

Minutes - Goshen Board of Zoning Appeals  
Tuesday, February 28, 2017, 4:00 p.m.  
Council Chambers, 111 E. Jefferson Street  
Goshen, Indiana

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

**II.** 2017 Board of Zoning Appeals Appointments

- *Doug Nisley – Appointed by the City Council for a term of four (4) years 2/7/17 – 12/31/20*
- *Brad Hunsberger – Appointed by the City Council and the Mayor’s Office as a permanent alternate for both Council’s and Mayor’s appointments 2/7/17 – 12/31/17*

**III.** Election of Officer (Secretary) for 2017:

Mr. Holtzinger stated Cathie Cripe was elected Secretary at the January meeting, but something has come up and it is not known when she will be joining the Board. For that reason, a new secretary should be appointed.

A motion was made and seconded, Nisley/Manriquez to appoint Richard Aguirre as Secretary. The motion passed unanimously by a vote of 5-0.

**IV.** Approval of Minutes from 1/24/17: Aguirre/Manriquez 5-0

**V.** Filing of Zoning/Subdivision Ordinances and Official Staff Reports into Record: Nisley/B. Hunsberger 5-0

**VI.** Postponements/Withdrawals: None

**VII. Variances – public hearing items**

**17-02UV** – Steven & Rhonda Dolby and Lou Ann Stoner request a use variance to permit a real estate office in an Industrial M-1 zoning district, where the use is conditional in the Commercial B-1 and PUD zoning districts and permitted in the Commercial B-2, B-3 and B-4 zoning districts. The subject property is generally located at 511 E Reynolds Street and is zoned Industrial M-1 District.

*Staff Report:*

Mr. Hunsberger explained this request is to permit a professional office in an M-1 zoning district, where professional offices are not a permitted use. Maplewood Realty Group has an office at this location with four employees and office hours generally of Monday through Friday, 9:00 am to 5:00 pm. Parking requirements are met with five spaces required and six onsite spaces proposed. This is a low intensity use that would serve as a buffer between residential and industrial uses in the area. Staff recommends approval of the request.

*Petitioner Presentation:*

Lou Ann Stoner, 511 E Reynolds, spoke on behalf of the petitioner. She stated she is familiar with the Staff Report and has nothing to add.

Steven Dolby, 18229 County Road 126, Goshen, spoke to the petition. He stated he is the property owner and is also familiar with Staff's recommendations. He stated he 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/B. Hunsberger, to find with the recommendations and conclusions of the Staff Analysis and approve 17-02UV with the six conditions and one commitment listed in the Staff Analysis. The motion passed unanimously by a vote of 5-0.

**17-05DV** – Maple City Health Care Center, ERI Consulting and DJ Construction request a developmental variance to allow a zero foot setback along the west property line where five feet is required for a parking/driving aisle. The subject property is generally located at 213 Middlebury Street and is zoned Residential R-1 District.

*Staff Report:*

Mr. Hunsberger explained this property consists of six parcels owned by Maple City Health Care Center, noting that numerous variances have been granted for this property over the years. He gave a brief overview of the variances that have been approved for the property, noting that today's request is to permit a zero foot setback along the west property line for a parking lot, where five feet is required. He explained that a variance for a parking lot was approved in May 2016, with a six-month extension granted in November 2016. A boundary survey was completed for this property to identify the exact location of the west property line and it was discovered that the lot line was five feet farther east than originally identified on the site plan, resulting in the location along the west side of the parking lot nearly on the west property line. Rather than redesign the parking lot, the petitioner has elected to request a developmental variance from the BZA. Staff recommends approval of the request.

*Petitioner Presentation:*

James Nelson Gingerich, 213 Middlebury Street, Goshen, spoke on behalf of the petitioner. He stated the approved plan expands patient parking, noting that they will lose some parking if they have to redesign the lot.

Mr. Holtzinger questioned if this is the property where the depth of the parking stalls was reduced at a previous hearing.

Mr. Gingerich stated all of the parking spaces on the western edge meet the requirements of the ordinance and the Board allowed compact car parking on the east side for additional spaces. He noted that there are also critical and overdue drainage issues that will be addressed.

*Audience Comments:*

Ron Davidhizar, 203 Middlebury St, spoke in support of the request. He stated he owns 205 and 207 Middlebury Street which is adjacent to the parcel in question today. He stated the yard at 207 Middlebury is large and encouraged the Board to grant the request for a zero foot setback. Because of the large yard, it will

not give the impression of being crowded. He stated he is in favor of this request, noting that it will likely help Maple City Health Care provide even better service to the community.

Mr. Aguirre asked if the drainage issue is a problem in this area.

Mr. Davidhizar stated the drainage issue is in the paved parking area and is not aware of any other drainage problems.

