/stored on the lot.

Request number two is to permit RV sales and display in the front yard setback. According to the site plan, the RVs appear to have an approximate setback of 15' where 35' is required along Elkhart Road. It also appears that RVs are parked within the Elkhart County Drainage Board ditch easement. In 1996, a variance of 35' into the statutory 75' setback on Leedy Ditch was granted by the Elkhart County Drainage Board. It appears the RVs are parked in the reduced ditch easement.

Request number three is to allow 15 parking spaces where 83 spaces are required. In 2014, 23 spaces were required. Based upon the expanded area of the lot, an additional 60 spaces would be required. Per the site inspection on September 19th, it appears that most of the parking spaces were occupied.

The final variance is to permit RVs to be parked/stored on an unimproved surface (grass). Per the Board of Works standards, a durable hard surface is required for new and/or expanded parking spaces and driveways.

Ms. Wiles pointed out this property is highly visible on a busy arterial street and is within a newly developed subdivision, with sufficient property to meet the required setbacks. The Zoning Ordinance also requires that all business activity take place in a permanent building and that all new or expanded driving aisles should meet the Board of Works (BOW) standards. Because of these reasons, Staff recommends denial of the requested variances. She went on to say if the BZA chooses to approve the expansion, she recommends they require some form of improved surface, such as gravel, pointing out if hard surface is not required, it would require BOW approval. Staff also requests that some additional parking be provided and that the petitioner submit to the Elkhart County Drainage Board for approval of encroachment into the ditch easement. Staff does not recommend an amended approval for the front yard setback or the permanent building.

Petitioner Presentation:

Dzung Nguyen, 3220 Elkhart Road, Goshen spoke to the petition. He stated he would like to expand his business and as a retailer and that displaying his merchandise is very important. He stated they conduct all business activities in the permanent Hyundai building, noting it is not feasible at this time to construct a new building for the RV sales lot. He noted that the RVs are open for customers to see the inside and while they have sales people staged inside, the sales are all conducted in the Hyundai building. He stated there are only two employees, a sales manager and a sales person, so he feels the requirement of 83 parking spaces is excessive. He explained that an RV is actually more of a lifestyle and that sometimes displaying near a pond or in the grass is more conducive to business. He asked that the Board approve these variance requests so they can continue growing the business.

Mr. Holtzinger pointed out that when this was originally granted, it was for a three year period and asked if Mr. Nguyen was aware of that fact.

Mr. Nguyen stated he was aware, but this is only their second year in business and financially, it is not feasible at this time.

Mr. Holtzinger noted the photograph from Ms. Wiles' site visit showed most of the parking spaces were filled and asked if that is typical.

Mr. Nguyen stated because customers come and go, the parking spaces are typically filled for half of the day.

Mr. Holtzinger asked if he feels the parking needs to be expanded.

Mr. Nguyen stated he feels the 15 existing spaces are sufficient.

Mr. Holtzinger asked if rain and other conditions would affect parking on grassy surface and if it would be cause for concern down the road.

Mr. Nguyen stated they mow and maintain this area and feel this is a better option than allowing the grass to grow up. He noted the rain and mud are a problem, but the RVs are moved around to show other product.

Mr. Holtzinger asked when Mr. Nguyen anticipates constructing the new building for the RV sales. Mr. Nguyen responded he has no answer for that question because he does not want to build a new building when he doesn't feel he can get a return on his investment.

Mr. Friesen questioned if RVs are serviced here as well. Mr. Nguyen stated RVs are serviced next door in the Hyundai building.

Mr. Friesen noted that RV are generally going out in record numbers and questioned if this wouldn't be a good time to build the new building. He also asked if the RVs could be staged on the west, as opposed to on the road by Leedy Ditch. He noted this is his biggest concern of this proposal.

Mr. Nguyen stated when you are driving along at 50 miles per hour it is not a good merchandizing strategy to have RVs parked next to each other. He also commented that just because business is good today, it does not mean he should go out and build a million dollar building. He stated they will build when the return on investment is there.

Audience Comments:

Jeremy Stutsman, 202 S 5th Street, Goshen spoke in support of this petition. He stated he feels this is something new for Goshen and while he realizes Staff is working with the current Zoning Ordinance, he questioned if this is something that should be addressed through new ordinances. He stated Mr. Nguyen is a good corporate citizen and feels these requests are appropriate. He stated he has been at the dealership several times recently and has never had an issue finding a place to park. He asked the Board to find a creative way to approve this so this project can move forward. He also noted there are currently two buildings on the property and feels working out of those buildings should be acceptable as well.

