

Minutes - Goshen Board of Zoning Appeals
Tuesday, July 28, 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, Scott McKee, and Richard Aguirre. Member Tom Holtzinger was physically present, along with 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 members Allan Kauffman, Aracelia Manriquez, Scott McKee, and Richard Aguirre are participating in this meeting by electronic communication pursuant to Governor Holcomb's Executive Orders 20-04, 20-09, and 20-34, 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.

Mr. Deegan reminded Board members that all votes must be roll call votes.

II. Approval of Minutes from 6/30/20: A motion was made and seconded, Kauffman/Manriquez, to approve the minutes as presented with the following outcome: Kauffman, yes; Manriquez, yes; McKee, yes; Aguirre, yes; Holtzinger, yes. The motion passed unanimously by a vote of 5-0.

III. Filing of Zoning/Subdivision Ordinances and Official Staff Reports into Record: A motion was made and seconded, Aguirre/Holtzinger, to accept the Filing of Zoning/Subdivision Ordinances and Official Staff Reports into Record with the following outcome: Kauffman, yes; Manriquez, yes; McKee, yes; Aguirre, yes; Holtzinger, yes. The motion passed unanimously by a vote of 5-0.

IV. Postponements/Withdrawals: None

V. Use and Developmental Variances – public hearing item

20-06UV – Chupp Holdings, LLC, Bill Chupp, and Jeremy Miller, request a use variance to allow beauty shops, barber shops, and offices (without drive-in facilities) in an M-1 District, where beauty shops and barber shops are permitted in the Commercial B-1, B-2, B-3, B-4, and PUD Districts, and where offices (without drive-in facilities) are conditional uses in the Commercial B-1 and PUD Districts and permitted in the Commercial B-2, B-3 and B-4 Districts. The subject property is generally located at 2339 Eisenhower Drive North and is zoned Industrial M-1 District.

Staff Report:

Mr. Deegan explained the previous use at this property was a church. It contained a large common room, classrooms, storage area, kitchen, and bathrooms. Today's request is to allow an esthetician, a group of offices and salons focused on beauty, health, and well-being. The layout proposes massage and red light therapy, a hair salon and beauty shops. He explained that the massage and red light therapy uses are considered offices and these commercial uses require a use variance. He noted proposed future use of the building includes an auditorium in the common area, and the conversion of a portion of an existing storage area for additional bathrooms. He pointed out a freestanding sign has already been installed without zoning review or approval and noted for the record that the property meets all developmental requirements. He went on to say that because of its location in a mixed use commercial area, this use will fit well and Staff

recommends approval of the request. He also advised that several letters and emails were received, along with client testimonials, all in support of this request. Copies were provided to Board members via email earlier today.

Petitioner Presentation:

Jeremy Miller, 21989 County Road 46, New Paris spoke on behalf of the petitioner. He stated he was familiar with the Staff Report and in agreement.

Mr. Holtzinger asked for an explanation of red light therapy.

Mr. Miller stated it's therapeutic for skin.

Audience Comments:

There was no one to speak to the petition.

The public hearing was closed.

Staff Discussion:

Mr. Aguirre asked if the sign mentioned by Mr. Deegan is an issue.

Mr. Deegan stated he doesn't think the sign will be an issue, but it needs to be reviewed by the Planning Office.

Action:

A motion was made and seconded, Aguirre/Manriquez, to find with the recommendations and conclusions of the Staff Analysis and approve 20-06UV with the five 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.

20-09DV – The City of Goshen and Lacasa, Inc., request developmental variances to allow a rear (east) building setback of 13' where 25' is required, 39% building coverage where 35% is allowed, and for the variance to be valid for 12 months, for the construction of a new single family home. The subject property is generally located at 224 S 7th Street and is zoned Residential R-1 District.

