

Minutes - Goshen Board of Zoning Appeals
Tuesday, January 23, 2024, 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, Tom Holtzinger, and Hesston Lauver. Also present were Assistant City Planner Rossa Deegan and Assistant City Attorney James Kolbus.

II. 2024 Board of Zoning Appeals Appointments

Mr. Holtzinger asked if there is any update on appointments. Mr. Deegan replied there is not.

III. Election of 2024 Officers

- *Chair*
- *Vice Chair*
- *Secretary*

Action:

A motion was made and seconded, Rohn/Lauver, to appoint Tom Holtzinger as Chair. The motion passed unanimously by a vote of 3-0.

Action:

A motion was made and seconded, Holtzinger/Lauver, to appoint Lee Rohn as Vice Chair. The motion passed unanimously by a vote of 3-0.

Action:

A motion was made and seconded, Holtzinger/Rohn, to appoint Hesston Lauver as Secretary. The motion passed unanimously by a vote of 3-0.

IV. Approval of Minutes from 11/28/23: Lauver/Rohn 3-0

V. Filing of Zoning/Subdivision Ordinances and Official Staff Reports into Record: Lauver/Rohn 3-0

VI. Postponements/Withdrawals - None

VII. Developmental Variance – public hearing items

24-01DV – AG Holdings, LLC, and Abonmarche Consultants request developmental variances for the proposed two-lot major commercial subdivision, Red Oak, to allow a lot with no street frontage and no direct street access. The subject property is generally located on the south side of Eisenhower Drive North, west of Caragana Court, with a common address of 2312 Eisenhower Drive North, containing ±1.8 acres, zoned Commercial B-3.

Staff Report

Mr. Deegan explained this is a commercial property, with surrounding properties a mix of commercial and industrial uses and zoning, and with a church located immediately west. The petitioners are in the process of subdividing the 1.8 acre parcel into two separate lots in order to create a tree preserve on the proposed second lot. Developmental variances are required because the second lot will have no street frontage or access, both of which are required by the zoning ordinance. The request is reasonable since the tree preserve will require no routine vehicle or pedestrian access. Approval will not upset the character of the area and is in line with the City's comprehensive plan promoting tree canopy.

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

Petitioner Presentation:

Andrea Milne, Abonmarche Consultants, 303 River Race Drive, spoke on behalf of the petitioner. She stated this program seeks to maintain, grow, and promote Goshen’s urban forest program. The intent of the subdivision is to separate the tree preserve from the commercial use so it can be purchased and managed by an appropriate organization.

Audience Comments:

There was no one to speak to the petition.

The public hearing was closed.

Staff Discussion:

Mr. Lauver noted the retention area will be located on the new lot, leaving lot one without a retention area. He asked if that will become a problem.

Mr. Deegan stated it’s his understanding that Lot 1 will have access to the retention area via a drainage easement.

Action:

A motion was made and seconded, Lauver/Rohn, to adopt the Staff recommendations as the findings of the Board and based on these findings, approve 24-01DV with the 2 conditions listed in the Staff Report. The motion passed unanimously by a vote of 3-0.

24-02DV – Dennis M Landis, Susan Mark Landis, and Abonmarche Consultants request developmental variances for the proposed two-lot major residential subdivision, Double Oak, to allow both lots with no street frontage, no direct access to a street, and to be developed with no connection to City water. The subject property is generally located north of Lincoln Avenue and east of Steury Avenue, with a common address of 820 Steury Avenue, containing ±26.77 acres, zoned Residential R-2.

Staff Report

Mr. Deegan explained this approximately 27 acre property, located a short distance north of Lincoln Avenue and east of Steury Avenue, is quite secluded. The R-2 property contains one single family home, a detached garage, and a gravel drive. Surrounding uses and zoning are a mix of agricultural, residential, and industrial. He explained the petitioners are in the process of subdividing the property to create an additional lot for a new single family home. Developmental variances will be necessary because this property will not have frontage or direct street access as required by the ordinance, but access is available through an easement on an adjacent private property. Additionally, City water service is not available in the area so a request to forgo connection to City water is also requested.

