

Minutes - Goshen Board of Zoning Appeals
Tuesday, August 23, 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: Michael Potuck, Bethany Campbell, Lee Rohn, and Caleb Morris (alternate). Absent: Tom Holtzinger, and Hesston Lauver. Also present were City Planner Rossa Deegan and Assistant City Attorney James Kolbus.
- II. Approval of Minutes from 7/26/22: Rohn/Potuck 4-0
- III. Filing of Zoning/Subdivision Ordinances and Official Staff Reports into Record: Potuck/Rohn 4-0
- IV. Postponements/Withdrawals - None
- V. **Use & Developmental Variances** – public hearing items

22-08UV – Goshen Community Schools request a use variance to allow a 60 Sf illuminated wall sign on the west side of the gymnasium where schools are a conditional use permitting one non-illuminated wall sign not exceeding 36 Sf in area. The subject property is generally located at 501 Lincolnway East and is zoned Residential R-1, Industrial M-1, and Commercial B-1 District.

Staff Report

Mr. Deegan explained this request is for Goshen High School whose property is over 28 acres in size. It has frontage on 5 streets. The property currently has 3 wall signs and a free standing sign and the petitioners are wanting to add a 60 SF illuminated wall sign on the west side of the gymnasium. Schools are a conditional use in all zoning districts and have specific limitations on the size, number, and illumination of signs. They are permitted one non-illuminated wall sign not exceeding 36 sq. ft. so they are seeking use variance approval.

Staff believes this request is reasonable. The sheer size of the property, which includes over 5,000 ft. of frontage, means it would be unreasonable to hold the same sign regulations on this property as other smaller schools in the district like Chandler Elementary. The size of the property merits a sign of this size. The sign would be located over 250 feet away from the nearest residential property and illumination should not affect them detrimentally.

The planning office was not contacted by members of the public in reference to this request.

Petitioner Presentation:

Steve Hope, Superintendent Goshen Community Schools, 613 E. Pearl St., petitioner explained that Goshen schools sold the naming rights to Interra Credit Union for their gym last year. The sign would read, “Interra Gym” and have a Redhawk. The sign would be similar to the intermediate school. Noted that the school corporation purchased two homes on 10th Street recently and it is their intent to eventually purchase the whole block. Mentioned that Don Ritter from maintenance staff is in the audience to answer any questions about size and specs.

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 22-08UV with the 4 conditions listed in the Staff Report. The motion passed unanimously by a vote of 4-0.

22-09UV & 22-24DV – Adlai A Schrock and Zaremba Group, LLC request a use variance to allow a variety store where the use is permitted in the Commercial B-2, B-3, and B-4 Districts, and developmental variances to allow an alternative landscape buffer where full bufferyard landscaping is required adjacent to residential use, one illuminated freestanding sign and one illuminated wall sign where illuminated signs adjacent to residential use or zoning are not permitted, and for the variance to be valid for one year, for the construction of a new general store. The subject property is generally located at 811 E Kercher Road and is zoned Industrial M-1 District.

Staff Report

Mr. Deegan referred board members to look at the aerial map to see the zoning was mainly M-1 for the area and on the last page of the packet he pointed out the proposed subdivision plan that the lot is a part of. The proposed development of Lot 1 is for a variety store, therefore the petitioners will need a use variance. Noted they are asking for relief from full bufferyard landscaping requirements that are required on industrial properties adjacent to residential use that would be required along Kercher Road because of residential area there. The petitioners are also requesting developmental variances to allow one internally-illuminated freestanding sign and one internally-illuminated wall sign adjacent to the residential area across Kercher Road as well.

Staff recommends approval of the request. While the zoning is industrial, the neighboring properties to the east are commercial in nature and the use continues that commercial development on the north side of Kercher. Kercher is 90' in width at this location and includes two lanes for turning and a bike path. It is not a typical residential street. Staff believe their landscaping buffering proposed is appropriate for the project.

