

Minutes - Goshen Board of Zoning Appeals
Tuesday, August 27, 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: Richard Aguirre, Aracelia Manriquez, Brad Hunsberger, Scott McKee, and Tom Holtzinger. Also present was Assistant City Planner Rossa Deegan and Assistant City Attorney James Kolbus.
- II.** Approval of Minutes from 7/23/19: Aguirre/Manriquez 5-0
- III.** Filing of Zoning/Subdivision Ordinances and Official Staff Reports into Record: Hunsberger/Aguirre 5-0
- IV.** Postponements/Withdrawals: None
- V. Use & Developmental Variances** – public hearing items
19-20DV – Big O Realty, LLC and Signtech Sign Services request a developmental variance to allow a 42 sf non-illuminated projecting wall sign where a 25sf sign is allowed, to allow the sign to project 6’ from the building wall where 5’ is permitted, and to allow an overall height of 19.5’ where 16’ is permitted. The subject property is generally located at 702 W Lincoln Avenue and is zoned Commercial B-2 District.

Staff Report:

Mr. Deegan explained this property is The O Restaurant, formerly The Oasis, located on West Lincoln Avenue. He advised the previous building was demolished and a new 4,500 sf building is being constructed in its place. Today’s request is for a non-illuminated, projecting sign on the front of the building along Lincoln Avenue. He explained that the previous building had a freestanding sign, but because of the site reconfiguration, it will be difficult to place a freestanding sign that is not in an easement or vision clearance area and that can meet the setback requirement. The proposed sign is 19’ in height where a maximum height of 16’ is permitted. It is also 42 sf in area where a maximum of 25 sf is permitted. It will project 6’ from the building where a maximum of 5’ is permitted.

Mr. Deegan advised Staff feels this request is reasonable, given that a freestanding sign would be difficult to place in front of the building and he pointed out if the site was configured to allow a freestanding sign, a sign of up to 50 sf in area would be allowed. He noted the projecting sign is in proportion with the rest of the building and while an illuminated sign would be permitted at this location, this sign will not be illuminated. Staff recommends approval of the request with a commitment that no freestanding signs be placed upon the property and that all other unapproved signs on the site must be removed.

Petitioner Presentation:

Todd Lehman, 1508 Bashor Road spoke on behalf of the petitioner. He stated this sign will be attached to both the upper and lower overhang and will extend approximately 2’ past the overhang. He stated he didn’t feel illumination was necessary with the amount of light in the area.

Heather Harren, 67260 Brentwood Dr, Goshen also spoke to the petition. She stated she doesn’t feel illumination would go well with the design of the building. She pointed out canopy lights are located around the property and the balcony and feels that will provide sufficient lighting.

Mr. Aguirre asked if she is ok with the proposed conditions.
Ms. Harren responded that she is.

Audience Comments:

None

The public hearing was closed.

Staff Discussion:

There was no discussion amongst Board members.

Action:

A motion was made and seconded, Aguirre/McKee, to find with the recommendations and conclusions of the Staff Analysis and approve 19-20DV with the three conditions and one commitment listed in the Staff Report. The motion passed unanimously by a vote of 5-0.

19-21DV – Dairy Farmers of America, Inc. requests a developmental variance to allow a building height of 49’ where 35’ is permitted and to allow 65% building coverage where 50% building coverage is permitted for the installation of two wastewater treatment silos. The subject property is generally located at 1405 S 10th Street and is zoned Industrial M-1 District.

Staff Report:

Mr. Deegan explained this is a vacant industrial building, obtained by Dairy Farmers in April of this year. It is located along the Ninth Street corridor and the surrounding area is a mix of industrial and residential uses. In December, 2018, the City of Goshen issued a violation notice to Dairy Farmers regarding the wastewater from 1110 S 9th Street which was being discharged into the City sewer and Dairy Farmers has been working with the City on a solution to this issue. He explained that in May of this year, the BZA approved a developmental variance for three treatment structures on the 9th Street property. Following this approval, the petitioner obtained quotes for the project and it was determined that the recently purchased 10th Street property would be ideal for this project. The redesigned structure will contain at least two silos at approximately 49’ in height. The walled structure will also include a treatment system inside a portion of the existing vacant factory.

A developmental variance is requested for a height of 49’ where 35’ is allowed and for 65% building coverage where 50% is allowed. All other developmental requirements will be met. Staff recommends approval of the request.

