

Minutes - Goshen Board of Zoning Appeals
Tuesday, February 26, 2019, 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, Brad Hunsberger, Tom Holtzinger, and Scott McKee. Also present was Assistant City Planner Rossa Deegan and Assistant City Attorney James Kolbus. Absent: Richard Aguirre

II. Approval of Minutes from 1/22/19: Hunsberger/Manriquez 4-0

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

IV. Postponements/Withdrawals: None

V. Use & Developmental Variances – public hearing item

19-01DV – Anthony DeMarco requests developmental variances to allow a 2’ rear (south) building setback where 25’ is required, a 2’ side (east) parking/driving aisle setback where 5’ is required for a relocated driveway, and building coverage of 49% where a maximum of 35% is permitted, for the construction of a 138 square foot building addition and a 308 square foot attached garage to replace the existing garage, and to allow the variance to be valid for one year. The subject property is generally located at 414 E Douglas Street and is zoned Residential R-1 District.

Staff Report:

Mr. Deegan explained this request will allow an addition to the petitioner’s home, replacement of an existing garage, and relocating the existing driveway, and with the exception of a small increase in building coverage, the property will move closer into compliance with the zoning ordinance. Plans call for a 138 sf addition on the southeast corner of the house, adding space to an existing bedroom and covering a patio that causes drainage issues. Although this will have an 11’ setback where 25’ is required, he pointed out that an existing part of the house has a 10’ setback. An existing detached garage will be demolished and the proposed garage will connect to the new addition. A survey shows the overhang on the existing garage encroached onto the neighboring property on both the rear and the east side. The new garage will be entirely on the owner’s property. The last request is to allow a 2’ side (east) setback where 5’ is required for a relocated driveway, pointing out the existing driveway is located approximately 1’ on the neighboring property. The gravel driveway will also be replaced with a driveway of durable hard surface.

Planning feels the increase in lot coverage from 45% to 49% is reasonable, considering it will be brought closer into compliance with setbacks. The small lot size is the reason for the variance and the BZA has previously approved numerous variances in this same neighborhood. Staff recommends approval of the request, noting the petitioner has asked that the variance be granted for a one year period instead of the usual 6-month period.

Mr. Deegan noted for the record that one phone call was received from neighbor Tim Doyle in support of this petition.

Petitioner Presentation:

Anthony DeMarco, 414 E Douglas spoke to 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:

Mr. Hunsberger asked about fire regulations for the 3' minimum setback.

Mr. Deegan stated this is a building code issue and prior to accepting the BZA application Mr. DeMarco sat down with the building department and discussed applicable codes. He understands he will have to meet all building codes.

Action:

A motion was made and seconded, McKee/Hunsberger, to find with the recommendations and conclusions of the Staff Analysis and approve 19-01DV with the three conditions listed in the Staff Report. The motion passed unanimously by a vote of 4-0.

19-02DV – Signtech Sign Services and Goshen Industrial Park Landowners Association request a developmental variance to allow an 8' x 20' (160 sf) non-illuminated freestanding sign, with an overall height of 17.25 ft, to replace a nonconforming sign of the same area installed in the City right of way. The subject property is public right of way generally located at the northwest corner of E Kercher Road and Industrial Park Drive and is zoned Industrial M-1 District.

Staff Report:

Mr. Deegan explained this sign, located on Kercher Road, is the only entrance sign to Goshen Industrial Park. The landowner's association would like to remove the existing sign and replace with a new sign. He explained the Planning Office has no record of approval for the existing sign which is located within the public right-of-way and in the vision clearance area. The new sign will contain the same area, but the height will be raised slightly to address the vision clearance. Staff supports this request to update the appearance of the sign and increase traffic safety by removing it from the vision clearance area.

Petitioner Presentation:

Todd Lehman, Signtech Sign Services, 1508 Bashor Road, spoke on behalf of the petitioner. He stated the existing sign has a solid structure, but is very dated. He stated they spoke with the customer and suggested updating the sign to be similar to signs at City buildings and properties. He stated the base of the existing sign is usable, but the upper portion of the sign has rotted wood which will be replaced with a new aluminum structure.

Mr. Holtzinger noted that he generally disapproves of oversize signs, but feels this is a big improvement in this case.

Mr. Lehman agreed, noting the existing sign is difficult to read because names on the sign are so small.

Audience Comments:

John Simon, president of the landowner's association, also spoke to the petition. He stated the landowner's association agreed several years ago to table this project until the Kercher Road improvements were completed and now that the work has been completed, they feel this is a good time to update the sign.

The public hearing was closed.

Staff Discussion:

There was no discussion amongst Board members.

Action:

A motion was made and seconded, Manriquez/McKee, to find with the recommendations and conclusions of the Staff Analysis and approve 19-02DV with the five conditions listed in the Staff Report. The motion passed unanimously by a vote of 4-0.

19-02UV & 19-03DV – Kent Beck, Karen Lehman, and Zehr Construction request a use variance to allow a detached garage to be converted to a single-family dwelling, becoming a second primary structure where only one primary structure is permitted per lot in the R-1 District, to amend use variance 97-15UV to remove the requirement that the property be owner occupied and to allow up to five tourist rooms in the main building (where four are currently allowed), and a developmental variance to allow five onsite parking spaces where eight are required. The subject property is generally located at 320 S 5th Street and is zoned Residential R-1 District.