*The public hearing was closed.*

*Staff Discussion:*

There was no discussion amongst Board members.

*Action:*

A motion was made and seconded, B. Hunsberger/Manriquez, to find with the recommendations and conclusions of the Staff Analysis and approve 17-05DV with the three conditions listed in the Staff Analysis. The motion passed unanimously by a vote of 5-0.

**17-06DV** – Synergy Leasing, LLC and Marbach, Brady & Weaver, Inc., request a developmental variance to allow the construction of a 14' x 60' (840 SF) office building, with associated parking, in the floodway fringe. The subject property is generally located at 3012 Eisenhower Drive North and is zoned Industrial M-1 District.

*Staff Report:*

Mr. Hunsberger explained this request is for development in the floodway fringe, which must obtain BZA approval. The site has an extensive amount of land in the floodway and flood fringe, which will be reduced, based upon the completed two-stage ditch project. Until such time as the floodplain map is officially changed through a Letter of Map Revision (LOMR), which is issued by FEMA, final approval cannot be issued to place a building on a permanent foundation unless BZA approval is granted and the required floor elevation is met. The top of the lowest floor must be elevated to at least two feet above the Base Flood Elevation and in this case the proposed top of the lowest floor exceeds the two foot minimum. Staff recommends approval of the request.

*Petitioner Presentation:*

Debra Hughes, 3220 Southview Drive, Elkhart, spoke on behalf of the petitioner. She introduced Kyle Newcomer, owner of Synergy Leasing. She explained the owner of the property is using this as an RV Transport Lot which is a good use of property adjacent to a floodplain. The owner would like to install a small office building for up to six employees and would direct the arrival and departure of the RV's. She confirmed Mr. Hunsberger's comments regarding the extension of the Horn Ditch floodplain into the parcel, including the area of the proposed building. She explained the elevation of the site at that point is 813.5 feet and the elevation of the floodplain at that point is 808 feet, so it is 5.5 feet above the flood and more than enough elevation to clear the two foot requirement above the base elevation. She noted that even though the county surveyor's office is pursuing a change in the mapped floodplain, that takes quite a bit of time and because the owner would like to move forward with their office building, a variance is requested.

*Audience Comments:*

There was no one to speak to the petition.

*The public hearing was closed.*

*Staff Discussion:*

Mr. Nisley asked how this building will be anchored.

Mr. Hunsberger stated there are requirements for building in the floodway and this will have to be built to standards. They will also be required to obtain permits through the Building Department and will have to meet their requirements as well.

Kyle Newcomer, Synergy Leasing , LLC stated that they cannot obtain a lot of details from the manufacturer until they commit to purchasing the building and they are not willing to commit to the purchase until they get approval to place the building in the floodway. He noted this will be strapped down on a concrete foundation and will meet all requirements.

*Action:*

A motion was made and seconded, Nisley/Aguirre, to find with the recommendations and conclusions of the Staff Analysis and approve 17-06DV with the five conditions listed in the Staff Analysis. The motion passed unanimously by a vote of 5-0.

**17-03UV & 17-07DV** – Goshen Interfaith Hospitality, St. Mark’s United Methodist Church, and Interface Architecture request a use variance to permit a Group Housing Quarters for overnight emergency shelter in an R-1 Zoning District where the use is conditional in the Residential R-1S, R-3 and PUD Districts and permitted in the Commercial B-3 Zoning District, and developmental variances to permit the group housing quarters located less than 50 feet from adjacent residential use or zoning, to permit parking areas less than 25 feet from adjacent residential use or zoning district, and to permit 73 parking spaces where 148 spaces are required. The subject property is generally located at 502 N Main Street and is zoned Residential R-1 District.

*Staff Report:*

Mr. Hunsberger explained this is a two part request for both use and developmental variances. A use variance is requested to permit a group housing quarters for an overnight emergency shelter in an R-1 zoning district where the use is not permitted. He explained that St. Mark’s United Methodist Church (SMUMC) and Goshen Interfaith Hospitality Network (GIHN) are working together to provide overnight lodging for up to 20 guests, staying from 5:00 pm to 7:00 am daily. Two to four volunteers from area churches will supervise and provide meals daily until 10:00 pm, at which time two paid staff will be on site until 7:00 am. The operating hours for the proposed housing quarters use will have limited overlapping hours with the church use.

Developmental variances are also requested to allow the group housing quarters to be located less than 50 feet from adjacent residential use or zoning, to permit parking areas less than 25 feet from adjacent residential use or zoning, and to allow 73 onsite parking spaces where 148 spaces are required by the Goshen Zoning Ordinance. A Memorandum of Understanding between the Goshen Community Schools and St. Marks allows SMUMC to use three parking lot areas along Middlebury Street at any time they are not being used for school purposes. These lots are contiguous and provide an additional 70 spaces for church use, bringing total available parking to 153 spaces. Staff recommends approval of the requested variances.