Staff Report:

Mr. Deegan explained this and the following request are for the same petitioner with a request to build a single family home on a vacant residential parcel, noting that both properties are zoned Residential R-1 District. He also noted that at one time, both properties contained multi-unit homes that were destroyed by fire. He explained that both lots were created prior to the current zoning ordinance, making them difficult to develop and meet current developmental standards. Both of these homes are infill development, something strongly encouraged by the Comprehensive Plan and for this reason, Staff supports both requests.

Mr. Deegan noted that this property is surrounded by a mix of single and multi-family homes, and zoned for single family use. Building coverage is limited to a maximum of 35%, with coverage proposed at 39% and the requested rear setback is 13' where 25' is required. He pointed out that lot coverage and setbacks are consistent with other properties in this area. He also explained that this 13' setback is measured from the attached garage, but if the garage was detached, a 5' setback would be permitted, so this setback of 13' seems reasonable. He also noted this exact same request was approved by the BZA in October, 2016, but because of funding issues, development did not proceed.

Mr. Deegan stated one inquiry was received from the neighbor at 220 S 7th Street. The caller stated she had no issues with the proposal.

Petitioner Presentation:

Brad Hunsberger, 202 N Cottage Avenue, spoke on behalf of the petitioner. He stated they're excited to bring new construction to an old neighborhood and asked for approval of the request.

Audience Comments:

Kirk Stiffney, 213 River Vista Drive, spoke to the petition. He stated he owns a nearby property. He pointed out the small back yard and questioned if this property would be owner occupied or a rental.

Mr. Hunsberger stated this property will be for sale and acknowledged the small rear yard, stating they'll find a home buyer that wants a small yard.

The public hearing was closed.

Staff Discussion:

There was no discussion amongst Board members.

Action:

A motion was made and seconded, Kauffman/Aguirre, to find with the recommendations and conclusions of the Staff Analysis and approve 20-09DV with the three 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.

20-10DV – LaCasa Real Estate Holdings, LLC, requests developmental variances to allow a residential building lot with 33' of frontage where an established front lot line of not less than 66' is required, 3' (north and south) side building setbacks where a minimum of 6' is required, and for the variance to be valid for 12 months, for the construction of a new single family home. The subject property is generally located at 317 S 10th Street and is zoned Residential R-1 District.

Staff Report:

Mr. Deegan explained as with the previous case, this property contained a multi-family home which was destroyed by fire several years ago. Today's request is for a one-story, single family house. A developmental variance is required to allow the north and south side setbacks of 3' where 6' is required and to allow lot frontage of 33' where 66' is required. He explained the proposed building is 24' wide making this request reasonable. He noted the previous building had a 0' north setback and pointed out that like the previous case, this is infill development and supported by the Comprehensive Plan. Staff recommends approval of the request.

Petitioner Presentation:

Brad Hunsberger, 202 N Cottage Avenue, spoke on behalf of the petitioner. He stated the previous house was demolished several years ago as part of the blight elimination program and they're excited to bring new housing to the area.

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 20-10DV with the three 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.

20-11DV – Junior M. & Tammy Hunley and Lacasa, Inc., request a developmental variance to allow a front building setback of 16’ where 30’ is required for an accessibility ramp. The subject property is generally located at 1303 E Plymouth Avenue and is zoned Residential R-1 District.

Staff Report:

Mr. Deegan explained the owners of this single family home would like to make several improvements to the property to allow for better accessibility to the house for the owners. One of those improvements is for a 5’ wide handicap ramp, located 16’ from the property line where the minimum setback is 30’. Staff recommends approval of the request with conditions, noting the ramp is necessary for the homeowners to safely access their home.

Petitioner Presentation:

Aaron Lehman, 202 N Cottage Avenue spoke on behalf of the petitioners. He stated that this is part of a Help-A-House project, which is designed to help low income residents. He noted the owners have lived here for some time and as they have aged, access to the front of the house has been difficult. It’s anticipated that this ramp will allow them to safely remain in their home without creating a permanent change to the property.

Audience Comments:

There was no one to speak to the petition.

The public hearing was closed.

