

Minutes - Goshen Board of Zoning Appeals
Tuesday, September 28, 2021, 4:00 p.m.
Council Chambers, 111 E. Jefferson Street
Goshen, Indiana

- I. The meeting was called to order with the following members present: Tom Holtzinger, Michael Potuck, Lee Rohn, and Bethany Campbell. Also present were Assistant City Planner Rossa Deegan and Assistant City Attorney James Kolbus. Absent: Aracelia Manriquez
- II. Approval of Minutes from 8/24/21: Rohn/Holtzinger 4-0
- III. Filing of Zoning/Subdivision Ordinances and Official Staff Reports into Record: Rohn/Campbell 4-0
- IV. Postponements/Withdrawals
None
- V. **Developmental Variances** – public hearing items
21-29DV – Marilyn Rappatta, Allan Kauffman, and Jones Petrie Rafinski, request developmental variances for the proposed 2-lot Shoup-Parsons/Rappatta Minor Subdivision to allow a 7' rear (west) building setback where 25' is required for the proposed Lot 1, and 5,663 sf of area where 8,000 sf is required, 48.18' of lot frontage where 66' is required, and a 6' side (north) building setback where 8' is required for the proposed Lot 2, and a developmental variance to allow open parking in the front yard setback where parking within the front yard setback is prohibited for an 18' x 25' parking area at 400 Marilyn Avenue (Lot 1). The subject property is generally located at 400 Marilyn Avenue and 1805 Mayflower Place and is zoned Residential R-1 District.

Staff Report

Mr. Deegan explained this property contains two separate homes on one lot, which is not permitted in the R-1 District. He noted the petitioners are in the process of subdividing the property into two separate lots, which will allow the homes to have two separate owners. He provided Board members a general overview of the subdivision process through the Plan Commission, noting that the next step in the process was for the petitioner's to request developmental and use variances from the BZA. He discussed the developmental variances that will be required which include a reduced rear setback for Lot 1, and reduced frontage for Lot 2, as well as 5,663 sf lot area where a minimum of 8,000 sf is required. Lot 2 will also have a 6' (north) side setback where 8' is required by the ordinance. He pointed out there are no planned changes to the footprint of either home and Staff recommends approval of this part of the request, pointing out that by splitting the lot, the two homes will no longer be non-conforming and will permit separate ownership of the homes.

Mr. Deegan noted there is a second part to this request, which is to allow open parking in the front yard setback for 400 Marilyn. The request is to maintain the approximate 18' x 25' unapproved open parking in the front yard along Mayflower Place. He referred to photos included in the Staff Report, noting that a watercraft was currently parked in this location. The petitioner's maintain this area is utilized for overflow parking and for watercraft parking. Staff recommends denial of this part of the request to include removal of the parking area. He noted the property contains a two car garage and guests can park along Marilyn Avenue. He also pointed out that boat parking in the front yard setback is not permitted. He noted for the record that handouts (*Exhibit 12-29DV #1*) that were received after packets had been delivered to Board members were distributed at the start of today's meeting.

Petitioner Presentation:

Allan Kauffman, 305 Gra Roy Drive spoke on behalf of the petitioner. He provided background information on the two houses and the lot. He explained that the parking situation in this neighborhood has existed for a long time and as far as he knows, there have been no complaints. He pointed out the difficulties of having no additional parking and the proposal is to keep the parking on the south side of the existing tree along Mayflower and make it look nicer. He asked that the open parking be permitted.

Robert Rappatta, 1518 East Lake Drive, Elkhart, also spoke to this petition. He stated the additional parking is necessary for approximately 3 out of 7 days each week.

Mr. Kauffman noted for the record that the proposal will make the parking look better than what currently exists.

Audience Comments:

Dustin Sailor, Director of Public Works for the City of Goshen spoke to the petition. He stated Marilyn Avenue is a very narrow roadway and pointed out that if the existing driveway is made to look better as described by Mr. Kauffman, the Board of Public Works has a hard surface policy requirement for drive approaches. He asked that whatever is approved here today should follow all the City standards.

