

Minutes - Goshen Board of Zoning Appeals
Tuesday, November 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: Brad Hunsberger, Aracelia Manriquez, Richard Aguirre, and Doug Nisley. Also present was Assistant City Planner Jon Hunsberger and Assistant City Attorney Jim Kolbus. Absent: Tom Holtzinger

II. Approval of Minutes from 10/24/17: Hunsberger/Aguirre 4-0

III. Filing of Zoning/Subdivision Ordinances and Official Staff Reports into Record: Aguirre/Nisley 4-0

IV. Postponements/Withdrawals:

V. Variances – public hearing items

17-25DV – MasterBrand Cabinets, Inc. and Universal Design Associates, Inc. request developmental variances to allow a front yard building setback of 25' where 30' is required for a 3,455 sf building addition and to allow a loading dock in the front yard setback where a loading dock is not permitted in the front yard setback. The subject property is generally located at 1002 Eisenhower Drive N and is zoned Industrial M-1 District.

Staff Report:

Assistant Planner Hunsberger explained today's request is to allow a front yard setback of 25' where 30' is required along Eisenhower Drive North, for the construction of a building addition and truck dock. The proposed construction of the building addition is at the front of the property and extends approximately 93' along Eisenhower Drive North and the two stall loading dock is proposed on the east side of the north end of the existing building. This project has been reviewed by the City's administrative site plan review (Tech Review) and Planning requirements have been satisfied, pending approval of developmental variances by the BZA. He noted adhering to the developmental standards of 30' would preclude any additional on-site development and a 100' AEP utility easement bisects the site. The proposed addition has been planned to avoid the easement and to limit the BZA variance request. Staff recommends approval of the request.

Petitioner Presentation:

Timothy Stump, 1002 Eisenhower Drive North, Goshen spoke on behalf of the petitioner. He stated they are cabinet manufacturers and the addition will be for a finish pump room. The room is used to store paints, stains, and acetones, and where they are mixed and pumped throughout the facility. He stated that because they're expanding their capacity within the facility, the pump room must be expanded as well.

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, Hunsberger/Nisley to find with the recommendations and conclusions of the Staff Analysis and approve 17-25DV with the three conditions listed in the Staff Report. The motion passed unanimously by a vote of 4-0.

17-26DV – William A & Jeanie E Byler request a developmental variance to permit an 11' rear setback where 25' is required on a through lot, for the construction of a 154 sf accessory structure. The subject property is generally located at 605 N 2nd Street and is zoned Residential R-1 District.

Staff Report:

Assistant Planner Hunsberger explained this request is for an 11' rear yard (west) setback where 25' is required for the construction of a shed along Mill Street. This is a through lot and the zoning ordinance requires accessory structures on a through lot to meet the same setback as a front yard.

The site plan included in the packet indicates the petitioner will remove an existing shed and place the new shed on the northwest corner of the property where the shed is accessible from the driveway. All other zoning requirements will be met. A large mature tree in the middle of the back yard limits the available space for locating the shed elsewhere on the property. If this shed was located on an interior lot instead of a through lot, it could have been approved administratively. Staff recommends approval of the request.

Petitioner Presentation:

William Byler, 605 N 2nd Street, Goshen, spoke on behalf of the petitioner. He stated he is familiar with the Staff recommendations and has nothing to add.

Mr. Hunsberger asked if he intends to have vehicular access to this structure.

Mr. Byler stated no; it is for easier access off his driveway for lawn mowers, etc. He stated there is currently a fence there, but he will remove the gate and the front of the shed will face the driveway.

Audience Comments:

There was no one to speak to the petition.

The public hearing was closed.

Staff Discussion:

Mr. Aguirre asked if allowing this is out of character for a neighborhood.

Assistant Planner Hunsberger stated it is not and that this is an uncommon situation. He stated most of the homes along here treat Mill Street as the backyard, with fences and hedges being common.

