

Minutes - Goshen Board of Zoning Appeals
Tuesday, March 22, 2022, 4:00 p.m.
Council Chambers, 111 E. Jefferson Street
Goshen, Indiana

I. The meeting was called to order with the following members present: Lee Rohn, Bethany Campbell, Hesston Lauver, and Michael Potuck. Also present were Assistant City Planner Rossa Deegan and Assistant City Attorney James Kolbus. Absent: Tom Holtzinger

II. Approval of Minutes from 2/22/22: Lauver/Potuck 4-0

III. Filing of Zoning/Subdivision Ordinances and Official Staff Reports into Record: Rohn/Lauver 4-0

IV. Postponements/Withdrawals - None

V. Developmental Variances – public hearing items

22-05DV – Heidi P McKee & Alton Brian McKee and Cut Cost Construction, Inc. request developmental variances to allow a front (east) building setback of 18’ along Winter Avenue where 25’ is required, a rear (north) setback of 23’ where 25’ is required, a lot area of 8,712 Sf where a minimum of 10,000 Sf is required, and 3 on-site parking spaces where 4 are required for the addition of a second dwelling unit to an existing single-family home. The subject property is generally located at 1301 Baker Avenue and is zoned Residential R-2 District.

Staff Report

Mr. Deegan explained this is a single-family home with an attached two-car garage, located on a corner lot. The petitioners propose a small addition to the north side of the garage for an aging parent. Included in the plans is an additional driveway, with one parking space that has been approved by the Board of Works. This property is located in the R-2 Zoning District, which permits two-family homes, provided they meet the developmental requirements of the district. Because this property cannot meet all of the requirements, developmental variances are required for an 18’ front setback where 25’ is required, a rear setback of 23’ where 25’ is required, 3 onsite parking spaces where 4 are required, and a lot area of 8,712 sf where a minimum of 10,000 sf is required. He provided the following reasons why Staff feels this request is justified:

- The addition meets the character of the area
- At 450 sq. ft. the addition is smaller than a typical dwelling unit
- 2 additional parking spaces seem unreasonable
- The requests are minimal

Mr. Deegan advised that the property is not currently connected to City water and that will be required if the Board grants approval of the request.

Mr. Deegan noted for the record that one inquiry was received from an adjacent property owner asking for clarification of the request. Once the request was explained, the caller indicated no support or concern regarding the project.

Petitioner Presentation:

Charles Hochstetler, 20100 CR 146, New Paris, spoke on behalf of the petitioner. He stated he is familiar with the Staff Report and has nothing to add.

Audience Comments:

There was no one to speak to the petition.

The public hearing was closed.

Staff Discussion:

There was no discussion among Board members.

Action:

A motion was made and seconded, Rohn/Potuck, to adopt the Staff recommendations as the findings of the Board and based on these findings, approve 22-05DV with the 5 conditions listed in the Staff Report. The motion passed unanimously by a vote of 4-0.

22-06DV – Gordon K Prieb & Mary M Metzler request a developmental variance to allow a front (south) building setback of 6’ along Adams Street where a minimum of 25’ is required for the installation of a 129 Sf shed. The subject property is generally located at 1108 S 14th Street and is zoned Residential R-1 District.

Staff Report

Mr. Deegan explained this property is located at the corner of 14th Street and Adams Street and the petitioner would like to install an approximate 129 sf shed for the storage of hobby materials. The petitioner would like the shed’s location close to the driveway on the south side of the property in order to allow quick access between the shed and vehicles. For this reason, a 6’ front yard setback is requested from the Adams Street property line where 25’ is required. Staff finds it difficult to support this request because the property has adequate size to meet the setback requirements and place a shed of this size. He went on to say the overhang of the existing home is approximately 16’ from the south property line so Planning’s recommendation is to amend the approval and allow the shed to be placed 16’ from the property line. This would allow closer access to the driveway than what is allowed by the zoning ordinance and maintain the open visual field of the front yard.

Mr. Deegan noted for the record that there was one inquiry from a neighboring property owner asking for clarification of the request. They did not voice support or opposition to the request.

Petitioner Presentation:

Gordon Prieb, 1108 S 14th Street spoke on behalf of the petitioner. He stated the proximity of the shed to the garage and driveway was the main reason for this requested setback. He stated he has a small bee farm outside Goshen and hauls equipment back and forth, and having the shed close to the driveway would be beneficial to him.

He stated they considered Mr. Deegan’s recommendation of lining it up with the south part of the garage, but placing the shed closer to the windows would block the view and potentially affect the resale value. It would also require them to make changes to the landscaping. Placing the shed in the backyard would also block the view and he would like to keep the backyard as open as possible

Mr. Prieb stated that the BZA filing instructions discussed items that the BZA considers and he had the following comments:

- The need for the variance arises from some condition peculiar to the property.
 - He stated what’s peculiar to this property is that there are a lot of little things that don’t fit together well. He pointed to the fact that this is a corner property, the positioning of the house, the location of the windows, and that there are very few places where the shed can go to meet the proximity requirements to the driveway.
- Adherence to the ordinance requiring a 25’ setback would cause unnecessary hardship.
 - The hardship to him would be hauling the materials back and forth. He stated he would like to avoid this if possible.
- He stated there are 3 other neighbors on the block with sheds, noting that 2 of them are 6’ or closer to the property line. He pointed out a precedent has already been set for this.