Staff Discussion:

Mr. Kauffman asked if the ramp is removed and a future homeowner wanted to build a porch, would the setbacks approved today allow that to happen.

Mr. Deegan stated condition number four in the Staff Report allows the front setback reduction for an accessibility ramp only.

Action:

A motion was made and seconded, Aguirre/McKee, to find with the recommendations and conclusions of the Staff Analysis and approve 20-11DV with the four 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.

20-12DV – Goshen Theater, Inc., requests developmental variances to allow placement of two window electronic message centers (TV monitors) totaling 24 SF in area where one window sign is allowed up to a maximum of 20 SF in area, and where electronic message centers are not permitted, and a second wall sign (commemorative plaque) on the front façade of the building where only one wall sign is allowed per street

frontage. The subject property is generally located at 216 S Main Street and is zoned Commercial B-2 HD DD.

Staff Report:

Mr. Deegan explained this request is for Goshen Theater which is subject to the Historic District sign standards. He reminded Board members that flashing lights were approved by the BZA in January of this year and that today's request is to allow a television monitor in both the north and south windows on the building façade. He explained the theater used to advertise shows with posters inside cabinets on the columns alongside the doors, but the preference now is to place television monitors, approximately 54" x 32", on movable stands in the windows. These televisions meet both the definition of window signs and electronic message center (EMC) signs and because only one window sign is allowed by the Goshen Zoning Ordinance and EMC signs are not allowed, a variance is required. A second request is to allow an approximate 5 SF commemorative metal plaque on the north column. This plaque requires a variance because it's considered a wall sign and only one wall sign is allowed per street frontage. He noted that while staff recommends approval, he's concerned that without restrictions, the EMC's could become unsightly and out of character in the downtown district. He concluded by discussing the conditions and commitments recommended in the Staff Report.

Petitioner Presentation:

Julia Gautsche, Vice-Chair of the Goshen Theater Board, spoke on behalf of the petitioner. She introduced Amber Burgess, Managing Director, and Jerry Peters, Technical Director. She stated they're familiar with the Staff Report and in agreement with the listed conditions and commitments and available to answer any questions.

Mr. Holtzinger noted that he's a member of the historical group and is concerned with the historical district. He pointed out we're restoring a historical building and this proposal doesn't seem to fit in with that.

Ms. Gautsche stated because this building is being restored, the façade has been returned almost to the original and there's no longer room for the poster boxes, nor do they want to add them to the new façade. She went on to say this will be used to advertise for the theater and because they won't be scrolling, she feels it will be tastefully done.

Ms. Burgess stated she and Mr. Peters have discussed ways to mimic something more historic and don't want to disrupt any renovations made to the building. She explained they would like to keep the historic feel to the building as much as possible.

Ms. Gautsche stated that Mr. Peters has a sample of what these monitors will show and asked him to hold up his iPad so Zoom participants could see.

Mr. Aguirre asked Ms. Gautsche what kind of hours they anticipate and how many special events they expect to have.

Ms. Gautsche stated they hope to be able to open for events soon, but for now they are looking at hours from 10:00 am to midnight. She pointed out downtown stores open at 10:00 am and there are more pedestrians downtown.

Ms. Burgess stated that eventually they hope to have one or two special events per week and most would be during their normal hours of operation.

Mr. Kauffman stated he has concerns regarding the hours of operation. He doesn't understand why we would restrict the hours the sign could be used and said he'd like to define the time instead of approving for normal theater hours.

Audience Comments:

Brad Hunsberger, 202 N Cottage Avenue spoke to the petition. He stated he feels this is perfect for a historic building and likes that the display doesn't attach to the structure.

The public hearing was closed.

Staff Discussion:

Mr. Aguirre asked if any downtown business owners have commented.

Mr. Deegan answered no.

Mr. Holtzinger asked how many notices were sent.

Mr. Deegan stated 35 notices were mailed.

