

Minutes - Goshen Board of Zoning Appeals  
Tuesday, September 22, 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.

We begin this meeting during a declared public health emergency covering all of the State of Indiana. Board members Richard Aguirre, Allan Kauffman, Scott McKee, and Aracelia Manriquez are participating in this meeting by electronic communication pursuant to Governor Holcomb's Executive Orders 20-04, 20-09 and 20-41, 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 8/25/20: A motion was made and seconded, Kauffman/McKee, 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, Kauffman/McKee, 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

**20-14DV** – Maria & Norman Weaver request developmental variances to allow a 15' front yard setback for a parking/driving aisle where 35' is required, and open parking spaces in the front yard setback, for a 12' x 45' gravel parking area. The subject property is generally located at 2307 Bashor Road and is zoned Residential R-1 District.

*Staff Report:*

Mr. Deegan explained this is a single family home, with a two car garage and a driveway approximately 20' in width. The Planning Office was made aware of a gravel expansion to the driveway earlier this year. The petitioner stated he was unaware approval from Planning and the Board of Works (BOW) was required and the expanded parking was for additional parking for his children. The newly installed parking area begins at the property line and measures approximately 12' by 60'. Planning also discovered a 15' roadway easement along the front of the property and for this reason the petitioner modified his plan to remove the first 15' of gravel, making his new request for a 12' by 45' parking area. The petitioner has received a two year approval from the BOW for the gravel surface. At the end of two years it must be removed or replaced with hard surface. BZA

approval is required to allow the open parking in the front yard, which in this case is the first 35' from the property line. Planning recommends approval based on the fact that there are four other properties in the area that allow open parking in the front yard. He also pointed out there is no street parking adjacent to this property. Because the BOW states it must be removed in two years if it is not replaced, Planning recommends a commitment that if it's removed for a period of 90 days or more, the approved variance becomes null and void.

Mr. Deegan stated one phone call was received on behalf of the owner of 2310 Bashor Road. The caller expressed concern that the gravel would have a negative impact on property values and there were so many cars parked at this property. The caller stated they are not opposed to a turn-around, but are opposed to the expanded gravel.

*Petitioner Presentation:*

Norman Weaver, 2307 Bashor Road, spoke on behalf of the petitioner. He stated he was trying to make it easier for everyone living at the property to get in and out of the driveway.

Mr. Holtzinger asked how many family members and vehicles there are.

Mr. Weaver stated there are 6 family members and 5 cars. He went on to explain that in the mornings they had to drive through the grass to get out and felt this was a better solution.

Mr. Aguirre asked Mr. Weaver how he responds to neighbors that are concerned this will reduce property values.

Mr. Weaver stated none of the neighbors he spoke with had any concerns. He also noted if/when the house is sold, the next owner will likely appreciate having the extra parking space.

*Audience Comments:*

There was no one to speak to the petition.

*The public hearing was closed.*

*Staff Discussion:*

Mr. Kauffman asked if the BOW decision to allow this has any effect on the BZA decision.

Mr. Deegan stated the BZA must approve the open parking in the front yard setback, while the BOW approval was for the surface material only. He went on to say if the BZA denies this request, the open parking within the first 35' from the property line would have to be removed.

*Action:*

A motion was made and seconded, Aguirre/Kauffman, to find with the recommendations and conclusions of the Staff Analysis and approve 20-14DV with the 4 conditions and 2 commitments 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.

Mr. Aguirre asked how the BZA can get word to the City Council that the parking ordinance needs to be discussed and possibly updated, regarding the number of cars that are allowed to be parked on a property.

Attorney Kolbus stated it would be brought to the attention of the Plan Commission who would review the ordinance and determine if it would be appropriate to have the City Council make a

change. He went on to say that to his knowledge the zoning ordinance does not regulate the number of cars at a property so he's unclear what Mr. Aguirre wants changed in the ordinance.

Mr. Aguirre stated he would recommend the Plan Commission look at this issue because he feels this will be an issue that is likely to increase.

**20-15DV** – Stephen & Katelynn Boener request a developmental variance to allow a 4' side (north) setback where 8' is required for the construction of an accessibility ramp. The subject property is generally located at 610 Revere Drive and is zoned Residential R-1 PUD District.

*Staff Report:*

Mr. Deegan explained this residential home includes a home occupation which is permitted by the zoning ordinance. He explained the business has customers with disabilities and to accommodate these customers the property owners propose a handicap ramp along the north side of their property. The ramp requires an 8' setback to the neighboring property line, and this proposal is for a 4' setback.

Mr. Deegan stated there is no other location for a ramp and Staff finds this request reasonable. He also noted that the ramp will be inconspicuous because of a fence surrounding the property. He noted for the record that a neighboring property owner contacted the Planning Office for additional information on this request and stated he supports this request.

