

Minutes - Goshen Board of Zoning Appeals
Tuesday, May 23, 2023, 4:00 p.m.
Council Chambers, 111 E. Jefferson Street
Goshen, Indiana

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

II. Approval of Minutes from 4/25/23: Potuck/Lauver 4-0

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

IV. Postponements/Withdrawals - None

V. Use & Developmental Variances – public hearing items

23-04UV –Jose J & Maria I Hernandez and Carlos Avelar request a use variance to allow a non-lawful, non-conforming residential use and connection to a septic system to continue for a period not exceeding five years, where residential use is not permitted and connection to City sewer is required, and for the property to be served by a well until City water is available, where connection to City water is required. The subject property is generally located at 1833 Lincolnway East and is zoned Commercial B-3 District.

Staff Report

Mr. Deegan explained this triangular parcel is zoned Commercial B-3 and is surrounded by commercial and industrial zoning. The property has no street frontage, and the entrance to the property is between Goodwill and Menards. He noted the past use was residential, but the residential use ceased several years ago. Because of a septic failure on the property, Planning became aware that this property is again being used illegally for residential use. A variance is required to allow the septic to be repaired without connecting to City sewer, for the use of a well where City water is required, and to allow a non-conforming, non-lawful use to continue.

The petitioners request a variance to allow this use for a period of five years, which Staff is agreeable to. He explained there are a number of factors warranting this approval, primarily that the failing septic system is a health hazard to this and surrounding properties. City water is not available to the property, and future use of the property is not clear at this time, with one possibility being that future improvements to US 33 in this area may cause the need for this property to be used for stormwater retention.

He noted for the record that there was one inquiry from a representative from Menards who offered no support or opposition to the request.

Petitioner Presentation:

Carlos Avelar, 1744 Lighthouse Lane, spoke on behalf of the petitioner. He stated his clients would like to continue using the property for residential use for at least five more years. He stated they're working with several companies to get quotes for a temporary septic system, noting that this will be very expensive and at the end of five years, no one know what will happen with this property. He asked that his client be permitted to continue this use for five years, at which time the use will cease.

Mr. Holtzinger asked if they anticipate the property will be sold in five years.

Mr. Avelar remarked that they are unsure what the City or State has planned for the property.

Audience Comments:

There was no one to speak to the petition.

The public hearing was closed.

Staff Discussion:

Mr. Lauver asked if they can petition for an extension at the end of five years if the road project does not impact this site.

Mr. Deegan stated Planning's position is that the residential use needs to cease because it is not appropriate in this area. He noted if they want to continue past five years, that yes, it would have to come back before the Board with another request.

Mr. Holtzinger stated there are commercial buildings around this and asked why water is not available. Mr. Deegan stated he doesn't think water is available on that side of the street.

Dustin Sailor, Director of Public Works, spoke to Mr. Holtzinger's question. He stated water is available on this side of the street, but not directly to that site. He explained there are easements and the easement gives them access to sewer right now.

Action:

A motion was made and seconded, Lauver/Potuck, to adopt the Staff recommendations as the findings of the Board and based on these findings, approve 23-04UV with the 6 conditions and 4 commitments listed in the Staff Report. The motion passed unanimously by a vote of 4-0.

23-12DV - The City of Goshen Indiana requests a developmental variance to allow one freestanding sign 24 Sf in area and 8' in height in addition to the two freestanding signs and internal signs approved by variance 23-07DV, where only ground signs not exceeding 3' in height and with a maximum aggregate area of 8 Sf are permitted, for a new recycling drop-off site. The subject property is generally located at 802 N Indiana Avenue and is zoned Residential R-1 District.

Staff Report

Mr. Deegan explained the Board approved two freestanding and internal signs for this property a couple months ago. The property is located on the west side of Oak Ridge Cemetery, adjacent to the wastewater treatment plant and the railroad. There are also residential property across Wilden Avenue to the north. He explained a variance is required because this property is zoned Residential R-1 District, and only ground signs not exceeding 3' in height and 8 SF in aggregate area are permitted. He explained that the two freestanding signs recently approved were a 13 SF sign near the road and an approximately 24 SF sign internal to the site. The petitioners now request an additional internal sign of 24 SF which will provide Spanish translation. Staff supports this request noting that the signs will not harm the neighboring uses or value. He went on to say as with the previous approval, this sign will be non-illuminated. He advised that the Planning Office was not contacted by the public regarding this request.

Petitioner Presentation:

Dustin Sailor, Director of Public Works spoke to the petition. He stated they are in agreement with Staff's report and have nothing to add.

Mr. Holtzinger asked how well this new site is working.

Mr. Sailor responded that there is a lot of material and they're having challenges with people placing material outside and leaving material that's unacceptable for recycling.

Mr. Holtzinger asked if a sign in Spanish will help with this.

Mr. Sailor stated they're looking for any opportunity to correct this, explaining that cameras onsite are identifying people doing things they shouldn't. The City is working with the Goshen Police Department who have Flock cameras along Indiana Avenue so if the cameras don't capture the license plate, they can at least can provide the vehicle type and the time, and PD can assist with the rest of the information needed. The City can then contact the person that has not used the site properly. He noted that they will be going to the Board of Works in the near future to establish rules to better enforce how the site is used, noting that fines are in the future.

Audience Comments:

None

The public hearing was closed.

Staff Discussion:

None.

Action:

A motion was made and seconded, Potuck/Lauver, to adopt the Staff recommendations as the findings of the Board and approve 23-12DV 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: 4:16 pm Potuck/Lauver

Respectfully Submitted:

/s/ Lori Lipscomb
Lori Lipscomb, Recording Secretary

Approved By:

/s/ Tom Holtzinger
Tom Holtzinger, Chair

/s/ Lee Rohn
Lee Rohn, Secretary