The Planning office was not contacted by members of the public in regards to this petition.

Petitioner Presentation:

Tom Cowen, Zaremba Group is a small development firm in Cleveland, address is 14600 Detroit Ave., Lakewood, OH 44107. Stated they are in agreement with the findings of the staff report and the conditions that are listed. Explained how they met with the homeowners near the development and are planning to build a “nicer looking” Dollar General which will be a little different than your typical DG store. Talked about how it should not increase traffic to the area and should create a few jobs.

Whitney Pizzala, AR Engineering, 5725 Venture Park Dr., Kalamazoo. Explained they would like to the first step of getting the variances approved so they can work with City staff to make sure the proposed building is built to current codes and standards. Talked about how the store would be a good fit for the area.

Audience Comments:

Bruce Grover, 2401 Kercher Rd., asked for the address in questions to make sure they weren't putting a store next to his house.

Mr. Deegan answered the address is 811 Kercher Road.

The public hearing was closed.

Staff Discussion:

There was no discussion amongst Staff members.

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 22-09UV and 22-24DV with the 5 conditions listed in the Staff Report. The motion passed unanimously by a vote of 4-0.

22-25DV – Kropf Family Real Estate, LLC and Surveying and Mapping, LLC request developmental variances to allow a 24' side (west) building and parking/driving aisle setback and a 91' side (east) building setback where a minimum of 100' is required for buildings and a minimum of 60' is required for parking/driving aisles adjacent to residential use, and to allow an alternative landscape buffer where full bufferyard landscaping is required adjacent to residential use, and the variance to be valid for one year, for the construction of an approximately 9,600 Sf storage addition with an expanded driving aisle. The subject property is generally located at 2411 E Kercher Road and is zoned Industrial M-1 District.

Staff Report

Mr. Deegan stated this is another property on the north side of Kercher Road and zoned Industrial M-1 between Dierdorff and Lincolnway East. This property is completely surrounded by industrial zoning, but there is residential property on the west and another on the east side of the property, which are both zoned industrial. There is an existing 3,000 SF building on the property. The petitioner is proposing to add an approximate 7,400 SF addition to the existing building for storage. There will not be employees on the property. A driving aisle will be created as well. Due to the adjacent residential properties, variances are needed for the side setbacks to the building and the driving aisle. A developmental variance is also needed for the full bufferyard screening similar to the last request. The M-1 district stipulates buildings maintain a minimum setback of 100' adjacent to residential use and driving aisles maintain a minimum setback of 60' adjacent to residential use and they cannot meet those. They are proposed on the west side a 24' driving and building setback, while the east building setback is proposed at 91'.

Staff believes the request is reasonable as zoning is predominately industrial. There are only 3 residential properties in a one mile stretch on Kercher. Mr. Deegan stated proposed buffer screening would be adequate for storage use. The new 24' west side addition will match the existing setback.

The Planning Office was not contacted by the public regarding this request.

Petitioner Presentation:

Debra Hughes, of Surveying and Mapping, 3220 Southview Dr., Elkhart, civil engineer of the project. Also with her is a representative of the Kropf Family LLC. Asked for the approval of the two variances that staff reported on. Explained due to the spec of the property it is impossible to meet requirements. Reiterated the proposal and explained the owner bought the property in 2022 with the existing building. They plan to use it for storage of equipment and vehicles, like snow plows and mowers. There will be no employees or visitors on the property and estimate a trip to the property once a day. She also addressed the alternative landscape plan and stated they'd add a single row of evergreen trees to the existing tree line and another single row along the east side where there is currently no vegetation.

Audience Comments:

Bruce Grover, 2401 Kercher Rd., owner of property beside them. Asked if the trees will be taken out. Stated he has lived there for 30 years and has four acres of land. He doesn't want the plans for the property to adversely affect him. He is ok with storage, but not them changing it a year down the road into something different.

Debra Hughes explained the trees are intended to remain and explained where the evergreens would be added for additional landscape buffer.