Ms. Huffman stated she is not aware of anywhere else in Goshen that sells RVs and likes the fact that this is being done here. She voiced concern though, that parking is on the grass and asked Mayor Stutsman for his views. Mayor Stutsman stated these trailers will not be dripping oils like automobiles would be, but if the Board feels an upgrade to gravel or such would be necessary, he would support that.

Mr. Friesen agreed with Ms. Huffman and also asked if the City will be comfortable allowing other businesses to open without permanent buildings.

Mr. Merino stated that is why he questioned Mr. Nguyen earlier regarding his dealer license and that Mr. Nguyen meets the requirements. He also agreed with Ms. Huffman that this is the kind of thing we want to see in Goshen. He noted he would like to see something more done with the landscaping if they are going to park RVs on the grass; perhaps do something to make it look like the rugged outdoors by using park benches or some sort of picnic area.

Mayor Stutsman responded to Mr. Friesen's question regarding new businesses operating in Goshen without a permanent building by saying he would not support the request, but stated he feels this is different because this is an established business that is simply expanding.

Ms. Wiles clarified that there are four variance requests before the Board today and while she understands wanting as much visibility as possible for the RVs, of most concern to her is the request for parking within the front yard setback. She asked Mayor Stutsman if he had any concerns regarding this part of the request.

Mayor Stutsman stated he is indifferent on this matter and feels if it is displayed well, it could be very nice.

Mr. Friesen asked what the Elkhart County Drainage Board would think about this encroachment.

Ms. Wiles stated she has requested they submit to the Elkhart County Drainage Board if this is approved by the BZA, explaining this is their easement to enforce, not the City's.

Chris Chockley, 412 S Lafayette Blvd, South Bend, spoke to the petition, stating that they will go before the Elkhart County Drainage Board for review to see what is allowed. He pointed out that from the edge of the road

to the lot is approximately 85 feet and that allowing the RVs into the easement, they will be more visible from the street.

Rebuttal:

Mr. Friesen asked Mr. Nguyen if he has any opposition to installing landscaping in the setback area.

Mr. Nguyen stated their intention is to beautify the remaining land.

Attorney Kolbus stated he is unsure if they can plant anything in the easement area.

The public hearing was closed.

Staff Discussion:

Ms. Wiles stated she understands that everyone likes the concept of a park-like atmosphere, but does not know how we could make that a condition or commitment for the long-term.

Ms. Huffman questioned if the Board should have them return for review in three years.

Mr. Holtzinger stated he likes the idea, but recommended a review in five years.

Action:

A motion was made and seconded, Huffman/Holtzinger, to adopt the findings of the board and approve 16-28DV with the following conditions and commitments:

Conditions:

1. Deviation from the requirements and conditions of the variance automatically cancels and terminates the approval or permit.
2. The City of Goshen Board of Zoning Appeals approval shall be effective when the executed and recorded Result Letter/Commitment form has been returned to the City of Goshen Board of Zoning Appeals staff and when all conditions of approval have been met.
3. No zoning clearance form will be issued until the executed and recorded Result Letter/Commitment form has been returned to the City of Goshen Board of Zoning Appeals staff and until all conditions of approval have been met.

Commitments:

1. The approval is granted for a period of five (5) years from the date of the City of Goshen Board of Zoning Appeals approval on September 27, 2016; at which time it must be reheard by the City of Goshen Board of Zoning Appeals following a new application and a new public hearing.

The motion passed unanimously by a vote of 5-0

VII. Audience Items:
None

VIII. Staff Board Items:
• *Partial Release of Judgment, 1375 Lincolnway East*

Attorney Kolbus explained that several years ago there was litigation regarding a face change for a sign at the former Holiday Inn. Subsequent to that court judgment, we changed the sign ordinance and because the Redevelopment Commission is in the process of selling this property, we need to have this judgment released for this real estate. He asked that the Board make a motion to authorize the Zoning Administrator to sign off on the release of judgment.

Action:

A motion was made and seconded, Friesen/Holtzinger, to approve the Partial Release of Judgment for 1375 Lincolnway East. The motion passed unanimously by a vote of 5-0.

IX. Adjournment: 5:42 pm

Respectfully Submitted:

Lori Lipscomb, Recording Secretary

Approved By:

Ardean Friesen, Chair

Kelly Huffman, Secretary