

Minutes - Goshen Board of Zoning Appeals
Tuesday, March 24, 2020, 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, Allan Kauffman, Richard Aguirre, Tom Holtzinger, and Scott McKee. Also present was Assistant City Planner Rossa Deegan and Assistant City Attorney James Kolbus.

Mr. Deegan read the following emergency meeting notice:

We begin this meeting during a declared public health emergency covering all of the State of Indiana. Board member Richard Aguirre is participating in this meeting by electronic communication, pursuant to paragraph 5 of Governor Holcomb's executive order, 20-04 and guidance from Indiana Public Access Counselor Luke Brit. Board members Aracelia Manriquez, Allan Kauffman, Scott McKee and Tom Holtzinger are physically present in the City Council Chambers as we begin this meeting.

He explained that because some Board members are participating via streaming, all votes must be by roll call. He also noted that because of today's circumstances, he will give an abbreviated Staff Report and asked Board members to limit discussion to the request and to avoid speaking over each other.

II. Approval of Minutes from 1/28/20: Kauffman/McKee

III. Filing of Zoning/Subdivision Ordinances and Official Staff Reports into Record: McKee/Manriquez

IV. Postponements/Withdrawals: None

V. Use & Developmental Variances – public hearing items

20-03DV – Bushwood, LLC requests a developmental variance to allow a third wall sign on a building with two street frontages where a maximum of one wall sign per street frontage is permitted. The subject property is generally located at 301 W Lincoln Avenue and is zoned Commercial B-2 HD.

Staff Report:

Mr. Deegan explained this is a multi-use office building, located on the northeast corner of N 2nd Street and Lincoln Avenue, noting that it is also located on the western edge of the Historic Commercial District and subject to the historic district sign regulations. The primary tenant here is an accounting firm and they request permission to add a third wall sign where a maximum of two are allowed. The proposed wall sign is an approximate 36 sf illuminated wall sign. The Planning Office recommends approval of this sign, in large part because it is in keeping with surrounding properties. He noted the Interra property to the south has several variances which allow larger signs and at a taller height than permitted and pointed out the façade in question has ample room for a small sign.

Petitioner Presentation:

Terry Kercher, 301 W Lincoln Avenue spoke on behalf of the petitioner. He stated he represents Bushwood, LLC and is also a tenant of the building. He explained the accounting firm upstairs is in association with H&R Block, and part of their requirement is that they have an illuminated sign that is solely for their purpose. With the current ordinance, additional signage advertising tenants in the building would have to be removed. They would like to keep the additional signage that indicates what tenants are in the building.

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, Kauffman/Holtzinger, to find with the recommendations and conclusions of the Staff Analysis and approve 20-03DV with the three conditions listed in the Staff Report. A roll call vote was requested with the following outcome: Manriquez, yes; Kauffman, yes; Aguirre, yes; McKee, yes; Holtzinger, yes. The motion passed unanimously by a vote of 5-0.

20-02UV – Amity Corp and College Mennonite Church request a use variance to allow changes to an existing non-conforming monument sign to allow an area of 105 sf and a height of 10' where churches are a conditional use permitting one monument sign not exceeding 36 sf in area and 5' in height, and to allow an electronic message center sign (EMC) to be added to the sign where EMCs are not permitted to be added to non-conforming signs. The subject property is generally located at 1900 S Main Street and is zoned Residential R-1S PUD.

Mr. Holtzinger noted for the record that he is a member of the College Mennonite Church, but he never been in discussion regarding sign issues. He went on to say that he will not be recusing himself.

Attorney Kolbus asked Mr. Holtzinger if he felt he could be fair.

Mr. Holtzinger stated that he feels he can be fair and that while he will vote in this case, he will not make or second a motion.

Staff Report:

Mr. Deegan explained the approximately five acre College Mennonite Church is surrounded by the larger Goshen College campus. He explained that churches are a conditional use in all zoning districts and are permitted one monument style sign with a maximum size of 36 sf and 5 ft in height. Planning records show a monument sign was approved by the Planning Office in 1999 for a 27 sf sign at 6' 10" in height. Because the current sign does not meet current standard adopted in 2016, the sign is considered nonconforming.

The petitioner's request is to expand the sign to be approximately 105 sf in area and with an overall height of 10'. The proposed sign will also include an electronic message center (EMC) which is not permitted in a nonconforming sign. The petitioner states the increase is justified because the church is difficult to locate on the large Goshen College campus. The petitioner also states the large frontage of the church property makes a larger sign appropriate. Lettering from the base of the sign will also be removed and included with the EMC.

Mr. Deegan stated that a larger sign might be warranted, but the proposed 105 sf sign is nearly three times what is permitted. He pointed out the largest sign allowed in the City is 90 sf along a commercial corridor on US 33 for lots with more than 200' of frontage and the proposed height is twice what is permitted by the conditional use requirements. He feels an EMC is reasonable, but not in a sign this size. He noted that a sign this size might have an adverse impact on the residentially zoned properties located southwest of the church, across Main Street and its felt a sign of this size might impact these properties.