*Petitioner Presentation:*

Stephen & Katelynn Boener, 610 Revere Drive, spoke on behalf of the petitioner. Mr. Boener stated they are familiar with the Staff Report and have nothing to add.

Mr. Aguirre asked approximately how many customers will visit the property each week.

Mrs. Boener stated she's just getting the business started, but doesn't anticipate more than one or two per week.

*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 20-15DV with the 4 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.

**20-16DV** – Trinity Square Shopping Plaza, LLC, and John William Davis, Jr., request a developmental variance to allow a non-substantial improvement after a previous improvement to a building not at Flood Protection Grade (FPG) for an internal renovation of a restaurant. The subject property is generally located at 231 Chicago Avenue, is zoned Commercial B-4 District, and is located in Zone AE Fringe.

*Staff Report:*

Mr. Deegan explained this is the former Dana J's location in Trinity Square Shopping Center. This property is also located in the fringe (Zone AE) of the Special Flood Hazard Area (SFHA) explaining that a variance is required because renovations were made in 2007 following adoption of the City's first floodplain ordinance and because the building does not meet Flood Protection Grade (FPG). He noted that Staff anticipates changes to the floodplain ordinance in the very near future which will allow administrative approval of renovations such as this. He pointed out the petitioners are aware of this anticipated update to the ordinance, but have elected to speed up the renovation process by applying for a variance.

He explained that the majority of the expenses for the proposed renovation include replacement of drywall, but also includes new electrical and plumbing work. He noted the petitioners are aware of the risks of developing in this area, but if not renovated, this property could remain vacant. All renovations will be within the existing building footprint.

The Planning Office has not been contacted by neighboring property owners regarding this petition and Staff recommends approval of the request.

*Petitioner Presentation:*

Bill Davis, 116 E Clinton Street, spoke on behalf of the petitioner. He stated they are familiar with the Staff Report and agree with the conditions of approval.

Mr. Holtzinger asked when they anticipate being in the building.

Charlie Kalwitz, 3415 Ironwood, South Bend, responded to Mr. Holtzinger's question, stating he estimates the restaurant could open by December 1<sup>st</sup>.

*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/Kauffman, to find with the recommendations and conclusions of the Staff Analysis and approve 20-16DV 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.

**20-09UV** – Eckco Transit, LLC, Javi Holdings, LLC, and Jones Petrie Rafinski request a use variance to allow a semi-truck terminal and repair facility where truck terminals and truck repair are permitted uses in the Industrial M-1 and M-2 Districts. The subject property is generally located at 1808-1810 Reliance Road and is zoned Commercial B-3 District.

*Staff Report:*

Mr. Deegan discussed area zoning, noting this property is zoned Commercial B-3 with B-3 zoning to the north, east, and south and R-1 zoning to the west. He also noted the Northwest Bike Trail runs north/south along the west property line. The petitioner states that when they purchased the property last fall for their trucking company headquarters, they were not aware this was not a permitted use.

Today's request is for a truck terminal for parking and storing vehicles and truck repair inside the existing building. A large, paved parking lot with screening is also proposed and will require review by the City's administrative review process, Technical Review. Because Staff has concerns with this request, approval is recommended with several commitments to address those concerns. Included in the discussion were the following:

- Require a commitment for additional landscaping from what has been submitted in the packet. He pointed out that the zoning ordinance requires industrial zoning to have full bufferyard screening adjacent to residential properties and explained bufferyard landscaping requirements to Board members. He noted that he would like to see additional plantings to fill in some of the proposed landscaping.
- Recommend a commitment to limit the number of semi-trucks parked or stored at the rear of the property to 18. Also limit the number of semi-trucks parked inside the building to 3. He reasoned that there are 3 bay doors, making this reasonable.
- A commitment to limit parking of semi-trucks and trailers to the paved and screened area on the east side of the property.
- A commitment to prohibit inoperable semi-tractors and trailers on the property unless stored within the enclosed building.
- A commitment limiting truck repair inside the building to the three easternmost bay doors on the south side of the building. The doors on the west end of the building shall not be used.
- Restrict access to/from County Road 17 via County Road 28.

He noted for the record the Planning Office had two inquiries regarding this request. The owner of 1803 Reliance Road requested additional information, but had no comments. A second inquiry from the owner of 1824 Reliance Road who was concerned about a driveway on the north side of the building that comes on his property and doesn't want that driveway to be utilized. Mr. Deegan noted that should be resolved by limiting the repair to the easternmost bay doors.

Mr. Holtzinger asked if this lot has exterior lighting.

Mr. Deegan requested that the petitioner respond to this question.

*Petitioner Presentation:*

Matt Schuster, 300 Nibco Parkway, Elkhart, spoke on behalf of the petitioner. He stated he doesn't remember seeing any light poles, but thought there might be exterior wall lights on the property.

