

Minutes - Goshen Board of Zoning Appeals
Tuesday, July 24, 2018, 4:00 p.m.
Council Chambers, 111 E. Jefferson Street
Goshen, Indiana

- 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 City Planner Rhonda Yoder and Assistant City Attorney Jim Kolbus.
- II. Approval of Minutes from 6/26/18: Aguirre/Manriquez 5-0
- III. Filing of Zoning/Subdivision Ordinances and Official Staff Reports into Record: Manriquez/Aguirre 5-0
- IV. Postponements/Withdrawals: None
- V. **Variations** – public hearing items
18-18DV – Gerardo Rios and Erika Rios request a developmental variance to allow building coverage of 41% where 35% is permitted for the construction of a 502 SF deck. The subject property is generally located at 207 S 9th Street and is zoned Residential R-1 District.

Staff Report:

Ms. Yoder explained updated calculations indicate lot coverage will be 40%, not 41% and is included in the Staff Report. She noted if approved this is acceptable because this percentage does not exceed what was advertised. She explained the property contains an 1,100 SF dwelling unit and an 1,100 SF detached garage, with existing building coverage of approximately 33% where the maximum coverage is 35%.

She explained if 50% or more of the structures in the same block don't meet setback requirements, the ordinance allows you to meet the average setback on the same side, which in this case is the north side of the home. The proposed deck will have a 4' side setback, which exceeds the average neighborhood side yard setback. Because this is an older neighborhood, many of the lots are smaller and have similar development patterns.

Staff recommends approval of the requested variance.

Petitioner Presentation:

Erika Rios, 419 Broadmore Estates, and Gerardo Rios, 207 S 9th Street, spoke on behalf of the petitioner. Ms. Rios stated they are familiar with the Staff's recommendation and have nothing to add.

Audience Comments:

Livbeth Rios, 548 Broadmore Estates, stated she is in favor of the request.

Valdemar Lopez, 409 S 9th St, stated he is a neighbor and in favor of the request.

Erika Rios presented a letter from a neighbor in favor of petition.

Ms. Yoder read the letter, dated July 21st, from the property owner next door to Mr. Rios. The property owner, Kimber Beechy, stated she has no objection to the request.

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 18-18DV with the three conditions listed in the Staff Report. The motion passed unanimously by a vote of 5-0.

18-08UV – Jonathan and Sherrie Byler request a use variance to allow grazing and pasturing in an R-1 District, for up to four (4) horses, ten (10) cattle, twenty (20) hens, and one (1) rooster with 0’ setbacks adjacent to residential use or zoning, where grazing and pasturing is a Conditional Use permitted only in an A-1 District. The subject property is generally located at 310 Hackett Road and is zoned Residential R-1 District.

Staff Report:

Ms. Yoder explained this property was granted a use variance in August, 2013 which was approved for a five year period. The 2013 request to allow grazing and pasturing has had no complaints in the past 5 years and she noted similar agricultural uses and variances in the area, pointing out that although this area has never been zoned agricultural there is a history of agricultural use here.

She explained the Zoning Ordinance permits poultry as part of grazing and pasturing in the A-1 district and does not prohibit roosters. In 2014 Ordinance 4773 was adopted to allow backyard chickens, but does not allow roosters. She explained when this previous variance was granted, this ordinance was not in effect. She stated because there is now a provision in place to allow backyard chickens in the R-1 District, Staff’s recommendation is that chickens be allowed following the ordinance currently in place.

Staff recommends an amended approval for up to four horses, ten cattle with grazing and pasturing setbacks of 180’ on the front and zero feet on the east, south, and west.

Petitioner Presentation:

Jonathan Byler, 310 Hackett Road, spoke on behalf of the petitioner. He described neighboring properties and their uses, noting that this variance has been in effect for the past five years with only one minor problem. He stated he would like to have a rooster, but understands it is not permitted by the ordinance. He stated he would be happy if the previous approval is granted.

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, Holtzinger/Manriquez, to accept the findings of the Board and approve 18-08UV with the following conditions and commitments:

Conditions:

1. 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.
2. Deviation from the requirements and conditions of the variance may result in the cancellation or termination of the approval or permit.
3. The BZA approval shall be effective when the executed and recorded Result Letter/Commitment form has been returned to the City of Goshen BZA staff and when all conditions of approval have been met.
4. No zoning clearance form will be issued until the executed and recorded Result Letter/Commitment form has been returned to the City of Goshen BZA staff and until all conditions of approval have been met

Commitments:

1. A maximum of four (4) horses, ten (10) cattle, twenty (20) hens, and one (1) rooster shall be permitted on the Real Estate.
2. No adult bulls shall be permitted on the Real Estate.
3. A maximum of one (1) stock or horse trailer will be allowed on the Real Estate.
4. The grazing/pasturing setback on the north side of the Real Estate shall be 180 feet; the remaining three sides (east, south, and west) shall have 0 foot grazing/pasturing setbacks.