Petitioner Presentation:

Everett Thomas, 1900 S Main Street, spoke on behalf of the petitioner. He stated he understands Staff's recommendation and the reason for it, but pointed out the addresses in this area are confusing and because of the large college campus, the church is sometimes difficult to find.

Mr. Kauffman asked if they could include the address on the existing sign to help people find them.

Mr. Thomas stated they would have to remove what's on the base.

Attorney Kolbus asked what size the existing sign is.

Mr. Deegan stated the existing sign is much larger than what was approved in 1999.

Mr. Thomas stated the curve at the top of the sign was to match the sanctuary and that's what makes the 10' height.

Mr. Holtzinger asked if they have considered removing the curved section at the top of the sign.

Mr. Thomas stated he was not part of the sign discussion and does not know what has been discussed.

Audience Comments:

There was no one to speak to the petition.

The public hearing was closed.

Staff Discussion:

Mr. Aguirre asked what the maximum allowable sign would be for this location.

Mr. Deegan stated the maximum allowable sign is 36 sf. in area and 5' in height and the existing sign is already larger than what's allowed. If it was not existing, it would need a variance in order to be approved.

Mr. Aguirre asked if the an EMC would be permitted if the sign was 36 sf.

Mr. Deegan pointed out that it would be allowed if the sign met the requirements of the ordinance, but explained that an EMC cannot be added to a non-conforming sign.

Mr. Kauffman pointed out that three of the four requirements for findings of fact cannot be met and he has a hard time approving this.

Mr. McKee stated he feels a sign this large is also a safety concern for hospital employees that use the nearby parking lot and have to cross the street to get to the hospital.

Ms. Manriquez asked for clarification on the sign height.

Mr. Deegan stated it would be 10' from the bottom of the sign to the top.

Attorney Kolbus pointed out another option would be to approve the sign at a lesser height.

Reopen public hearing

Mr. Kauffman asked where the address would be placed if the sign was built as proposed.

Mr. Thomas stated its his understanding if text is added to the base, it adds to the square footage of the sign.

Mr. Deegan agreed that Mr. Thomas' statement is correct and pointed out the brick base without lettering does not count in the sign area. If wording is include on the base, it becomes part of the sign area.

Mr. Kauffman stated he wouldn't be opposed to adding letters to the base.

Mr. Holtzinger explained his concern is the top portion of the sign and stated he'd like to see it removed.

Mr. Kauffman stated if that happens, they would have to allow the letters on the brick portion.

Mr. Holtzinger agreed with Mr. Kauffman, pointing out this would help keep the height down.

Ms. Manriquez questioned if having the address on the bottom of the sign would be too low for people to see as they're driving by.

Mr. Aguirre asked if this is tabled today, does the petitioner have to start over or can they revise this request.

Mr. Deegan stated they would have to start over with a new request. He pointed out Attorney Kolbus stated the Board can approve a sign with a smaller area.

Attorney Kolbus pointed out a specific request is before the Board today and if the petitioner comes back with a new request, it would have to be re-advertised. He noted the Board can waive any waiting period required by the ordinance.

Reclose public hearing

Action:

A motion was made and seconded, Kauffman/McKee, to find with the recommendations and conclusions of the Staff Analysis and deny 20-02UV with the reasons listed in the Staff Report, but to waive the 6-month waiting period required by the BZA Rules of Procedure in order to refile a new variance request. A roll call vote was requested with the following outcome: Manriquez, yes; Kauffman, yes; Aguirre, yes; McKee, yes; Holtzinger, yes. The motion passed unanimously by a vote of 5-0.

20-03UV & 20-04DV - Bethany Christian High School, Inc., and Jones Petrie Rafinski request a use variance to allow 20' rear (east) and side (south) setbacks for athletic fields adjacent to a residential zoning/use where schools are a conditional use permitting athletic fields to be located no less than 100' from residential zoning/use, and developmental variances to allow a 2' side (west) setback for a bike path/driving aisle adjacent to the railroad track where 10' is required, and to allow athletic field lights at a height of 80' where 65' is permitted by variance 01-16DV. The subject property is generally located at 2904 S Main Street and is zoned Agricultural A-1 District.

Staff Report:

Mr. Deegan explained is the athletic complex at Bethany Christian School on South Main Street and located on the east side of the campus. The petitioner's request is for improvements to the athletic complex which includes, among other things, the addition of a new quarter-mile track and reconfiguration of the middle school and high school soccer field and a softball field. A bike path/emergency drive connecting the Maple City Greenway to Winchester Trails would also be installed. He explained the athletic fields have a 20' setback where 100' is required, the lights for the athletic field are proposed at 80' where 60' was permitted at a previous variance. The bike path would have a 2' side setback where 10' is required. He explained that each of these requests are reasonable, noting that this is already an athletic complex. He explained fields will be similar and configured in a similar manner. Evergreen screening will be installed along with a 6' fence and a 20' net designed to protect neighboring properties from softballs. He noted that while the new lights will be 15' higher, the ones shining towards residential properties, will be shrouded and will also be 600' from the residential property line. He also pointed out that the bike path adjacent to the railroad will be setback 2' from the property line and will not impact the railroad use.