Mr. Deegan also directed attention to the conditions of approval on page 3, item #7 - The number and locations of street trees and evergreen trees shall be as shown on "Proposed Site Plan—Kropf Family Real Estate, 2411 Kercher Road, Goshen", by Survey and Mapping, dated August 3, 2022. The evergreen trees shall be a minimum of two (2) species, with a minimum spread at maturity of 15' and a minimum height at maturity of 20'. A revised landscape plan detailing the species types and sizes shall be provided as part of Technical Review. He explained that since the landscaping is required, it must be maintained according to the zoning ordinance. Therefore, if a tree were to die, it would need to be replaced.

The public hearing was closed.

Staff Discussion:

There was no discussion amongst Staff members.

Action:

A motion was made and seconded, Morris/Potuck, to adopt the Staff recommendations as the findings of the Board and based on these findings, approve 22-25DV with the 7 conditions listed in the Staff Report. The motion passed unanimously by a vote of 4-0.

22-10UV – Steven B & Linda J Thomas, S & L Rentals, and Pathways Retreat, Inc. request a use variance to amend the use variances granted in 1974 and amended in 2008 and 2015 for a retreat center/counseling office to allow up to 20 volunteers where the 2015 variance allowed no more than two volunteers, and to expand the variances to an area including three tax parcels and approximately 15.3 acres where the 2015 variance included one tax parcel and approximately 11.7 acres, and the variance to be valid for two years, for the construction of an approximately 725 Sf open-air pavilion. The subject property is generally located at 309 and 309 ½ Hackett Road and is zoned Residential R-1 District.

Staff Report

Mr. Deegan referred to the aerial map showing zoning and how the property in question is next to a residential area. The property has been used as a retreat since 1974 and also contains a single residential home on it. Use Variances were approved in 2008 and 2015 and those clarified and expanded to what was approved in 1974. They are adding conditions to the use variance to make those clarifications on what could be done on the property and how many people could be there. The request today is to expand to include two tax parcels totaling approximately 3.5 acres will need to be added to the current 11.5 acres site. He pointed out on the map the area in the proposal and the proposed site of the pavilion. He also explained they are requesting a variance to allow up to 20 volunteers on site instead of the two previously approved. Said that volunteers are needed for grounds maintenance and upkeep.

Staff recommends approval of the request with conditions and commitments. The retreat center use has been operating for nearly 50 years without any apparent negative impact on the neighborhood. Mr. Deegan wanted to point out a few of the staff's conditions and commitments for the project.

1. The variance shall become null and void unless a zoning clearance has been issued and substantial progress has been made within two (2) years of the date of the BZA approval.

He explained normally this is for six (6) months, but they are extending it to two (2) years since review and approval could take longer. Next commitments to note:

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.

Mr. Deegan noted that 2-6 are the same as the ones that appeared on previous variances.

2. The variance is for a retreat/counseling center.
3. The use of the Real Estate is for walking and passive recreation on the premises, religious counseling and retreats.
4. The use is not for church services or activities.
5. There shall be no more than three full-time counselors/leaders working at the retreat center.
6. There shall be no more than 15 part-time professional staff members.
7. No more than 20 volunteers, providing assistance for grounds, clerical and other non-professional work, may work on the Real Estate at any one time. (Noted from 2-20).

Mr. Deegan noted that 8-11 remain the same as the ones that appeared on previous variances.

8. No other staff/volunteers, other than specifically permitted above, shall be permitted as part of the use on site.
9. At least one of the full-time counselors/leaders must be the owner of and reside on the Real Estate in the single family home.
10. No more than 20 individuals may be counseled or at the retreat at any one time.
11. There are no set hours of operation.

Mr. Deegan explained that for #12 – Pathway must provide parking for the number of people on site.

12. Sufficient on-site parking must be provided so that the number of parking spaces is equal to or greater than one space per two staff (full-time and part-time employees and volunteers) plus one space per 400 SF of office area.