Mr. Hunsberger noted for the record that one inquiry was received with the caller requesting information only.

*Petitioner Presentation:*

Alan Ediger, 57190 Alpha Drive, Goshen, spoke on behalf of the petitioner. He stated he is here along with the Executive Director of Goshen Interfaith Hospitality Network, a representative from Faith Mission, the

Pastor of St. Marks United Methodist Church and the contractor. They are here to answer any questions the Board might have.

Mr. Holtzinger asked if this will present any problems for church operations.

Mr. Ediger stated the residents will not be present during church hours.

Mr. Aguirre asked how many people have stayed in churches over the past year or so.

Phil Keller, Executive Director of Goshen Interfaith, gave statistics from the past five years, regarding the number of adults and children that have stayed at area churches. Average stays from 2012 through 2016 are as follows:

- 2012 52.5 days
- 2013 34 days
- 2014 33 days
- 2015 25 days
- 2016 43 days

Mr. Aguirre asked if Mr. Keller thinks a permanent site will affect the average stay.

Mr. Keller responded that it might. He stated they would like to offer some financial literacy programs, but have no intention of going beyond a six (6) month stay in the program. He pointed out that one of the biggest benefits is that the kids and parents will be able to sleep in the same room each night instead of moving from place to place.

Mr. Brad Hunsberger questioned how the length of a stay is determined.

Mr. Keller stated that basically, everyone starts out with 30 days and if they're making progress such as finding employment and looking for alternative places to stay, they are happy with baby-steps. He noted they will not do the work for them, but will help empower them to move forward.

Mr. Aguirre asked if the need for housing increases seasonally.

Mr. Keller stated that it varies, noting that employment in the Goshen area is great now which puts more pressure on the housing market. He pointed out that most of their families don't have a good credit rating or rent history and it sometimes takes them longer to find someone to rent from.

Mr. Aguirre asked if this will serve only families or if single individuals will also be permitted.

Mr. Keller stated that traditionally this has been for families, but their definition of family is also loosely defined. He went on to say that for the first time in this program, they would like to add slots for six (6) homeless females with no children.

Mr. Aguirre questioned if the church is currently used as part of the rotation.

Mr. Keller stated it is not.

Mr. Brad Hunsberger asked if the existing churches in the rotation will continue to be used.

Mr. Keller stated they will continue to use members of the congregation from all of the churches to bring in meals and stay until approximately 10:00 pm., at which time paid staff members will take over.

Mr. Aguirre asked how the selection process works.

Mr. Keller stated they sometimes receive calls from other agencies, and that initially they have a telephone conversation, followed by an in person interview. At the time of the in person interview, the rules and expectations are explained. He noted they also do background checks on everyone and if its felt the family will be a good fit, they are welcomed into the program.

Mr. Brad Hunsberger asked how the program works and if the guests are allowed to come and go during the evening hours.

Mr. Keller stated that currently it's left up to the churches, but curfews are generally somewhere between 8:00 pm and 10:00 pm. He anticipates the curfew at Saint Marks will be around 8:00 pm. He went on to say they intend to install a key card system and they will only have access at specific times.

Mr. Holtzinger asked where funding is coming from.

Mr. Keller stated the vast majority of their current funding comes from individuals. He noted they rely very little on grants, pointing out they recently gave up a sizable federal grant because of the numerous restrictions.

*Audience Comments:*

Ross Swihart, Executive Director of Faith Mission spoke in support of the petition. He stated he feels it's important for children to have a more stable environment without constantly moving from shelter to shelter. He pointed out that Goshen Interfaith does extensive screening and refer people other places if they cannot house them. He pointed out this is a wonderful location for the shelter because it's close to the downtown area.

Michelle Korach, no address given, also spoke to the petition. She stated she has questions about how families are kept separated from other families.

Mr. Aguirre provided Ms. Korach with a site plan.

Ms. Korach voiced concerns about children sharing bedrooms with parents, and that men are not included in this proposal. She also voiced concerns for Chamberlain School, specifically about additional traffic and if children staying at the shelter will cause an overflow in the classrooms.

*Petitioner Rebuttal*

Mr. Keller explained available room sizes, described available furniture, and discussed available bathroom facilities. He noted the guest rooms are not handicap accessible and that so far, it has not been an issue. He stated he met personally with the principal of Chamberlain Elementary and she has indicated she is open to whatever works best for the children. He stated that currently, most of the children in the program attend Chandler Elementary School.