Mr. Kauffman stated he's aware of the City's hard surface requirement, but pointed out that the Rappatta's can go before the Board of Works and request a driveway that is not hard surface.

Mr. Holtzinger asked about the watercraft that's parked on the property.

Mr. Kauffman stated it belongs to Ms. Rappatta's grandson and he knows he will need to find another place for it.

The public hearing was closed.

Staff Discussion:

Mr. Deegan asked Board members to look at the site plan provided in the packets, pointing out that frontage along Marilyn Avenue and Mayflower Place are both considered front yards by the zoning ordinance. He also pointed out that while the watercraft could remain on the property, it would have to be located behind the front wall of the house and meet the setback requirements. He noted the parking area being discussed here today is in the front yard setback.

Action:

A motion was made and seconded, Potuck/Campbell, to adopt the Staff recommendations as the findings of the Board and based on these findings approve 21-29DV (**Part A**) with the 2 conditions listed in the Staff Report. The motion passed unanimously by a vote of 4-0.

Action:

A motion was made and seconded, Rohn/Potuck, to adopt the findings of the Board and based on these findings approve 21-29DV (**Part B**) with the following conditions and commitments:

Conditions:

1. The variance shall become null and void unless a zoning clearance has been issued within six (6) months of the date of the BZA approval.
2. 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.

3. Deviation from the requirements and conditions of the variance may result in the cancellation and termination of the approval or permit.
4. 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.
5. An approved zoning clearance form is required. 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.
6. Board of Works approval is required for the gravel surface.
7. A right of way permit must be obtained from Goshen Engineering.

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. Open parking in the approved parking area is limited to residential vehicles only. No watercraft parking or storage is permitted.

The motion passed unanimously by a vote of 4-0.

21-30DV – Stephen & Kathleen Hollenberg and Schrock Homes, request a developmental variance to allow a 20’ rear (east) setback where 25’ is required, for the construction of a 226 sf deck. The subject property is generally located at 618 Auston Court and is zoned Residential R-2 PUD District.

Staff Report

Mr. Deegan explained this request is to replace an existing deck on the rear of the home. The new 180 sf deck will include a stairway to a new patio and have a rear setback of approximately 20’ where 25’ is required. Staff recommends approval of the request and noted that the deck will not extend into the 15’ utility easement at the rear of the property.

Petitioner Presentation:

Fred Yoder, 2993 W 1250 N, Milford, IN spoke on behalf of the petitioner. He stated this is an unusual lot because the rear of this property is adjacent to the side yard of the home behind it, allowing the neighboring home to be closer than normal. He’s available to answer any questions.

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, Potuck/Rohn, to adopt the Staff recommendations as the findings of the Board and based on these findings approve 21-30DV with the 3 conditions listed in the Staff Report. The motion passed unanimously by a vote of 4-0.

21-31DV – Lippert Components Manufacturing, Inc. and Surveying and Mapping, LLC, request a developmental variance to allow maneuvering in the right of way, where parking maneuvers shall be

accomplished without entering the public right of way, for the addition of four semi-truck loading docks. The subject property is generally located at 1206 Eisenhower Drive South and is zoned Industrial M-1 District.

Staff Report

Mr. Deegan provided information for the site, including the location, amount of frontage, and building and lot size. Proposed improvements include a 12,000 sf building addition which will fully connect the two buildings, a 1,400 sf maintenance building, and four new semi-truck loading docks on the north side of the addition. He noted the majority of the project meets the zoning requirements, but the proposed loading docks will require truck maneuvering in the City right-of-way which is not permitted by the Goshen Zoning Ordinance. He noted a similar request was made for this property in 2013 in which the petitioners requested a 100' section of right-of-way to be used for maneuvering. At that time, the BZA granted an amended approval for 75'.

Mr. Deegan stated that this is a narrow right-of-way with one east bound and one west bound traffic lane and therefore Staff recommends denial of the request. He explained that allowing trucks to maneuver in this area creates safety concerns and would likely cause traffic congestion.

Mr. Deegan commented that Councilman Doug Nisley contacted the Planning Office to voice his support of this request, noting that Mr. Nisley is present at today's hearing.