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

Petitioner Presentation:

Andrea Milne, Abonmarche, 303 River Race Drive spoke on behalf of the petitioner. She stated these variances are needed in order to subdivide and develop the property.

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/Holtzinger, to adopt the Staff recommendations as the findings of the Board and based on these findings, approve 24-02DV with the 2 conditions listed in the Staff Report. The motion passed unanimously by a vote of 3-0.

24-03DV – LaCasa Real Estate Holdings, LLC, requests developmental variances to allow a residential building lot with 33’ of frontage where an established front lot line of not less than 66’ is required, 3’ (north and south) side building setbacks where a minimum of 8’ is required, and for the variance to be valid for 18 months, for the construction of a new single family home. The subject property is generally located at 317 S 10th Street and is zoned Residential R-1 District.

Staff Report

Mr. Deegan explained this is a small vacant lot located in the R-1 District. Surrounding uses are a mix of residential, with some commercial properties along the Madison Street corridor. The request is for a new one-story, single family home, noting developmental variances are required because the home will have 3’ north and south side yard setbacks, where 8’ is required. Additionally, lot frontage is 33’ where a minimum of 60’ is required. The proposed home is approximately 1,200 sf in area, with a two-car parking pad at the rear of the property. If approved, building codes will be met.

He explained that the previous home on the property was destroyed by fire several years ago. It was a multi-family home which encroached further into the setbacks than what is proposed today.

He also noted this same project came before the BZA in 2020, but because the build timeline and funding timeline didn’t match up it never proceeded. Today’s request asks that the variance be valid for 18 months instead of 6 months and Staff feels is reasonable to allow the project to move forward.

No public comments were received by the Planning Office.

Petitioner Presentation:

Aaron Lehman, 202 N Cottage Avenue, spoke on behalf of the petitioner. He stated they look forward to improving this property with a new residence. They hope to use modular construction to eliminate some of the problems with the narrow lot. He noted they also own the lot to the south so they have no interest in destroying that lot with the construction. It’s felt a modular home would provide less disruption to the neighborhood.

Mr. Holtzinger asked if this house will be set on a foundation or basement.

Mr. Lehman stated it will be set on a basement.

Mr. Rohn questioned if the dirt removal for the basement would impact the neighbors on both sides.

Mr. Lehman stated the houses on both sides are approximately 8 ft from the property line so it shouldn’t present a problem when digging the basement. He admitted this will be incredibly tight, but explained that the 3 ft setback being requested is from the eaves, not the foundation. He went on to say there is actually 4.5 feet to the foundation on both sides.

Mr. Deegan explained that the setback is actually 3.5 ft from the eaves, but it was advertised as 3 ft, so there is a little more room than advertised.

Audience Comments:

None

The public hearing was closed.

Staff Discussion:

There was no discussion amongst Board members.

Action:

A motion was made and seconded, Holtzinger/Rohn, to adopt the Staff recommendations as the findings of the Board and based on these findings, approve 24-03DV with the 6 conditions as listed in the Staff Report. The motion passed unanimously by a vote of 3-0.

24-04DV – Mark Linn, heir of Steve & Debra Linn, requests developmental variances to allow an 8’ front building setback along Plymouth Avenue where 35’ is required for an approximately 261 SF porch addition, and to allow a fence 6’ in height in the front yard along Plymouth Avenue where fences cannot exceed 4’ in height. The subject property is generally located at 821 S 14th Street and is zoned Residential R-1 District.

Staff Report

Mr. Deegan explained this property has frontage on 14th Street as well as Plymouth Avenue. The property contains a single family home, approximately 780 sf in area, with surrounding use and zoning being R-1 and single family. The petitioner recently added a covered back porch to the house without Planning approval and the porch is 8 ft from the Plymouth Avenue property line, where the minimum setback is 35’. The petitioner would also like to install a 6’ tall fence along the Plymouth Avenue property line, where the maximum height is 4 ft. Developmental variances are required for both requests.

