

Minutes - Goshen Board of Zoning Appeals
Tuesday, June 25, 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, Hesston Lauver, Tom Holtzinger, Matthew Fisher, and alternate member Craig Yoder. Also present were Assistant City Planner Rossa Deegan and Assistant City Attorney James Kolbus.

II. Approval of Minutes from 5/28/24: Lauver/Rohn 5-0

III. Filing of Zoning/Subdivision Ordinances and Official Staff Reports into Record: Rohn/Lauver 5-0

IV. Postponements/Withdrawals – none

V. Use & Developmental Variances – public hearing items

24-18DV – Philip D & Virginia M Leichty request developmental variances to allow 41% building coverage where a previous variance (19-23DV) permitted 36.6% and a rear building setback of 20’ where a minimum of 25’ is required to cover an existing concrete patio with an approximately 168 SF porch roof. The subject property is generally located at 1616 Clover Creek Lane and is zoned Residential R-1 District.

Staff Report

Mr. Deegan explained the petitioners would like to add a porch roof to an existing 168 sf rear patio. A developmental variance is necessary because the roof will increase the building footprint of the home to 41% where 36.6% is allowed, and a 20’ rear building setback where 25’ is required.

Because of the small lot size, a variance was approved in 2019 allowing 36.6% lot coverage where 35% is permitted for the new home construction. He explained the same justification applies in this case.

The Planning office did not receive any public comments or inquiries regarding this request.

Petitioner Presentation:

Virginia Leichty, 1616 Clover Creek Lane spoke on behalf of the petitioner. She stated they would like a shade structure over their existing patio, explaining that they’ve planted shade trees, but they’re not large enough to offer much shade at this time.

Audience Comments:

None

The public hearing was closed.

Staff Discussion

None

Action:

A motion was made and seconded, Rohn/Yoder, to adopt the Staff recommendations as the findings of the Board and based on these findings, approve 24-18DV with the 3 conditions listed in the Staff Report. The motion passed unanimously by a vote of 5-0.

24-19DV – Judith Gibson and Glenn Dyksen request a developmental variance to allow a rear setback of 20' where a minimum of 25' is required for the construction of an approximately 420 SF attached two-stall garage. The subject property is generally located at 803 Arehart Street and is zoned Residential R-1 District.

Staff Report

Mr. Deegan explained this is a one story home with a drive access from the rear alley. The petitioner would like to add a two-stall garage over the existing parking pad and the west side of the structure will project into the 25' rear setback. He pointed out this is a relatively small home, noting it was configured in such a way that it meets the front and side setbacks. A 5' encroachment into the rear setback is warranted. He went on to say this neighborhood contains many older homes with many non-conforming elements to the properties, including not meeting setback requirements. This request would not have a major impact on the character of the area. The Planning office did not receive any inquiries regarding this request and Staff supports this request.

Petitioner Presentation:

Glenn Dyksen, 59604 County Road 33, Middlebury, spoke on behalf of the petitioner. He stated this is a Habitat home and when it was built, the parking pad was installed with a foundation for a future garage. He explained this is a very small home with limited storage space and the added garage will give the owner additional room.

Audience Comments:

None

The public hearing was closed.

Staff Discussion

None

Action:

A motion was made and seconded, Fisher/Rohn, to adopt the Staff recommendations as the findings of the Board and based on these findings, approve 24-19DV with the 4 conditions listed in the Staff Report. The motion passed unanimously by a vote of 5-0.

24-06UV – Goshen Community Schools and Warrick & Boyn, LLP request a use variance to amend a previous variance (24-02UV) to allow two illuminated archway freestanding signs 18' in height and 32 SF in area and one illuminated wall sign 16 SF in area where the previous variance allowed two non-illuminated archway signs 14' in height and 36 SF in area and one non-illuminated wall sign 40 SF in area. The subject property is generally located at 1730 Regent Street and is zoned Residential R-3 PUD District.

Staff Report

Mr. Deegan explained the BZA approved use and developmental variances in March of this year for a baseball and softball complex at the rear of this property. The petitioners would like to amend the March approval to allow illuminated archway signs instead of signs approved as non-illuminated, and to also allow an illuminated sign on the concession building where a non-illuminated sign was approved. The proposed signs have slightly altered sizes from the original approval and the petitioners state the sign illumination will have minimal impact. Staff recommends denial of the request, pointing out the March approval prohibits use of the facility after 10:00 pm and the facility will likely not be used in the winter. When the facility is in use during predominately daytime hours, no sign illumination is necessary. The signs will not be visible from the road and won't be used for wayfinding. He also pointed out that while the signs may have negligible impact at the site, they will have concentrated LED lighting and he pointed out a similar sign the Board approved at Goshen High School is visible at night approximately one-half mile away.

The Planning Office received emails from Amy Culp, 1809 Carina Circle and Leslie Schrock, (no address provided). Both requested additional information, but the Planning Office did not receive comments from them. Jeff and Becca Roberts, 1814 Newbury Circle commented via email that they strongly oppose the illuminated sign request.