Petitioner Presentation:

Debra Hughes, Surveying and Mapping, 3220 Southview Drive, Elkhart, spoke on behalf of the petitioner. She provided a handout (*Exhibit 21-31DV #1*) and presented videos of trucks maneuvering into one of the existing loading docks, immediately east of the proposed new docks. She explained they encroach into the large concrete right-of-way area, but not into the travel lane. She explained that the handout she provided demonstrates what is seen in the video, that trucks can maneuver without entering into the travel lanes of the roadway. She pointed out in the second video the truck can be seen encroaching somewhat into the travel lane. She stated the videos presented are to demonstrate that the trucks will not impact traffic when maneuvering the site. She stated that the BZA approved a variance in 2013 allowing maneuvering in the right-of-way and this will be less intrusive than what was permitted at that time.

Steve Jenkins, 1208 Eisenhower Drive, also spoke to the petition. He used a site plan to show the location of the building additions and new docks.

Mr. Holtzinger asked how often traffic is blocked on the roadway because of trucks maneuvering onto the site.

Mr. Jenkins stated no additional trucks or trailers will be added to their fleet so when trucks are coming in, they will be assigned to an open dock. He pointed out this will also alleviate trailers parked parallel to Eisenhower Drive which will make visibility safer for everyone. He went on to say they feel this is the best plan for not only their employees, but also for neighboring properties.

Ms. Hughes pointed out that the project for the building can move forward if the docks are denied. She explained that the existing three truck docks will be connected to a piped drainage system that would go through an oil separator. She also stated that the existing docks currently have gravel drains, but if this project is approved, it will allow for continuous drains for all of the docks.

Audience Comments:

Dustin Sailor, Director of Public Works for the City of Goshen spoke to this petition. He stated after hearing the discussion today, he has changed his position on this request. He stated that a \$1.4 million resurfacing project was just completed and after hearing Ms. Hughes' comments that the six semis along the right-of-way will be removed as part of this project, he finds this will be a definite benefit for this corridor. He remarked that the other issue in this area is the uncontrolled right-of-way, noting it far exceeds the maximum 36' City standard. He also commented that the large driveways cause drainage issues, but because both are existing, he has no concerns. He stated that with confirmation from Lippert that they will eliminate the semis, he will support this request.

Doug Nisley, 1929 W Lincoln Avenue also spoke to the petition. He stated he has visited the site and watched a truck back into the existing dock and noted it wasn't in the roadway any more than the trucks in the video. He stated we are an industrial area and we need to realize that we will have trucks maneuvering in the area. He supports this request.

The public hearing was closed.

Staff Discussion:

Mr. Holtzinger stated that it's hard to deny a manufacturer the room to expand and operate, but realizes there are problems with semi-trucks maneuvering in the right-of-way.

Action:

A motion was made and seconded, Rohn/Holtzinger, to adopt the findings of the Board and based on these findings approve 21-31DV with the following conditions:

1. The variance shall become null and void unless a zoning clearance has been issued and substantial progress has been made within six (6) months of the date of the 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. Approval by the Engineering and Fire Departments is required.
4. Technical review is required.
5. An approved zoning clearance form is required.

The motion passed unanimously by a vote of 4-0.

VI. Audience Items
None

VII. Staff Board Items

- 6-month extension 21-03UV – 1911 S Main Street, from 10/27/21 to 4/27/22

Mr. Deegan explained a use variance was granted to Yoder Culp in April of this year for an addition to the funeral home. He explained this is still in the Technical Review process and it's possible the variance could expire prior to Tech Review approval. A 6-month extension is requested.

Action:

A motion was made and seconded, Rohn/Potuck, to grant a 6-month extension for 21-03UV, 1911 S Main Street, from 10/27/21 to 4/27/22. The motion passed unanimously by a vote of 4-0.

VIII. Adjournment: 4:46 pm Rohn/Potuck

Respectfully Submitted:

/s/ Lori Lipscomb
Lori Lipscomb, Recording Secretary

Approved By:

/s/ Aracelia Manriquez
Aracelia Manriquez, Chair

/s/ Lee Rohn
Lee Rohn, Secretary