Petitioner Presentation:

John Brown, 58245 Crystal Springs Drive, Goshen, spoke on behalf of the petitioner. He stated he was here a couple months ago and thought this would be on their 9th Street property, but they have since discovered that placing this on the newly purchased property will be a much better long term solution.

Mr. Holtzinger asked if they will be demolishing part of the building where this treatment system will be located.

Mr. Brown stated the tanks will be along the exterior part of the building and the processing part will be inside the building. It’s unknown at this time what they will do with the remaining portion of the building.

Mr. Aguirre questioned if any changes are anticipated to the property at 1110 S 9th.

Mr. Brown stated the property currently has a Quonset hut and they are considering demolishing it.

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/Hunsberger, to find with the recommendations and conclusions of the Staff Analysis and approve 19-21DV with the three conditions listed in the Staff Report. The motion passed unanimously by a vote of 5-0.

19-04UV & 19-22DV – Goshen Board of Aviation Commissioners and Jones Petrie Rafinski request a use variance to allow an airport and associated uses in the A-1 District where airports are a conditional use in the M-2 District, and developmental variances to allow current and future development to follow the M-2 standards, except to allow maximum building height of 36’ where 35’ is permitted, a 0’ parking/driving aisle setback along CR 42, including the existing internal airport drive, where 25’ is required, a 25’ parking and driving aisle setback on collector and arterial streets where 30’ and 35’ are required respectively, street trees of small or medium species where large trees are required, no bufferyard landscaping adjacent to residential land use, and no connection to City water where service by City water is required. The subject property is generally located at 17229 County Road 42 and is zoned Agricultural A-1 District.

Staff Report:

Mr. Deegan explained this request is for 14 separate tax parcels which make up the Goshen Municipal Airport. He explained that some parcels are owned by the City of Goshen and some are owned by the Goshen Board of Aviation Commissioners, explaining that the Commissioners have authority over the entire airport property.

He gave background information on the airport, noting that a number of airport buildings, hangars, accessory structures, storage structures, and a terminal building have been constructed along County Road 42. He went on to explain that airports are a conditional use in the M-2 zoning district and because they’re not permitted in the A-1 District, it’s unclear how this development was approved. Today’s request for a use variance is to have a use variance in place to allow the airport use. He noted there was a use variance approved in 2005 to allow the construction of an accessory building for the airport.

At this time, the petitioner is proposing a new 12,000 sf hangar along the County Road 42 portion of the property. As part of this approval, they request a one-time use variance to officially permit an airport and associated uses on the property. He pointed out that this request will not change the way the property has been used over the last 50 years. He went on to point out that the staff report lists out the associated airport uses, noting there has been no change to how the airport has been used up to now and explained how the airport fits with the Comprehensive Plan.

Petitioners also request a developmental variance to allow them to follow the Industrial M-2 developmental standards. Their request is to apply these standards to current and future development. Staff supports this request because airports are only permitted in the M-2 District, and it fits well with the M-2 standards. For this reason, these standards should be applied to the proposed and future projects. He pointed out that a number of exceptions from the M-2 standards have been proposed by the petitioner. These would apply to

any current or future development. He summarized that the standards are to maintain open space and visibility adjacent to the runways. He listed the six exemptions outlined in the Staff Report.

He noted the Planning Office had a number of inquiries regarding future development of the northern parcels. He advised that Staff was unable to speak to future plans and invited a representative for the airport to speak to this concern.

Petitioner Presentation:

Austin Blomeke, 325 S Lafayette Blvd, South Bend, spoke on behalf of the petitioner. He stated that nothing will change by granting this use variance and the developmental variances they're requesting are consistent with the current airport use. He stated that by following the M-2 developmental standards, they will be required to meet the 200' setback adjacent to residential use or zoning.

Mr. Holtzinger asked Mr. Blomeke to address neighbor concerns for future plans for northern parcels.

Denny Richmond, 2401 Bashor Road, also spoke to the petition. He stated there are no plans for future development for the northern area which is currently farmland.

Mr. Holtzinger asked if this is mainly used as a buffer.

Mr. Richmond agreed that this is used for a buffer.

Mr. Aguirre asked if the new hangar is a replacement or to increase capacity.

Mr. Richmond responded it will be to increase capacity.

Audience Comments:

Gloria Guadarrama, 66192 Chamfers Lane, spoke to the petition. She stated she has concerns regarding future use and asked if this will create more traffic and noise. She wants to know if the air traffic will be 24 hours per day.