The motion passed unanimously by a vote of 5-0.

18-20DV – William Morelock requests a developmental variance to permit a 12' x 16' shed with a front setback (north) of 24' where 35' is required and to allow open parking in the front yard setback along Kercher Road where a 35' setback is required. The subject property is generally located at 902 E Kercher Road and is zoned Residential R-1 District.

Staff Report:

Ms. Yoder explained the City acquired 12 feet of frontage from the petitioner in 2017 for the Kercher Road improvements, reducing the front setback for this home to 24 feet. As part of the improvements, a 12'x16' shed must be relocated. The proposal is for the shed to be placed adjacent to, and in line with, the front wall of the garage with a front setback of approximately 24 feet. An existing open parking area alongside the driveway is also proposed within the front yard setback. The approval will create a safer situation, and the open parking space will allow the petitioner safer access onto the busy Kercher Road. Staff recommends approval of the request.

Petitioner Presentation:

William Morelock, 902 E Kercher Road, spoke on behalf of the petitioner. He stated this request is being made simply because of the construction. He stated they currently have a turn-around on the property, but it and a previous shed have been removed with the construction. He stated this is basically the only place they have for the shed and the turn-around is necessary so they don't have to back out of their driveway onto Kercher Road. 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 are other properties with similar issues.

Ms. Yoder replied there are some that have reduced setbacks, but no other variances have been granted at this time.

Action:

A motion was made and seconded, Hunsberger/Ramer, to find with the recommendations and conclusions of the Staff Analysis and approve 18-20DV with the three conditions listed in the Staff Report. The motion passed unanimously by a vote of 5-0.

18-09UV & 18-21DV – The City of Goshen Parks Department requests a use variance to permit a Parks office in an Industrial M-1 District, where offices are permitted in the Commercial B-2, B-3, and B-4 Districts and conditional uses in the B-1 and PUD Districts, and a developmental variance to permit a parking lot with front parking/driving aisle setbacks of 10' along Jackson and 9th Street, where 25' and 30' are required, respectively, and a side yard (west) parking/driving aisle setback of 57' where 60' is required adjacent to residential use/zoning. The subject property is generally located at 524 E Jackson Street (office) and 523 E Jackson Street (parking lot) and is zoned Industrial M-1 District.

Staff Report:

Ms. Yoder explained this is an existing vacant commercial structure and is proposed as the new Parks Department main office. She pointed out this was previously used as a commercial office and this use will not increase the intensity. She explained the proposed parking on the north side of Jackson Street will include landscaping between the parking and the residential use to the west. She explained the existing parking along 9th Street will be removed and all parking will be off-street, with one access directly north of the Park's office entrance. She noted the reduced setbacks will allow for more greenspace in the remainder of Water Tower Park.

Staff recommends approval of the requested variances.

Petitioner Presentation:

Tanya Heyde, 410 W Plymouth Avenue, spoke on behalf of the petitioner. She stated the previous park office was lost in the February flood and they have a pending purchase agreement for this property. She explained the parking lot across the street is required because there is no onsite parking.

Mr. Holtzinger asked if this parking lot will allow adequate room for the soccer field.

Ms. Heyde acknowledged there will be plenty of room.

Mr. Aguirre asked how parking at this new site compares to parking at the previous site.

Ms. Heyde stated the new site will have more parking and should be sufficient.

Mr. Ramer asked how many customers might be anticipated crossing this street each day.

Ms. Heyde estimated between 10 and 30 customers.

Audience Comments:

Cody Norwood, 512 E Jackson, spoke to the petition. He stated he owns the property immediately adjacent and is concerned how this might affect his property value. He also asked how the parking lot would be configured.

Ms. Yoder stated she cannot speak to the property value, but pointed out the previous use here was also an office. She explained the current parking is unsafe as it is located within the 9th Street right-of-way. She also noted it will have to be removed because of the City's upcoming bike project.

Mr. Norwood asked for additional information showing where the parking would be located.

Ms. Yoder provided a site plan of the parking to Mr. Norwood.

The public hearing was closed.

Staff Discussion:

There was no discussion amongst Board members.

Action:

A motion was made and seconded, Aguirre/Ramer, to find with the recommendations and conclusions of the Staff Analysis and approve 18-09UV & 18-21DV with the three conditions listed in the Staff Report. The motion passed unanimously by a vote of 5-0.