Mr. Deegan stated both of these requests are reasonable and Staff recommends approval. He noted the home directly across 14th Street has a closer setback to Plymouth Avenue than this home will have. He noted that many homes in this area are closer to setback lines than what is permitted by the ordinance. The privacy fence along the busy road is also reasonable.

Mr. Deegan also noted that there have been ongoing compliance issues with this property. He stated condition #5 in the recommended approval states: *“The existing parking space in the front yard along 14th Street shall be properly defined by the use of landscape timbers or other materials that hold gravel and prevent its spread. Gravel shall be removed from areas where it has spread without approval and areas of bare soil shall be re-seeded with grass no later than June 1, 2024.”* He noted there is no record of more than one parking space being approved along the 14th Street side. There should only be one space, returned to that condition and kept that way.

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

Mr. Holtzinger asked where the fence will be located.

Mr. Deegan explained it’s a perimeter fence around the back yard and referred to the site sketch included in the packet.

Petitioner Presentation:

Mark Linn, 821 S 14th Street spoke to the petition. He stated he’d like to install a fence to give them privacy from the road and surrounding areas. The porch is so he and his family can enjoy the outdoors.

Mr. Holtzinger asked if he can take care of the gravel out front as recommended in the Staff Report.

Mr. Linn stated that yes, he can take care of that.

Audience Comments:

Dustin Sailor, Director of Public Works and Utilities, spoke to the petition, explaining he’s also the responsible party for issuing driveway permits. He agrees with Staff’s condition #5 about defining the parking space and pointed out that the Board of Public Works (BOW) is the group that identifies if the surface can be gravel or not, so the hard surface material needs to be approved by the BOW.

Becky Hausbach, 65656 US 33, Goshen, spoke to the petition. She stated she owns the property next door at 819 S 14th Street and is concerned that a furnace installed on the property was not done correctly and that it could be a fire hazard affecting her property next door. She also noted the property is an eyesore with several vehicles, trailers, boats, etc. stored on the property.

The public hearing was closed.

Staff Discussion:

Mr. Deegan pointed out that condition #4 in his Staff report requires a building permit. He noted that the Planning Office had Mr. Linn speak with the Building Department and obtain a pre-inspection prior to this meeting, to determine if this is feasible. A building permit and inspection is required as part of this process. He went on to say that everything in the Staff report is a zoning issue that the Board can address. Everything else discussed by the neighboring property owner may be able to be addressed by other departments, but not this Board.

Mr. Lauver questioned if the building permit would be for the covered deck at the rear of the property.

Mr. Deegan responded yes.

Mr. Holtzinger asked if another agency would handle the remainder, such as the gravel in front.

Attorney Kolbus noted that yes, any gravel would be reviewed by the BOW.

Mr. Lauver asked if they will be required to have the front drive inspected.

Mr. Deegan explained that Planning will look at the location of the driveway and that it's returned to what was there before. Aerials from 2003 show there was gravel parking in the area.

Attorney Kolbus added that the BOW would look at what type of material is being used.

Mr. Holtzinger commented that obtaining a building permit would likely address some of the neighbor's concerns.

Mr. Rohn commented that the ordinance would likely take care of the remaining issues.

Action:

A motion was made and seconded, Rohn/Holtzinger, to adopt the Staff recommendations as the findings of the Board and based on these findings, approve 24-04DV with the 5 conditions as listed in the Staff Report. The motion passed unanimously by a vote of 3-0.

VIII. Audience Items

None

IX. Staff Board Items

None

X. Adjournment: 4:29 pm Rohn/Holtzinger

Respectfully Submitted:

/s/ Lori Lipscomb

Lori Lipscomb, Recording Secretary

Approved By:

/s/ Tom Holtzinger

Tom Holtzinger, Chair

/s/ Hesston Lauver

Hesston Lauver, Secretary