Mr. Schuster stated the owner didn't realize the truck repair business was not permitted in this zoning district, but that once he discovered this, he's been working with JPR and the City to resolve this issue. He explained they anticipate 3-5 trucks in and out each day. This could include a truck dropping off or picking up a trailer and a truck coming in for service. He explained there will be two employees, with normal working hours of 7:00 am - 5:00 pm.

Mr. Schuster stated the owner agrees with the Staff's recommendation of approval with the following suggested revisions to the commitments:

- Commitment #3: The existing building is 12,000 sf and the owner has explained that 2 or 3 trucks can be parked in each service bay. The owner has asked for no limit to the number of trucks, allowing multiple trucks to be serviced in each bay. He noted some of these might be total rebuilds which might take 5-6 months to complete. He also pointed out some trucks might have to wait several days for a specific repair part.

- Commitment #6: Allow the use of the overhead door on the west side of the building so trucks can be stored inside while waiting on parts or repair. They would also like the option of using this for additional repair space.

He summarized by saying they approve of Staff's recommendations, modified to allow an unlimited number of trucks under repair inside the building and the ability to use all four doors on the south side of the building.

Mr. Holtzinger asked for clarification on location of the bay doors.

Mr. Schuster stated the four bays are on the south side of the building, one at the west end and three at the east end of the building.

Mr. Kaufman and Mr. McKee both voiced support for these two changes.

Mr. Aguirre asked if the petitioner would be comfortable limiting the number of trucks to 10-12.

Vincent Eck, 60491 County Road 15, Elkhart also spoke to the petition. He stated he would be comfortable limiting the number of trucks inside to 10 - 12.

Mr. Aguirre recommended the number of trucks be limited to 10. Mr. McKee and Mr. Kauffman stated they would agree to this limitation.

*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/ McKee, to find with the recommendations and conclusions of the Staff Analysis and approve 20-09UV with the 5 conditions and 7 amended commitments 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.

**20-17DV** – Neunaf, LLC requests a developmental variance to allow alterations to the front façade of a building with stone veneer and the rear façade of a building with metal panels and stucco where visible exterior walls of altered buildings shall be visually compatible to the historical and architectural style, general design, texture and materials of the existing pre-1910 buildings on Main Street between Clinton Street and Jefferson Street. The subject property is generally located at 108-110 N Main Street and is zoned Commercial B-2 District and Historic & Downtown (Overlay) Districts

*Staff Report:*

Mr. Deegan explained this property is the former White Horse Bar which is being renovated for a first floor restaurant. In addition to the interior renovation, the owner would like to update the front and rear façade. Because this is located in the downtown district, changes to the façade also requires Planning review and must meet the architectural requirements of the district. He explained that these requirements promote the use of materials and style consistent with pre-1910 era. The propose stone

veneer on the front façade will replace vertical wooden boards and vertical metal and stucco is planned on the rear to replace crumbling brick.

Staff recommends approval of this request, noting that while these changes do not meet the historical style of the district, they appear to be major improvements. He also pointed out that the existing boards on the front of the building do not meet the historical style either and the bricks on the rear of the building are in extremely poor condition.

*Petitioner Presentation:*

Roger Nafziger, 423 S 5<sup>th</sup> Street, spoke on behalf of the petitioner. He explained that new windows have been approved and installed on the front of the building and outlined plans to install the new brick veneer and an awning. He explained that a lean-to and some siding had been torn off the rear of the building, exposing the brick wall. They found that the brick wall was extremely deteriorated and they shored it up with concrete block. Their plan is to add vertical steel siding on the top half of the building and to have stucco on the bottom section of 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, McKee/Aguirre, to find with the recommendations and conclusions of the Staff Analysis and approve 20-17DV 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:  
None

**VII.** Staff Board Items:

Mr. Kauffman continued an earlier discussion regarding the number of cars parked on properties, noting that it's likely we'll see more of this. He pointed out that he didn't know how we could discuss the number of cars, but feels the Plan Commission might be able to look at setbacks and determine if they're too severe. He went on to say that because of different lot sizes he doesn't know how one standard will solve all issues.

Mr. Aguirre noted that he's concerned that this trend will continue and people will be forced to go through the time and trouble to get approval. He stated his concern is that people will add gravel and then find out they're in violation. He asked Mr. Deegan if he could look into this and report back to the Board.

Mr. Deegan addressed Mr. Kauffman's comment regarding setbacks, stating that it would require addressing the front setback issue for parking in the front yard and the Plan Commission and City Council would have to review that.

Mr. McKee stated that in looking at the number of cars, it's his experience that people dump limestone down and began parking everywhere. It can also become an excuse to have multiple inoperable vehicles on someone's property.

**VIII.** Adjournment: 4:56 pm Kauffman/McKee

Respectfully Submitted:

/s/ Lori Lipscomb

Lori Lipscomb, Recording Secretary

Approved By:

/s/ Tom Holtzinger

Tom Holtzinger, Chair

/s/ Richard Aguirre

Richard Aguirre, Secretary