18-10UV – Mark & Patricia Crowder request a use variance to permit a family care home with three residents and on-site caretakers in a B-1 District where family care homes are conditional uses in the Residential R-1, R-1S, R-2, and R-3 zoning districts. The subject property is generally located at 209 Denver Street and is zoned Commercial B-1 District.

Staff Report:

Ms. Yoder explained this variance is only required because of the B-1 zoning, noting that all developmental requirements are met. Although the primary use in this block is residential, the commercial zoning along the west side of Denver is historic. She pointed out the Comprehensive Plan vision for neighborhoods and housing includes having a wide range of housing options available for all, including those with special needs, and states that housing options for all residents is vital to the community. Staff recommends approval of the requested variance.

Petitioner Presentation:

Mark Crowder, 64887 County Road 15, spoke on behalf of the petitioner. He stated he and his wife own this house. He stated that two of the residents here are confined to wheelchairs and the handicap ramp was a plus when purchasing this house. He explained that there will be three special needs residents living here, along with 24 hour caregivers, 365 days per year.

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, Ramer/Holtzinger, to find with the recommendations and conclusions of the Staff Analysis and approve 18-10UV with the three conditions listed in the Staff Report. The motion passed unanimously by a vote of 5-0.

18-22DV – Elliott Anne, LLC and Abonmarche Consultants requests developmental variances to allow a rear building setback of 12' where 20' is required for a 40,000 SF building expansion, and to allow 27 on-site parking spaces where 45 on-site parking spaces are required, with the balance provided off-site. The subject property is generally located at 1722 Eisenhower Drive N and is zoned Industrial M-1 District.

Staff Report:

Ms. Yoder explained this property currently contains a building of approximately 42,500 SF in area. A 40,000 SF building addition is proposed to expand the production area. She explained the area adjacent to the rear property line where the reduced building setback is proposed contains two easements for a total of a 40' which would limit development. She further explained if a detached accessory structure were proposed, only a 10' rear building setback would be required.

She explained the property owner has entered into an agreement to purchase the adjacent (west) property and they have written authorization to use up to 67 parking spaces at the site. She explained if the purchase proceeds and the properties come under one ownership, it will be considered one zoning lot and the variance for the offsite parking would not be required. It is required as long as there are two separate owners, and Staff's position is that the parking be granted on a temporary basis. If single ownership does not occur, Staff pointed out there is space on the current property to install the required parking.

Staff recommends approval of the variance to allow a reduced setback for the building expansion and approval of an amended developmental variance to temporarily allow 27 onsite parking spaces where 45 onsite parking spaces are required.

Petitioner Presentation:

Brad Mosness, 1009 S 9th Street, spoke on behalf of the petitioner. He stated his clients are agreeable to the conditions and commitments recommended by Staff and he is available to answer any questions.

Mr. Hunsberger asked if the sidewalk shown on the site plan between the two buildings is existing or proposed.

Mr. Mosness stated that sidewalk is existing.

Mr. Aguirre asked if this expansion will add employees.

Mr. Mosness stated they anticipate an additional 60 employees.

Shane Dyer, 1722 Eisenhower Drive N, also spoke to the petition. He stated they have multiple locations, with approximately 66 employees at this location. He stated the addition will not increase the number of employees because there will be more automation and reconfiguring of the equipment.

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/Aguirre, to find with the recommendations and conclusions of the Staff Analysis and approve 18-22DV with the conditions and commitments listed in the Staff Report. The motion passed unanimously by a vote of 5-0.

VI. Audience Items:

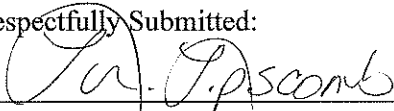
None

VII. Staff Board Items:

Attorney Kolbus reminded Board members that under the Indiana statute it is not proper to discuss a petition that will be before the BZA prior to the hearing. He reminded Board members if they are approached by the public regarding an item before the Board, they should advise the person that they are on the Board and cannot discuss the case. Their concerns should be addressed at the meeting or they should contact the BZA Staff.

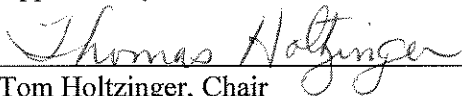
VIII. Adjournment: 4:47 pm

Respectfully Submitted:

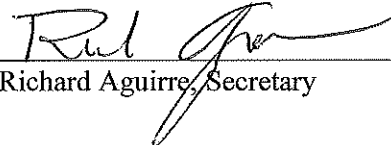


Lori Lipscomb, Recording Secretary

Approved By:



Tom Holtzinger, Chair



Richard Aguirre, Secretary