Mr. Deegan explained #13 stays the same, but #14 is new.

13. A stone sign depicted in a photo provided to the Staff is approved with this request. The stone measures approximately 3' x 5.5' with written text 5" high and approximately 40" long.
14. The pavilion shall be screened so that it is not visible from Hackett Road.

Mr. Deegan said one member of the public called the Planning office to comment. Matt Thomas of 218 Hackett and he supported the request and that he uses the property's trail system.

Petitioner Presentation:

Evan Miller, 612 S. Third St., Goshen. He is on staff at Pathway Retreat and there to represent the petitioner. They are the only spiritual retreat in the county. Clarified that they need 20 volunteers for grounds maintenance, however, they will not all be there at the same time. Due to the nature of what they do, it requires space, solitude and silence. They are very cognizant of how many people are on the property at one time. They would never have 20 staff, 20 counselees and 20 volunteers at the property at the same time. They don't see what they are requesting to do as an expansion, but as an extension of what they are currently doing.

Bethany Campbell stated they needed a two minute recess for technical difficulties. She called the meeting back to order and noted that they no longer had video, however, the audio was still working for the meeting.

Audience Comments:

Linda Thomas, 309 Hackett Rd., Goshen. Stated Steve and Linda Thomas (S & L Rentals) are here and in favor.

The public hearing was closed.

Staff Discussion:

There was no discussion amongst Staff members.

Action:

A motion was made and seconded, Morris/Potuck, to adopt the Staff recommendations as the findings of the Board and based on these findings, approve 22-10UV with the 5 conditions and 14 commitments listed in the Staff Report. The motion passed unanimously by a vote of 4-0.

22-11UV & 22-26DV – T & T Auto Service and Abonmarche Consultants, Inc. request a use variance to allow an automobile service business with outdoor vehicle storage where automobile repairs are a conditional use in the Commercial B-3 District and a permitted use in the Industrial M-1 and M-2 Districts, and developmental variances to allow a 24 Sf illuminated freestanding sign and a 54 Sf illuminated wall sign where only ground signs are permitted and where illuminated signs are not permitted adjacent to residential uses or residential zoning districts, and for the variance to be valid for one year, for the construction of an approximately 7,100 Sf building with a parking and driving aisle. The subject property is generally located at 1795 Reliance Road and is zoned Residential R-1 District.

Board Member, Lee Rohn explained he would have to recuse himself since he was part of this ongoing project. Bethany Campbell agreed and Lee Rohn exited the room.

Staff Report

Mr. Deegan pointed out the zoning aerial for the project. To the north and south is R-1 zoning and to the west are some residential county properties. Along Reliance Rd. is a mix of commercial uses. The property at the moment is 2.8 acres in size with plans for right-of-way acquisition at the front of the property as a round-a-bout is going to be installed at the corner of CR 28 and Reliance Rd. The round-a-bout will alter the site, however, petitioners have accounted for the change in their petition.

Petitioners are requesting to use the property for an auto repair requiring a use variance since it is a residentially zoned property. He pointed out the preliminary site plan. Development includes:

- Demolition and removal of unapproved gravel driving aisle and detached garage
- Construction of an approximately 7,100 SF building, 22' in height
- Installation of a parking/driving area that includes 28 parking spaces and an area for outside vehicle storage. Storage of inoperable vehicles is not permitted in the R-1 District so it is included in the use variance request.
- Stormwater retention area
- Street trees and bufferyard landscaping
- Installation of an approximately 24 SF illuminated freestanding sign and an approximately 54 SF illuminated wall sign, requiring developmental variances

- A vinyl fence 6' in height is proposed along portions of the north property line and is intended to screen the auto repair use from the adjacent residential property

Staff is generally supportive of the request given the proposed layout and screening that the petitioners have provided. Mr. Deegan pointed out some conditions and commitments that would protect the area residents.