Mr. Aguirre asked Mr. Keller to address the concern regarding extra traffic and that men are excluded from the facility.

Mr. Keller stated that single men, and some single women, come with a different set of challenges, generally a greater percentage of drug, alcohol and mental health issues. It would take more construction inside the building to build separations, so the decision was made to open the facility to single homeless women. Addressing the traffic concern, he stated that perhaps half of their guests have a vehicle, but to date, there have been no traffic issues.

Mr. Brad Hunsberger asked if they have a lease with Saint Marks for this shelter.

Mr. Keller stated they have multiple understandings, including an agreement with the church pastor and church leadership for a three (3) year period, with an extension for up to 10 years. They also have an agreement with the District Superintendent of the Methodist Council.

Mr. Brad Hunsberger asked Mr. Ediger what type of changes will be made to the interior space.

Mr. Ediger stated there will be very few cosmetic changes inside the building. He noted the area is mostly concrete walls and floors; the area is not sprinkled, but it has fire department approval.

Mr. Aguirre disclosed that his church is a participant in the Hospitality Network and that he has provided meals and supervision in the past.

Attorney Kolbus asked if Mr. Aguirre has a direct financial interest in this proposal.

Mr. Aguirre stated no.

Mr. Holtzinger stated this his church is also a participant and that he also has no financial interest in the proposal.

*The public hearing was closed.*

*Staff Discussion:*

There was no discussion amongst the Board.

*Action:*

A motion was made and seconded, Aguirre/B. Hunsberger, to find with the recommendations and conclusions of the Staff Analysis and approve 17-03UV and 17-07DV with the three conditions and two commitments listed in the Staff Analysis. The motion passed unanimously by a vote of 5-0.

**17-04UV** – William J & Isabell Fiedeke, Steve Fiedeke, and Jeff Thomas request a use variance to allow permanent approval of an outdoor patio to be used for special events, retail sales and displays. 15-01UV, approved 2/24/15 required review in two years. The subject property is generally located at 211 S. 5th Street and is zoned Commercial B-2 District.

*Staff Report:*

Mr. Hunsberger explained a use variance was granted in February, 2015 which in part, allowed an outdoor patio to be used for special events, retail sales and displays. The building is currently home to Red Post, Janus Motorcycles and the Thomas Stieglitz Brewing Company. The 2015 approval required review by the BZA at the end of two years and for that reason, the petitioner is here today to request permanent approval of the outdoor patio.

He pointed out the outdoor patio will, and has been, used by the brewery for special events and because the Goshen Zoning Ordinance requires all business in this district to be conducted in a completely enclosed building, a use variance was required. He noted that no inquiries were received concerning this request and Staff recommends approval of the request.

*Petitioner Presentation:*

Jeff Thomas, 2404 S Main Street, Goshen, spoke on behalf of the petitioner. He stated he is one of the brewers and owners of Thomas Stieglitz. He stated he has statements (*Exhibit 17-04UV 2/28/17 #1-3*) from three neighbors supporting the request.

Mr. Holtzinger asked what type events are held here.

Mr. Thomas stated it's mostly used to sit outside and enjoy a beer. Customers might also bring in their own food. He noted that on two occasions they also had a band.

Mr. Holtzinger asked if they have received any complaints from neighbors.

Mr. Thomas stated no.

Mr. Nisley questioned how loud the music is.

Mr. Thomas stated the music is quiet enough that people are able to carry on a conversation while the music is playing.

*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, Aguirre/Manriquez, to find with the recommendations and conclusions of the Staff Analysis and approve 17-04UV with the seven conditions and four commitments listed in the Staff Analysis. The motion passed unanimously by a vote of 5-0.

**VIII.** Audience Items:

None

**IX.** Staff Board Items:

- *Residency form for Doug Nisley*
- *Residency form for Brad Hunsberger*
- *Residency form for Cathie Cripe*
- *6-month extension request for 16-26DV, 323 Olive Street, from 3/27/17 to 9/27/17*
- *6-month extension request for 16-27DV, 701 N 5<sup>th</sup> Street, from 3/27/17 to 9/27/17*

*Action:*

A motion was made and seconded, Nisley/Manriquez, to accept residency forms into record for Doug Nisley, Brad Hunsberger, and Cathie Cripe and to grant six-month extensions for 16-26DV, 323 Olive Street and 16-27DV, 701 N 5<sup>th</sup> Street. The motion passed by a vote of 3-0, with one abstention (Brad Hunsberger).

**X.** Adjournment: 5:10 pm B. Hunsberger/Nisley

Respectfully Submitted:

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Lori Lipscomb, Recording Secretary

Approved By:

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Tom Holtzinger, Chair

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Richard R. Aguirre, Secretary