Petitioner Presentation:

Andrew Cunningham, 325 S Lafayette Blvd, South Bend, spoke on behalf of the petitioner. He summarized the project and stated the best way to serve the school and community, their top project is to renovate the existing athletic complex. Proposed is a new track and field facility, along with providing emergency access to the athletic complex. He explained that as part of this project, the softball field will be relocated and improved. The high school and middle school soccer fields will also be relocated and improved. The sports field lighting will be extended to 80'. The soccer fields for the high school and middle school need to be located at the 20' setback. To provide a buffer, a chain link security fence will be installed, along with new evergreens. Netting will be installed along the left field side of the ball field to keep softballs inside the ballpark.

Tim Lehman, 2904 S Main Street, also spoke to the petition. He stated the new softball field will not be any closer than the current one.

Mr. Aguirre asked if they anticipate additional spectators or increased usage of the fields.

Mr. Lehman stated they have never had a track meet there and don't know what to expect, but they don't anticipate more spectators for soccer or softball.

Audience Comments:

Eileen Becker Hoover, 406 Alana Drive, spoke to the petition. She stated she lives directly behind the soccer field and is concerned about the taller lights.

Terry Kercher, 401 Alana Drive also spoke to the petition. He stated he lives closer to the complex and wasn't notified about this petition and asked why that was.

Mr. Kauffman asked if the shrouded lights will allow more light on neighboring properties and if the current lights are shrouded.

Mr. Cunningham responded to lighting concerns by stating he doesn't believe the current lights are shrouded, but stated the new lights will be zero foot candles at the property line.

Mr. Deegan addressed Mr. Kercher's question about why he had not received a property notice by stating the notice was mailed to the property owner instead of the tenant.

The public hearing was closed.

Staff Discussion:

There was no discussion amongst Board members.

Action:

A motion was made and seconded, Kauffman/Holtzinger, to find with the recommendations and conclusions of the Staff Analysis and approve 20-03UV & 20-04DV with the four conditions listed in the Staff Report. A roll call vote was requested with the following outcome: Manriquez, yes; Kauffman, yes; Aguirre, yes; McKee, yes; Holtzinger, yes. The motion passed unanimously by a vote of 5-0.

20-05DV – DMBG Group, LLC, and The Chief request a developmental variance to allow a non-substantial improvement after previous improvements to a building not at Flood Protection Grade (FPG) for an internal remodel to separate the existing bakery use from a new ice cream production and storage area. The subject property is generally located at 508 W Lincoln Avenue, is zoned Commercial B-2 District, and is located in Zone AE Floodway.

Staff Report:

Mr. Deegan explained this request is for Dutch Maid Bakery which is located within the AE Floodway of the special flood hazard area (SFHA) and subject to DNR review when there are substantial improvements. Because today's request has been determined to be non-substantial, no DNR review is required.

The Chief Ice Cream is proposing to remodel 1,335 sf of the eastern portion of the building to allow for a new ice cream production and storage area. The remodel will include new walls separating the bakery use and ice cream production area, the installation of storage and production equipment, and paint.

Because this facility had a previous addition, the zoning ordinance requires that the structure now be brought into compliance with flood protection grade (FPG) which requires the lowest floor of the structure be a minimum of two feet above the base flood elevation, or receive a variance from the BZA.

Mr. Deegan referred to the Staff Report which lists four reasons this request is warranted, including that the remodel will not expand the footprint of the building, and that the DNR has revised its floodplain model ordinance which was used to base Goshen's ordinance. The change has eliminated the mandatory one-time restriction on non-substantial improvements. He pointed out that Staff will recommend this change to Goshen's

ordinance as well. He further explained if this change is adopted as part of Goshen’s zoning ordinance, similar cases in the future will not need BZA approval.

Mr. Deegan noted the petitioner emailed the Planning office and advised the Staff Report was sufficient. He pointed out that under normal circumstances, the petitioner is present, but given the current public health emergency, the petitioner will not attend today’s meeting.

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, McKee/Holtzinger, to find with the recommendations and conclusions of the Staff Analysis and approve 20-05DV with the four conditions listed in the Staff Report. A roll call vote was requested with the following outcome: Manriquez, yes; Kauffman, yes; Aguirre, yes; McKee, yes; Holtzinger, yes. The motion passed unanimously by a vote of 5-0.

VI. Audience Items:
None

VII. Staff Board Items:
• Staff/Board Discussion on Findings of Fact

Mr. Deegan stated this item will be discussed at a later date.

VIII. Adjournment: 5:06 pm McKee/Kauffman

Respectfully Submitted:

/s/ Lori Lipscomb

Lori Lipscomb, Recording Secretary

Approved By:

/s/ Tom Holtzinger

Tom Holtzinger, Chair

/s/ Richard Aguirre

Richard Aguirre, Secretary