Mr. Holtzinger asked how long Ms. Guadarrama has lived on the property.

Ms. Guadarrama stated she has lived here for the past year.

Brad Rodman, 18016 County Road 142, also spoke to the petition. He asked if following the M-2 standards would open the door to future industrial uses.

Mr. Holtzinger stated that restrictions will be in place to prevent that.

Mr. Aguirre pointed out there is a list of commitments outlining what uses would be permitted and asked if Mr. Rodman is ok with that list.

Mr. Rodman stated he has not seen the list.

Mr. Deegan pointed out that the property is zoned Agricultural A-1 District and is not being rezoned. He also noted the acceptable uses for the property are airport and agricultural related uses.

Petitioner Rebuttal:

Randy Sharkey, City Airport Manager, 17229 County Road 42 spoke to the audience comments. He anticipates three or four new airplanes moving to Goshen, but stated that you will not see an increase in traffic. He asked anyone with noise concerns to contact him and he would see what could be done to help

with the noise. He explained that most of the land owned by the airport has been federally funded and reimbursed. Because of this, the use is required to be aviation related. He also pointed out that they have been approached with requests to use this as an RV drive-away lot, but the FAA does not allow this.

Mr. McKee asked what their typical hours of operation are for the airport.

Mr. Sharkey stated the airport is open 24 hours per day, 365 days per year, but it is manned Monday through Saturday from 7:00 am to 6:00 pm and from 8:00 am to 6:00 pm on Sundays. He explained some of the nighttime noise is from EMS helicopters that come in to do a transport from Goshen Hospital to another hospital.

The public hearing was closed.

Staff Discussion:

Mr. Aguirre asked if the 2005 approval was the only formal review for the airport property.

Mr. Deegan stated it's possible it went through a formal review process, but there was no critical examination of the airport use in the agricultural area.

Action:

A motion was made and seconded, Hunsberger/McKee, to find with the recommendations and conclusions of the Staff Analysis and approve 19-04UV & 19-22DV with the three conditions and one commitment listed in the Staff Report. The motion passed unanimously by a vote of 5-0.

Mr. Hunsberger recused himself 4:39 pm

19-23DV – Blue Diamond Development Communities, LLC and Freedom Builders request a developmental variance to allow 36.6% building coverage where a maximum of 35% is permitted for two proposed homes (Lots 24 A & B). The subject property is generally located at 1616 & 1618 Clover Creek Lane and is zoned Residential R-3 District.

Staff Report:

Mr. Deegan explained these properties are located in Maplewood Estate and were created by a replat of larger lots in 2008. The purpose of the replat was to allow for the construction of single-family attached units on small individual lots. The footprint for each of these units is 1,715 sf, with a lot size of 4,680 sf. He pointed out all developmental requirements are met with the exception of lot coverage. Lot coverage is exceeded by 1.6% or approximately 77 sf.

He explained that in April, 2018, four neighboring properties were granted variances to allow building coverage of 35.8%. According to meeting minutes, it was discussed that the proposal would not be out of character with the neighborhood. Staff feels today's request is reasonable based on similar rationale, but cautioned Board members that the last approval was to allow lot coverage of 35.8% and if approved today, this would allow lot coverage of 36.6%. He advised there are a number of vacant lots remaining and asked the Board to take this under consideration.

Petitioner Presentation:

Tonya Detweiler, 1630 Timberline Drive, spoke on behalf of the petitioner. She stated they realize these lots are very narrow and they have worked to come up with a house plan that can fit and meet the setback requirements. They feel they now have a good floorplan and ask the Board to approve this request.

Mr. Holtzinger asked if they anticipate the need for variances for additional lots in the subdivision.

Ms. Detweiler stated this floorplan is probably as small as they want to build and still have a good plan for families. She anticipates needing variances in the future, but doesn't expect to exceed the 36.6% lot coverage that's being requested today.

Mr. Holtzinger asked if the remaining undeveloped lots are smaller than the ones being discussed today. Ms. Detweiler stated the remaining lots are all basically the same size as these today.

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 developments in the City that have had this same type of lot coverage concerns.

Mr. Deegan stated he's aware of a development on the south side of the City where smaller lots were platted. He explained that setbacks were relaxed in that case, but it's sometimes difficult to get a home to fit on the lots. He pointed out that plats are approved by the Plan Commission and when the smaller lots are approved, it's what we have to abide by.