Action:

A motion was made and seconded, Nisley/Aguirre to find with the recommendations and conclusions of the Staff Analysis and approve 17-26DV with the three conditions listed in the Staff Report. The motion passed unanimously by a vote of 4-0.

17-27DV – HTI Properties, LLC and Abonmarche Consultants, Inc., request developmental variances to permit a (front) parking/driving aisle setback of 15' where 35' is required along E Kercher Road, a (front) parking/driving aisle setback of 18' where 30' is required along Sourwood Drive, and a (front) parking/driving aisle of 27' along Linden Drive where 30' is required. The subject property is generally located at 2442 E Kercher Road and is zoned Industrial M-1 District.

Staff Report:

Assistant Planner Hunsberger explained a revised site plan was received which was updated to indicate the parking/driving aisle setback required along East Kercher Road is 35' where 15' is requested. Copies were distributed to Board members.

He explained this request is for an RV drive-away service with a front parking/driving aisle setback of 15' along East Kercher Road, a front parking/driving aisle setback of 18' along Sourwood Drive, and a front parking/driving aisle of 27' along Linden Drive. He noted that Sourwood and Linden are both collector streets requiring a minimum setback of 30'; East Kercher is an arterial street requiring a setback of 35'. The petitioner has configured the parking/driving aisle to optimize onsite traffic and circulation. Staff feels this property is unique because it is long and narrow, the lot is a reverse frontage lot, and the lot is small once land is dedicated to the front yard setbacks. He also noted the setback along East Kercher is measured from the anticipated new right-of-way, following improvements to the East Kercher Road corridor.

He pointed out the petitioner has made every effort to propose a project that meets as many of the City requirements as possible. This project has also gone through the City's Technical Review process with approval of Engineering and Fire Department, provided the variance is granted. Staff recommends approval of the variance request.

Petitioner Presentation:

Barry Pharis, 1009 S 9th Street, Goshen spoke on behalf of the petitioner. He stated this site will be used for an RV transport site. He noted Staff has given a favorable recommendation to this request, but added that they are dedicating an additional 35' of right-of-way along Kercher to make a right-of-way totaling 80'. He noted Sourwood already has 100' of right-of-way, narrowing down to 80'. He asked that the Board grant the request.

Mr. Aguirre asked if there is access to this site from three different roads.

Mr. Pharis responded yes, but there will only be one entrance which will be on Sourwood Drive. There will be no entrance on Kercher Road or Linden Drive.

Assistant Planner Hunsberger clarified that there is frontage on three roads with one access point, which is not on Kercher Road.

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/Nisley to find with the recommendations and conclusions of the Staff Analysis and approve 17-27DV with the three conditions listed in the Staff Report. The motion passed unanimously by a vote of 4-0.

17-28DV – Goshen Hospital Association, Inc. and Signtech Sign Services request developmental variances to allow a (south) freestanding sign, approximately 135 sf in area where 90 sf is permitted and to allow a (north) freestanding sign, 91 sf in area where 90 sf is permitted, where two freestanding signs on a single zoning lot are permitted per variance 11-02DV. The subject property is generally located at 2824 and 2832 Elkhart Road and is zoned Commercial B-3 District.

Staff Report:

Assistant Planner Hunsberger explained this request is for two developmental variances allowing a (south) freestanding sign approximately 135 sf in area where 90 sf is permitted and a (north) freestanding sign 91 sf in area where 90 sf is permitted. The two signs are on a single zoning lot and are permitted by a variance granted by the BZA in 2011. This 2011 approval permitted an additional freestanding sign beyond what is permitted by the ordinance and today's request is to expand the previously approved variance. He explained that generally a lot with more than one address or use would require a multi-tenant sign and that the zoning ordinance also gives special consideration for this corridor, allowing a lot with greater than two hundred feet of frontage to have a sign with a maximum height of 22' and maximum area of 90 sf.

When the BZA granted approval for the second freestanding sign in 2011, the meeting minutes noted the following: "With the granting of the variance all freestanding signs shall be removed, with the exception of the sign approved under zoning clearance dated November 24, 2010."