Mr. Lauver asked if the shed will be placed on a slab.

Mr. Prieb advised that it will be built on runners.

Mr. Rohn pointed out that the shed can be moved and have no effect on resale value.

Mr. Prieb agreed that the shed could be easily moved.

Audience Comments:

There was no one to speak to the petition.

The public hearing was closed.

Staff Discussion:

Mr. Deegan pointed out that the petitioner stated there are sheds on adjacent properties and that's one of the things the Planning Office looks at when reviewing requests. In this case, Planning could find no record of approval for any of the sheds. He went on to say if variances had been approved for these sheds, this could be looked at as meeting the character of the neighborhood, but if not, it's not appropriate to use these as reasons for approval.

Mr. Rohn stated he's looking at some sort of compromise; something between 6' and 16' that would still give the petitioner access to the driveway.

Attorney Kolbus noted the Board can grant approval for 6' or 16' or anything in between.

Action:

A motion was made and seconded, Rohn/Potuck, to adopt the Staff recommendations as the findings of the Board, amending condition #4 to allow the south side of the shed to be placed a minimum of 10' from the property line along Adams Street, and based on these findings, approve 22-06UV with the following 4 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. An approved zoning clearance form is required.
4. The leading edge of the south side of the shed shall be a minimum of 10' from the property line along Adams Street.

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

22-07DV – Christopher E Watkins, Bell Indiana, LLC, Standard Goshen, LLC, and Hamilton Designs, LLC request developmental variances to allow a 4' side (north) setback for a parking/driving aisle where 5' is required and parking spaces 18' in depth where a minimum of 20' is required for a new restaurant. The subject property is generally located at 1822 Lincolnway East and is zoned Commercial B-3 District.

Staff Report

Mr. Deegan explained this property currently contains a 5,000 sf transmission shop with adjacent parking and storage areas. Today's request is to redevelop this property by demolishing the existing building and replacing with a new drive-thru restaurant. The development will include a 2,240 sf building, 28 parking spaces, a drive-thru aisle, and a driving aisle that circles the property. Developmental variances will be required in order to allow a north side setback of 4' to the driving aisle where 5' is required and to allow parking spaces 18' in depth, where 20' is required. Staff feels this request is reasonable, pointing out the 133' wide property is the reason variances are required. He stated the proposed design is consistent with the way other drive-thru restaurants in the City have been developed. He also pointed out the request for a 4' side setback is negligible.

Mr. Deegan noted that the BZA granted a request for 18' parking spaces for a new industrial parking lot at 2442 E Kercher Road last year. He also pointed out that only 104 of the 328 spaces were approved at 18' and the

remainder of the spaces were required to meet the ordinance requirement of 20', explaining that this provides spaces to park larger vehicles. Today's request is to allow all spaces to be 18'. He stated he was unable to find anything in Planning files showing where all parking spaces were approved at 18', but noted that the City of Elkhart allows 18' parking spaces. He also noted that there are popular vehicles that are less than 18' long, but also popular vehicles in excess of 18' in length.

Staff recommends approval because there is ample distance between the first parking space and the front line of the property along Lincolnway East and pointed out the 24' driving aisle meets the zoning ordinance requirements. After reviewing the proposed site plans, the Planning Office feels there should be sufficient room for maneuvering on the property without causing traffic issues. He noted there were no inquiries from the public regarding this request.

Petitioner Presentation:

Michael Thompson, Hamilton Designs, 11 Municipal Drive, Suite 300, Fishers, IN spoke on behalf of the petitioner. He stated they do site evaluations and explained the analysis that was done for this lot. He noted they have also been in contact with INDOT and advised the Board that the future road expansion has also been coordinated with INDOT. He acknowledged that this is a tight lot, and normally they would narrow the bypass lane around the driveway, but they need the full 12' to have ample room for delivery trucks to maneuver. He pointed out that there is a lot of pavement in the back which will allow the truck to swing out to come in. Deliveries are generally at night, so the rear section can be used the rest of the time to park larger vehicles. He stated that other communities allow 18' parking spaces and they generally have a 24' driving aisle. He also stated these are not head-to-head parking spaces, explaining that the spaces on the southeast side allow you to pull up until your wheels hit the curb which will allow an extra foot or two. He stated they would like to redevelop this property and feels this will be a good fit. He asked Mr. Deegan if the reduced 5' setback that's requested at 4' can be approved as plus or minus 4'.

Mr. Deegan stated that because it was advertised at 4', that's the minimum allowed setback.

Mr. Thompson stated he understood and will make sure that information is passed along.

Mr. Potuck asked if the space at the rear is not marked because of delivery trucks.

Mr. Thompson stated that Taco Bell will not allow delivery vehicles to drive over designated parking spaces so this area will be striped, but will not be labeled as "no parking".

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, Rohn/Lauver, to adopt the Staff recommendations as the findings of the Board and based on these findings, approve 22-07DV with the 3 conditions listed in the Staff Report. The motion passed unanimously by a vote of 4-0.

VI. Audience Items
None

VII. Staff Board Items
None

VIII. Adjournment: 4:41 pm Rohn/Potuck

Respectfully Submitted:

/s/ Lori Lipscomb
Lori Lipscomb, Recording Secretary

Approved By:

/s/ Tom Holtzinger
Tom Holtzinger, Chair

/s/ Lee Rohn
Lee Rohn, Secretary