Staff Report:

Mr. Deegan explained today's request contains three parts and outlined each part of the request. The first request is for a use variance to allow a single family dwelling in a detached, two story carriage house on the property. The use variance is required because this creates a second primary structure on the property, where only one primary structure is permitted. He explained the petitioner intends to have living space on the main floor, with a bedroom and bathroom upstairs. He noted the R-1 zoning requires a minimum of 650 sf on the ground floor of a two-story building and the 660 sf main floor of the carriage house will meet this requirement.

Mr. Deegan noted that the BZA has denied requests in the past, where proposed two single-family dwellings would be attached to each other or where the property is located in land-locked areas. He explained this property is different because the buildings are not attached and are surrounded by a variety of uses, pointing out the use in this case is a good match for the surrounding area. Staff recommends approval for this part of the request, allowing the carriage house to become a single family dwelling.

Part two of today's request concerns the bed and breakfast use in the main house. He explained it was approved as a tourist home in 1997, but the approval stipulated that one of the five rooms in the bed and breakfast must be owner occupied and the four remaining rooms could be used as tourist rooms. Mr. Deegan stated if the carriage house is approved, the petitioner would like to add some flexibility to the commitments, allowing the owner to live in either the main house or the carriage house. If the owner is permitted to live in the carriage house, they ask that all five rooms in the main house be allowed as tourist rooms. Staff feels this is a reasonable request and recommends the 1997 variance be amended to allow this.

Mr. Deegan stated if the above requests are granted, additional parking spaces will be required. Staff calculates that eight parking spaces will be required for both uses, but the petitioner can only provide five onsite spaces. He referred to the site plan provided by the petitioner, pointing out five parking spaces are indicated on the north side of the property and one space on the south side of the property, adjacent to the carriage house. He explained that Staff has concerns about the five spaces shown between the carriage house and the main house, arguing that four spaces are more realistic than the five that are shown. He also pointed out the plan is not based upon a survey.

Mr. Deegan stated the petitioner has provided data to Planning Staff indicating the B&B has been at maximum capacity less than five percent of the time since it opened in the Spring of 2016, which means the required eight parking spaces would not be necessary. He also commented that with the carriage house having only one bedroom, two parking spaces may not be necessary. He also pointed out the short walk to downtown, noting that walking, biking, and public transportation provide alternate transportation. For this reason, Staff recommends approval of five parking spaces where eight spaces are required.

Mr. Deegan discussed the recommended commitments in the Staff Report and noted this approval would amend the commitments in 97-15UV.

Petitioner Presentation:

Kent Beck, 320 S 5th Street, was present to speak on behalf of the petitioner.

Mr. Holtzinger stated he understands the carriage house cannot be used as a tourist room, but asked if it could be rented out to someone as an apartment.

Mr. Deegan responded that there is nothing here to say that cannot happen.

Mr. Beck stated this would not be their intention, explaining their intention is to live in the carriage house or remain in the 5th room in the B&B. If they moved into the carriage house, they would likely use the 5th room in the B&B for an onsite manager.

Audience Comments:

Rose Kettlebar, 806 S 7th Street, spoke to the petition. She stated it is her understanding that the house and carriage house must remain under one ownership and questioned if the carriage house could be rented as an apartment if the owner moved offsite.

Mr. Deegan stated there is nothing to prevent that.

The public hearing was closed.

Staff Discussion:

Mr. Hunsberger noted that the commitments would allow the property owner to live offsite and to rent out 5 tourist home rooms in the main house, with the manager living in the carriage house, but asked if these commitments should control the number of dwelling units as was intended by the 1997 variance.

Mr. Deegan pointed out the 1997 approval only applied to the main house, not to the carriage house and as today's commitments are written, they would apply to the main house and the carriage house.

Mr. McKee stated he feels there should be more control over converting these tourist rooms back into apartments.

Ms. Manriquez stated she's fine with Staff's recommendation, but is confused about the apartments.

Mr. Deegan explained they are not apartments, but when the variance was granted in 1997, this was an apartment house. The variance allowed this to be converted into a bed and breakfast. He went on to explain the option of converting from a bed and breakfast back to an apartment house was included in the original variance. He noted that Staff considered this and is comfortable that the house might one day return to apartments and the carriage house could also be rented.

Action:

A motion was made and seconded, Hunsberger/Holtzinger, to find with the recommendations and conclusions of the Staff Analysis and approve 19-02UV and 19-03DV with the seven conditions and eight commitments listed in the Staff Report. The motion passed unanimously by a vote of 4-0.

VI. Audience Items:
None

VII. Staff Board Items:

- *6-month extension request for 18-13UV, 120 S Greene Road, from 2/28/19 to 8/28/19*

Mr. Deegan explained this variance was for a warehouse addition for Vet Poultry Supply at 120 S Greene Road. They have requested a six-month extension while they finalize plans.

Action:

A motion was made and seconded, Hunsberger/Manriquez, to grant a six-month extension for 120 S Greene Road, 18-13UV, from 2/28/19 to 8/28/19. The motion passed unanimously by a vote of 4-0.

- *Staff report feedback form – to be completed for March 26, 2019 meeting*

Mr. Deegan explained Staff is looking for feedback from Board members on the staff reports and packets. He asked Board members to look over the form submitted with the packets and make notes to be discussed at next month's meeting.

Mr. Hunsberger announced he will not be present at the March meeting. Mr. Deegan asked that he provide any comments via email.

VIII. Adjournment: 4:31 pm Holtzinger/Hunsberger

Respectfully Submitted:

 /s/ Lori Lipscomb
Lori Lipscomb, Recording Secretary

Approved By:

 /s/ Tom Holtzinger
Tom Holtzinger, Chair

 /s/ Richard Aguirre
Richard Aguirre, Secretary