

Minutes - Goshen Board of Zoning Appeals  
Tuesday, August 25, 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 via electronic communication: Allan Kauffman, Aracelia Manriquez, and Richard Aguirre. Member Tom Holtzinger was physically present, along with Assistant City Planner Rossa Deegan and Assistant City Attorney James Kolbus. Absent: Scott McKee

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 members Richard Aguirre, Allan Kauffman, and Aracelia Manriquez are participating in this meeting by electronic communication pursuant to Governor Holcomb's Executive Orders 20-04, 20-09 and 20-38, as well as guidance from Indiana Public Access Counsellor Luke Britt.

Board member Tom Holtzinger is physically present in City Council Chambers as we begin this meeting.

*Procedural Note:* Mr. Deegan reminded Board members that all votes must be roll call votes.

**II.** Approval of Minutes from 7/28/20: A motion was made and seconded, Aguirre/Kauffman, to approve the minutes as presented with the following outcome: Kauffman, yes; Manriquez, yes; Aguirre, yes; Holtzinger, yes. The motion passed unanimously by a vote of 4-0.

**III.** Filing of Zoning/Subdivision Ordinances and Official Staff Reports into Record: A motion was made and seconded, Aguirre/Manriquez, to accept the Filing of Zoning/Subdivision Ordinances and Official Staff Reports into Record with the following outcome: Kauffman, yes; Manriquez, yes; Aguirre, yes; Holtzinger, yes. The motion passed unanimously by a vote of 4-0.

**IV.** Postponements/Withdrawals: None

**V. Use and Developmental Variances** – public hearing item

**20-08UV** – The City of Goshen requests a use variance to allow a park with a 6' fence approximately 32' from an adjacent residential zoning district to the west where parks are a conditional use prohibiting structures closer than 50' from any residential zoning district boundary line. The subject property is generally located at 523 E Jackson Street and is zoned Industrial M-1 District.

*Mr. McKee joined the meeting via electronic communication at 4:05 pm.*

*Staff Report:*

Mr. Deegan explained this request is for a 1.16 acre neighborhood park known as Water Tower Park. He described the immediate neighborhood pointing out the park is located along the 9<sup>th</sup> Street industrial corridor with Residential R-1 zoning located immediately west and residential use located across Plymouth Avenue to the north.

Today's request is for a 6' tall fence, 100' in length, with sides of the fence extending south for 30'. This fence will be located approximately 20' south of the park's north property line. The fence will not enclose the entire park, but is intended to act as a buffer between park patrons and traffic on Plymouth Avenue.

Parks are a conditional use in all zoning districts and one of the conditional use requirements is that no buildings or structures shall be located closer than 50' to any residential use or zoning district. The proposed fence is located approximately 32' from the residential zoning district to the west which is the reason for today's request.

Mr. Deegan pointed out that while fences are structures, they're typically allowed to be placed adjacent to property lines. It's felt that this fence has ample room between the property lines and the adjacent residential zoning and will promote safety to park patrons. The placement of the fence is outside the vision clearance area and will not have a negative impact on traffic. This fence will also be an improvement to the neighborhood park and is supported by the Comprehensive Plan.

Mr. Deegan noted for the record that the Planning Office had a total of five inquiries regarding this petition. Each inquiry was to ask for additional information regarding the fence and none voiced support or opposition to the petition.

*Petitioner Presentation:*

Tanya Heyde, Goshen Parks Department, spoke on behalf of the petitioner. She stated she's familiar with the Staff Report and has nothing to add.

Mr. Holtzinger asked how far back the fence is located.

Ms. Heyde stated the 100' of fencing described by Mr. Deegan runs west to east, along the north end of the property. There will also be 30' of fencing running south along both the east and west side of the property. These sections of fencing will taper down from 6' to 4'.

*Audience Comments:*

Myrna Burkholder, 906 S 8<sup>th</sup> Street, spoke to the petition. She stated she appreciates the open green space and doesn't like to see a fence go up, but if that means the park will be used more, she's in favor of it.

*The public hearing was closed.*

*Staff Discussion:*

Mr. Kauffman asked if this will be a chain link fence.

Ms. Heyde stated it will not be chain link.

Mr. Aguirre asked for clarification on comments received by the Planning Office.

Mr. Deegan stated most of the comments asked where the fence would be located or what it would be used for.

*Action:*

A motion was made and seconded, Kauffman/Aguirre, to find with the recommendations and conclusions of the Staff Analysis and approve 20-08UV with the 3 conditions listed in the Staff Report. A roll call vote was requested with the following outcome: Kauffman, yes; Manriquez, yes; McKee, yes; Aguirre, yes; Holtzinger, yes. The motion passed unanimously by a vote of 5-0.