He also noted a 2016 reface on the north sign was added with no approvals from the Planning Office. This reface increased the size of the sign to 91 sf in area, exceeding the maximum 90 sf permitted. He pointed out the total square footage allowed (for both signs) by the 2011 variance was 180 sf and today's request would allow an additional 46 sf.

One inquiry was received by the Planning Office with the caller stating his concerns would not be taken into account. Staff recommends denial of the variance.

Petitioner Presentation:

Todd Lehman, Signtech Sign Services, 1508 Bashor Rd, Goshen, spoke on behalf of the petitioner. He stated he is here with a representative of Goshen Hospital. This request is for the new Neurocare center and the sign in question is the main sign at the entrance to the facility. The hospital would like to utilize that structure to promote not only the hospital which is on the top of the

sign, but add a sign below advertising the Family Medicine and Urgent Care, to be promoted along with the Neurocare center. Both facilities would like to use the electronic message center (EMC).

Mr. Hunsberger stated he doesn't understand the point of having the second (north) sign.

Mr. Lehman stated it's part of the development.

Attorney Kolbus asked for clarification, if both the north and south sign would have reference to the Neurocare and Urgent Care.

Mr. Lehman stated if this variance is approved, yes; both signs would reference both facilities.

Mr. Aguirre questioned how many patients are drop-in as opposed to patients with pre-set appointments.

Susan Trippel, 2004 Elkhart Road, spoke to the petition, noting she is a representative of Goshen Hospital. She stated that approximately fifty percent of the Urgent Care patients are walk-in customers. She stated the Neurocare Center will have an MRI along with a laboratory. The labs will not need an appointment, but the majority of services in the Neurocare Center will require an appointment. She pointed out the building sets back on the lot and with the busy road out front, good signage is critical for wayfinding. She noted the Neurocare Center is also serving as a regional center and not just the Goshen community so it's important that signage is visible.

Mr. Hunsberger questioned if Ms. Trippel felt both signs were necessary.

Ms. Trippel stated she feels both are necessary even though names are on both buildings. She stated when you're on a busy road and trying to determine which entrance you need to turn into you're not necessarily looking at the buildings. Once you turn into the driveway, you begin to notice names on the buildings.

Assistant Planner Hunsberger questioned how many entrances are in the complex.

Ms. Trippel stated there is one entrance near the main sign. The entrance to the north leads to an apartment complex and also into a parking lot serving other businesses.

Assistant Planner Hunsberger pointed out when the second sign was approved, the site served a car dealership with two entrances. One of the curb cuts has been removed and the entrance closed. He went on to say he isn't sure what the purpose is of the second sign.

Ms. Trippel noted the Goshen Physicians logo is located at the top of the sign, but that is not the name of the clinic. Clients would be looking for the Neurocare Center or the Urgent Care Center.

Mr. Aguirre asked if either of the petitioners could shed light on when the installation of the Health Mart sign occurred.

Ms. Trippel stated she was not involved at the time the sign was added and while she doesn't know when it was installed or who installed it, she assumes it was within the last six months or so.

Mr. Nisley asked if people making appointments are told to look for the Goshen Physicians sign.

Ms. Trippel stated they do not. They are told the name is the Neurocare Center, Family Medicine or the Urgent Care Center.

Audience Comments:

There was no one to speak to the petition.

The public hearing was closed.

Staff Discussion:

Mr. Aguirre questioned how the City would have responded if they had been aware of the sign that was added without approval.

Assistant Planner Hunsberger stated they would have sent a notice of a possible zoning violation and would request them to come into compliance. If the additional sign met the zoning ordinance requirements, it could have been approved administratively. If not, it would have been necessary to bring the sign into compliance or file for the BZA.

Mr. Hunsberger questioned why there are two signs for this property and why they weren't asked to remove one of the signs during the redevelopment of the property.

Assistant Planner Hunsberger stated the sign is there by a variance and because variances run with the land, in order to require them to remove it, it would have had to come back to the BZA.