Action:

A motion was made and seconded, Aguirre/Manriquez, to find with the recommendations and conclusions of the Staff Analysis and approve 19-23DV with the three conditions listed in the Staff Report. The motion passed unanimously by a vote of 4-0.

Mr. Hunsberger rejoined the meeting at 4:47 pm

19-24DV – First National Bank and Professional Permits request a developmental variance to allow a cabinet change on a non-conforming freestanding sign where a cabinet change to a non-conforming sign in the Historic District (HD) is not permitted. The subject property is generally located at 221 N Main Street and is zoned Commercial B-2 HD.

Staff Report:

Mr. Deegan explained this request is for Key Bank which is subject to the historic commercial district sign regulations. He described the immediate area, noting the majority of the area contains commercial businesses. He pointed out the sign is located at Pike and Main Streets, one of the busiest intersections in the downtown area. The proposal is to update the existing freestanding sign which is approximately 48 sf, with an overall height of 18 ft. pointing out the historic district limits maximum sign area to 36 sf and a maximum height of 8'. Although it's unclear if this is the same sign, Planning records show a sign was installed here prior to the historic district sign regulations. Because the historic district does not allow sign changes beyond general maintenance, a developmental variance is required from the BZA.

Mr. Deegan cited examples of past requests for reface of non-conforming signs in the historic district, including the First Source Bank sign and the Miso Japan sign. He explained the proposed sign for Key Bank is smaller than the previous signs and keeps with the character of this heavily traveled corridor.

Petitioner Presentation:

Garry Potts, 58171 Dragonfly Court, Osceola, IN spoke on behalf of the petitioner. 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 Board members.

Action:

A motion was made and seconded, Holtzinger/Hunsberger, to find with the recommendations and conclusions of the Staff Analysis and approve 19-24DV with the three conditions listed in the Staff Report. The motion passed unanimously by a vote of 5-0.

19-25DV – The City of Goshen Parks Department requests a developmental variance to allow a second non-illuminated, freestanding sign of 64 sf in area and 13’ in height where only one freestanding sign of 36 sf in area and 5’ in height is permitted. The subject property is generally located at 1414 W Plymouth Avenue (Hay Park) and is zoned Residential R-1 District.

Staff Report:

Mr. Deegan explained this request is for Hay Park, located in Clover Trails Subdivision. The City made an agreement with developers for a park in 1995, with development of a playground, community garden, and more recently a pavilion. In 2019, plans were approved for the installation of a new fully accessible playground, with a parking area and a fence. The proposed sign is a 64 sf non-illuminated free-standing sign at the playground entrance, 13’ in height. He pointed out parks are conditional uses in all zoning districts and are allowed one non-illuminated free-standing sign with a maximum of 36 sf and 5’ in height. Mr. Deegan stated this request is reasonable and recommended approval of the request.

Petitioner Presentation:

Tanya Heyde, 525 E Jackson Street, spoke on behalf of the petitioner. She stated this park will be fully fenced, with a well-defined entry and exit.

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/McKee, to find with the recommendations and conclusions of the Staff Analysis and approve 19-25DV with the three conditions listed in the Staff Report. The motion passed unanimously by a vote of 5-0.

VI. Audience Items:

None

VII. Staff Board Items:

- *1218 W Clinton Street, Commitment Termination Request*

Mr. Deegan explained we have a request to terminate a commitment for 1218 W Clinton Street. He explained the 2016 variance expired because it was never implemented and a new developmental variance was approved at the July meeting with conditions only. Because the commitment was recorded, it now needs to be terminated as it no longer valid. The commitment termination is for commitment number 2016-18961.

Action:

A motion was made and seconded, Hunsberger/Aguirre, to terminate the Commitment 2016-18961 for 1218 W Clinton Street. The motion passed unanimously by a vote of 5-0.

- Mr. McKee asked what the outcome has been concerning the recent petition (19-10DV – 1614 Autumn Blaze and 1626 Autumn Blaze), where the patio encroached approximately 4’ onto the neighboring property.

Mr. Deegan stated the Board approved this contingent on an easement agreement. He stated the petitioners have put an agreement together and we are waiting on them to provide our office with a recorded copy.

VIII. Adjournment: 5:01pm Aguirre/McKee

Respectfully Submitted:

/s/ Lori Lipscomb

Lori Lipscomb, Recording Secretary

Approved By:

/s/ Tom Holtzinger

Tom Holtzinger, Chair

/s/ Richard Aguirre

Richard Aguirre, Secretary