1. The variance shall become null and void unless a zoning clearance has been issued and substantial progress has been made within one year of the date of the BZA approval.
6. The new Reliance Road right-of-way must be established through dedication and acceptance of right-of-way before an application is made to Technical Review.

Commitments:

2. Approval is for auto repair use only.
4. Fences 6' in height shall be installed along the north and east property lines, and around the proposed outside vehicle storage area, as shown on "T & T Auto Service—Preliminary Site Plan", by Abonmarche, dated August 1, 2022
5. Partial landscaping shall be installed along the south property line as shown on "T & T Auto Service—Preliminary Site Plan", by Abonmarche, dated August 1, 2022. Additionally, partial bufferyard landscaping shall be installed along the southern and western lengths of the proposed stormwater basin. An updated landscape plan shall be provided for Technical Review.
7. Future development of the property shall conform to the Commercial B-3 developmental standards except as noted in this approval.
8. A 6' side (east) parking and driving aisle setback limited to the area as shown on "T & T Auto Service—Preliminary Site Plan", by Abonmarche, dated August 1, 2022, shall be acceptable. Otherwise, the parking/driving aisle setback along the side (east) property line shall conform to the Commercial B-3 standards.
9. Storage of inoperable vehicles shall be limited to the approximately 55'x70' area on the west side of the proposed building as shown on "T & T Auto Service—Preliminary Site Plan", by Abonmarche, dated August 1, 2022.

The Planning office was not contacted by anyone from the public about this request.

Petitioner Presentation:

Crystal Welsh, Abonmarche, 303 River Race Drive, spoke on behalf of the petitioner. Since this is a commercial use the use variance is something we were concerned about and took careful consideration of buffering for residential in the neighborhood. Explained that the building will be located towards the back in line with other commercial buildings in the district and away from residential and to allow for the right-of-way acquisition in the future. The business owners are present if there are particular questions about operation or construction and they agree with the conditions of the staff.

Audience Comments:

Sue Perry, 1723 Reliance Road, is a resident to the south. Concerned that they will lose their property to the round-a-bout and have not been contacted by the City in regards to that. Feels like they are in the dark for plans. Own property in the wooded area behind them where they could move their residence if the city takes their property. Concerned about a buffer. Not happy because there were five trees removed yesterday from their property and is worried additional damage will be done with stumps are removed.

Sam Perry, 1723 Reliance Road. Asked how big the retention pond would be because of his concerns about the water table and runoff.

Mr. Deegan replied that Goshen Engineering Department has a review process for hard surface on the site which would account for all surfaces. He is not aware of how they calculate it for stormwater retention, but it is part of the process in determining the size of the retention pond.

Crystal Welsh, Abonmarche, one of the conditions is that the landscaping will not only be directly south of the building, but will go through the extent of that headed west up the north side. She referenced diagrams of the preliminary landscaping that she has with her and added they will provide the required potential buffer. This would include the area that they could move their home back to in case of a right of way acquisition. The next phase after variance approval is Engineering. She has some preliminary drainage calculations and preliminary size and location of the drainage, however, that has to go through Engineering for approval from them, along with the County and State. About 18% of the site is in hardscape.

The public hearing was closed.

Staff Discussion:

There was no discussion amongst Staff members.

Action:

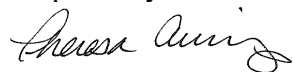
A motion was made and seconded, Morris/Potuck, to adopt the Staff recommendations as the findings of the Board and based on these findings, approve 22-11UV and 22-26DV with the 9 conditions and 10 commitments listed in the Staff Report. The motion passed unanimously by a vote of 3-0.

VI. Audience Items
None

VII. Staff Board Items
None

VIII. Adjournment: 4:57 pm Potuck/Morris

Respectfully Submitted:



Theresa Cummings, Recording Secretary

Approved By:

/s/ Tom Holtzinger
Tom Holtzinger, Chair

/s/ Lee Rohn
Lee Rohn, Secretary