Action:

A motion was made and seconded, Kauffman/McKee, to change commitment #3 to read "The EMC signs may be turned on daily between the hours of 8:00 a.m. and 12:00 a.m. only." 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.

Action:

A motion was made and seconded Kauffman/McKee, to find with the recommendations and conclusions of the Staff Analysis and approve 20-12DV with the following conditions and commitments:

Conditions:

1. If a Building permit is required, 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 BZA approval.
2. Deviation from the requirements and conditions of the variance may result in the cancellation and 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 Board of Zoning Appeals 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 Board of Zoning Appeals staff and until all conditions of approval have been met
5. An approved zoning clearance form is required.

Commitments:

1. If the variance is not implemented and expires, this Commitment automatically terminates as well, and the Zoning Administrator may execute and record a Termination of Commitment on behalf of the City of Goshen Board of Zoning Appeals.
2. The EMC signs shall not be permanently attached to any interior or exterior portion of the building.
3. The EMC signs may be turned on daily between the hours of 8:00 a.m. and 12:00 a.m. only.
4. The EMC signs shall have no illumination which is in continuous motion or which appears to be in continuous motion. Continuous scrolling of messages is prohibited.
5. The EMC signs must show the entire message at one time.
6. The EMC signs shall not consist of flashing, scintillating, chasing or animated lights, and must remain static and depicted for a minimum of eight (8) seconds.
7. The intensity of illumination in the EMC sign shall not change within the context of the same message.

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.

20-07UV – The City of Goshen requests a use variance to allow a dog park with a 4' chain-link fence, approximately 15' from adjacent residential properties to the north and south and approximately 41' from a residential property to the west, and for an approximately 15 SF gateway entry sign 12' in height without landscaped area, where parks are a conditional use prohibiting structures closer than 50' from any residential

uses and allowing one monument style freestanding sign no greater than 5' in height and located in a minimum of 2 SF of landscaping for every 1 SF of sign area. The subject property is generally located at 119 S 9th Street and is zoned Residential R-1 District.

Staff Report:

Mr. Deegan explained the City would like to turn this City-owned vacant lot in the East Lincoln Crossroads Neighborhood into a neighborhood dog park, containing four parking spaces, and a fenced in area. He noted that parks are a conditional use in all zoning districts and one of the requirements is that all structures be a minimum of 50' from residential zoning or use. He noted the proposed park has a fence located approximately 15' from residential properties to the north and south, and approximately 41' from a residential property to the west. A monument sign is not reasonable for this site because its not adjacent to any streets and a 12' high sign with an arched entryway is proposed, without the required landscaping. The approximate 15 sf sign is not illuminated and smaller in size that what is permitted for a monument sign. This will be a small neighborhood park, approximately 1/3 acre, and the request appears reasonable. He noted this park will be a nice addition to the neighborhood and encouraged by the Comprehensive Plan. Staff recommends approval of the request.

Petitioner Presentation:

Tanya Heyde, Goshen Parks Department, spoke on behalf of the petitioner. She stated this began as a joint project with the neighborhood association and Lacasa. A concept was presented in 2017 and a small grant was received for this project. The neighborhood association presented their ideas for a dog park to the Park Board and the grant funds were transferred to the Park Department who is working with Goshen Engineering to obtain site plans and most of the construction for the project.

Mr. Aguirre asked what City services will be provided?

Ms. Heyde stated this will be a small neighborhood park, close to the trail. No membership will be required and maintenance of the park will fall on the Park Department. They anticipate mowing, ongoing landscaping needs, and trash pickup.

Dustin Sailor, Director of Public Works for the City of Goshen, stated a water fountain will also be added at this location, capable of serving people and their pets. There will be no restrooms facilities.

Mr. Kauffman asked if pet owners will be required to clean up after their pets.

Ms. Heyde stated that will be posted along with a list of park rules.

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 20-07UV with the three 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:
None

VII. Staff Board Items:
None

VIII. Adjournment: 4:52 pm 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