Mr. Nisley stated there are currently two signs on the property where he feels one sign would be sufficient. He pointed out the branding at the top is large and questioned if it could be made differently to include the Family Medicine and the Neurocare Center on the top of the sign and move everything else up.

Mr. Aguirre voiced his agreement, noting there is a lot of information on the sign.

Mr. Nisley stated he doesn't feel adding another sign is the answer here and pointed out that Goshen is trying to bring signs into compliance as much as possible.

Action:

A motion was made and seconded, Aguirre/Nisley to find with the recommendations and conclusions of the Staff Analysis and deny 17-27DV with the reasons listed in the Staff Report. The motion passed unanimously by a vote of 4-0.

17-29DV – Marjorie L Suter, Miso Japan Fine Dining, Inc., and Premiere Signs request a developmental variance to permit the reface of a non-conforming freestanding sign, where refacing a non-conforming sign in the Historic District (HD) is not permitted. The subject property is generally located at 203 W Pike Street and is zoned Commercial B-2 HD.

Staff Report:

Assistant Planner Hunsberger explained this sign is located in the Historic Commercial district, where the zoning ordinance does not permit a sign reface on a non-conforming sign. The existing sign is approximately 68.5 sf in area, with an overall height of approximately 25' and 11' clearance at the bottom. The zoning ordinance permits a freestanding sign of 36 sf and total height of 8'.

On November 6th the petitioners submitted paperwork and received approval for a new freestanding sign that meets the zoning ordinance requirements and a copy is included in the packet. Staff recommends the sign be brought into compliance with the zoning ordinance by installing the proposed sign.

Petitioner Presentation:

Stephanie Holdeman, Premiere Signs, 400 N Main St, Goshen, spoke on behalf of the petitioner. She stated the existing sign has been on the property since 1972 and they would like to utilize the existing sign. She pointed out if this property were located three blocks away, it would be located outside the historic district and a reface to the sign would be allowed. She pointed out two nearby signs in the historic district were refaced within the past couple years and they would like to be allowed to do this as well.

Mr. Aguirre asked if they have any information on how the sign change would affect visibility of the business.

Ms. Holdeman speculated that with the heavy traffic and the proximity of the short eight foot sign to the building, it would be difficult for traffic coming from the overpass to see.

Mr. Aguirre asked about the condition of the existing sign.

Ms. Holdeman stated the sign is in good shape.

Audience Comments:

Adam Scharf, 1631 ½ S Main Street spoke in support of the petition. He stated he feels this property is more in line with the commercial stretch of Elkhart Road and urged the Board to approve the request.

The public hearing was closed.

Staff Discussion:

Mr. Hunsberger stated he agrees with Mr. Scharf and stated this area looks more like a commercial district now and not a historic residential district.

Mr. Aguirre asked if it is true that this sign would be permitted a couple blocks away.

Assistant Planner Hunsberger stated if this was in the Commercial B-2 District outside the Historic District, that the reface would be permitted.

Mr. Nisley stated he drove by the site today and noted the signs that had been placed by the highway department. He felt those signs could potentially interfere with visibility of a sign if it was required to meet the ordinance. He also agreed that the historic houses have been demolished and feels this request is reasonable.

Action:

A motion was made and seconded, Nisley/Aguirre, to accept the findings of the Board and approve 17-29DV, noting that based upon the testimony today, the request meets the ordinance standards. The motion passed unanimously by a vote of 4-0.

VI. Audience Items:

None

VII. Staff Board Items:

- *2018 BZA Calendar*

Action:

A motion was made and seconded, Nisley/Hunsberger to accept the 2018 BZA calendar into the record. The motion passed unanimously by a vote of 4-0.

VIII. Adjournment: 5:03 pm Hunsberger/Nisley

Respectfully Submitted:

Lori Lipscomb, Recording Secretary

Approved By:

Tom Holtzinger, Chair

Richard R. Aguirre, Secretary