**20-13DV** – Green Apple, LLC and Abonmarche Consultants request a developmental variance to allow a parking/driving aisle with a 0' side & rear yard setback between the proposed Lots 1A & 2A of the Replat of Lot #1 of Eisendorff Field where 5' is required on the side (Lot 1A) and 10' is required on the rear (Lot 2A). The 0' setbacks are for an existing access/driving aisle, which will become a shared access for Lots 1A and

2A when the subdivision is approved. The subject property is Lot 1 of Eisendorff Field subdivision, generally located at 1811 & 1853 Eisenhower Drive South and zoned Industrial M-1 District.

*Staff Report:*

Mr. Deegan explained this property contains approximately 17.8 acres and contains one building at 1811 Eisenhower Drive South and one building at 1853 Eisenhower Drive South. The petitioner is the current owner of both buildings and is in the process of subdividing the lot into two separate lots with each building on its own lot and sharing a common driveway. This is a two-step approval process through the Goshen Plan Commission and primary approval was granted at the July Plan Commission meeting, but secondary approval cannot be granted until the petitioners demonstrate that the proposed lots meet all of the zoning ordinance requirements. The shared driveway prevents them from meeting the setback requirement for parking/driving aisles.

Lot 1A is the smaller lot and will contain the smaller of the two buildings. All street frontage is located on Eisenhower Drive South and will require a 0' side yard setback along the proposed east lot line where 5' is required.

Lot 2A, the larger of the two lots has frontage on Dierdorff, requiring a 0' rear setback where 10' is required. The subdivision creates the opportunity for both lots to be under different ownership at some point. This proposal still allows adequate driving aisles and maneuvering to both properties and an access easement will be required as part of the secondary approval. He went on to say that shared access is quite common in the industrial park, giving examples of nearby industrial properties that have existing shared access.

He noted for the record that no inquiries were received by the Planning Office regarding this petition.

*Petitioner Presentation:*

Crystal Welsh, 1009 S 9<sup>th</sup> Street, spoke on behalf of the petitioner. She explained this petition is to divide one lot into two so that each building has their own property, explaining that because they were developed on one lot, they share the driveway. She explained that one of the conditions for subdivision approval is to have this setback approved by the BZA. She noted that this will not be detrimental to the neighborhood or community and asked that this request be supported.

Mr. Holtzinger asked how the retention pond is handled if these lots have different owners.

Ms. Welsh responded that there are four easements that are part of the subdivision process. One is a shared access and drive easement and three are for shared retention areas. She went on to say that part of the post construction for stormwater management plan requires an agreement between the two if the properties end up with separate ownership. Both parties would be legally bound to maintain the shared system.

*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/Holtzinger, to find with the recommendations and conclusions of the Staff Analysis and approve 20-13DV with the 3 conditions listed in the Staff Report. A roll call vote was

requested with the following outcome: Kauffman, yes; Manriquez, yes; McKee, yes; Aguirre, yes; Holtzinger, yes. The motion passed unanimously by a vote of 5-0.

**VI. Audience Items:**

Myrna Burkholder, 906 S 8<sup>th</sup> Street, asked when the fence at 523 E Jackson would be installed. Ms. Heyde stated it's anticipated that the fence will be installed in the next 30 to 60 days.

**VII. Staff Board Items:**

- 6-month extension request for 2904 S Main Street, from 9/24/20 to 3/24/21 (20-03UV & 20-04DV)

Mr. Deegan advised Board members that a use variance was approved in March of this year to allow updates to the Bethany athletic complex that included reduced setbacks adjacent to residential use and zoning and a side setback for a bike path. He explained this project is still in the technical review stage with the City and the variance will expire on September 24<sup>th</sup>. For this reason the petitioners have requested a six-month extension, effective to March 24, 2021.

*Action:*

A motion was made and seconded, Kauffman/Holtzinger, grant a six-month extension for 20-03UV & 20-04DV. A roll call vote was requested with the following outcome: Kauffman, yes; Manriquez, yes; McKee, yes; Aguirre, yes; Holtzinger, yes. The motion passed unanimously by a vote of 5-0.

**VIII. Adjournment: 4:25 pm Aguirre/Kauffman**

Respectfully Submitted:

/s/ Lori Lipscomb

Lori Lipscomb, Recording Secretary

Approved By:

/s/ Tom Holtzinger

Tom Holtzinger, Chair

/s/ Richard Aguirre

Richard Aguirre, Secretary