Petitioner Presentation:

Randy Hester, Warrick & Boyn, 861 Parkway Avenue, Elkhart, spoke on behalf of the petitioner. He provided a handout to Board members (*Exhibit 23-06UV #1*) and explained the designers have since determined that it would be better to have illuminated signs at the entrance gate and the concession stand. He stated he has read the staff report and it accurately describes the background and nature of the request. He explained these lights would only be on when the facility is in use and as staff has acknowledged, they are not visible from the road. He described this as a very small project which points to the parking lot, the solar array, and the school. He stated this would be unlike the sign Mr. Deegan pointed out at Goshen High School because people on the ground are not in the due north direction of the signs. He stated the illumination from these signs is very minimal, especially compared to the overall project. He summarized by saying this request would have very little to no impact on anyone, noting it would only be used when the field lights are on. He asked that the Board approve this request.

He introduced Jim Pickard, Athletic Director, and Don Ritter, Facilities, if the Board has any questions.

Mr. Holtzinger questioned why this illumination is necessary if it isn't visible from the street. Mr. Hester responded that its only on when its dark and when the baseball/softball field lights are on. The lighting will make things more visible for the fans that are there.

Audience Comments:

Becca Roberts, 1814 Newbury Circle spoke to the petition. She stated she opposes the illuminated sign, because this facility is close to her house and subdivision and the light would project towards it. She opposes any additional illuminated signs that will negatively impact her neighborhood.

Amy Culp, 1809 Carina Circle also spoke to the request. She stated she is also concerned about seeing the illumination at her property. She feels there will be enough light from parking lot and field lights for people to find their way to the entry and concession stand.

Attorney Kolbus stated before the petitioner offers a rebuttal, he would like to point out that the only thing the Board is here to determine today regards to the signs. He went on to say a number of issues were brought up related to the original petition and those are not before the Board today. He asked that Mr. Hester only address comments regarding what is being heard today.

Petitioner rebuttal:

Mr. Hester stated he wants to clarify again that the comparison of the light direction to the photo in the staff report from the football stadium is a direct, straight on photo. He advised that the straight on photo from here goes straight through the parking lot, solar array, and the school. As the staff report indicates, it does not go out to the street. He understands neighbors are concerned with other parts of the project, but we're here for a discussion about the signs only.

Mr. Fisher asked if he knows the brightness of the sign at the high school and how it compares to what is being discussed today.

Mr. Hester stated he does not have that information.

The public hearing was closed.

Staff Discussion

Mr. Deegan clarified that the point of the staff photograph of the sign at the high school was not about the distance from which it could be seen, but the actual brightness of it.

Mr. Fisher asked if it's Mr. Deegan's understanding that the signs would be similar in lighting.

Mr. Deegan stated the documents provided for this application used that particular sign as an example.

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, deny 24-06UV for the reasons listed in the Staff Report.

Mr. Yoder stated for the record that they have chosen to put a baseball field in a residential area and feels they should be happy with the previously approved lighting and feels this will impact the residential community.

The motion passed unanimously by a vote of 5-0.

24-20DV – Goshen Stamping and Ziolkowski Construction, Inc. request a developmental variance to allow an 18' front building setback along Burdick Street where 25' is required for the reconstruction of and second story addition to a portion of a fire-damaged industrial building. The subject property is generally located at 1025 S 10th Street and is zoned Industrial M-1 District.

Staff Report

Mr. Deegan explained this property is located on Burdick Street, between 9th and 10th Streets, in the old industrial corridor. Planning records indicate this facility has been operating here for approximately a century. In 2022 a fire damaged portions of the facility and the petitioners have been repairing the damage in phases. As part of this phase, they will be repairing a portion of the south side of the building along Burdick Street. The setback to this portion of the building is non-conforming at approximately 18' where current standards are 25'.

This phase of the project will increase the height of this portion of the building from one to two stories. This is due in part to meet building code requirements for a stairwell. Staff recommends approval of this request noting that the second story addition will match the existing setback and will not encroach any further than what is existing. The change will improve the safety of the stairway and the encroachment will be similar to a number of adjacent industrial facilities.

The Planning Office did not receive any inquiries from the public.

Petitioner Presentation:

Robert Bash, Ziolkowski Construction Co, spoke on behalf of the petitioner. He stated this portion was constructed around 1980 and the sloped roof on the stairwell is a composite of wood and other materials. The new construction will be masonry and the stairway will be a little longer to comply with code requirements. He noted the office building setback is even less than 18' because it was built a long time ago.

Audience Comments

None

The public hearing was closed.

Staff Discussion

None

Action:

A motion was made and seconded, Yoder/Lauver, to adopt the Staff recommendations as the findings of the Board and based on these findings, approve 24-20DV with the 5 conditions listed in the Staff Report. The motion passed unanimously by a vote of 5-0.

24-21DV – Goshen Public Library and Ratio Architects, LLC request developmental variances for changes to the south parking area of the library to allow:

- A 19' front building setback along Main Street where 35' is required for an approximately 1,023 SF chiller building
- A 10' front building setback along 5th Street where 35' is required for a an approximately 410 SF pavilion
- A wall 8' in height where fences and walls cannot exceed 4' in height for a dumpster enclosure in the front yard setbacks along Main Street and 5th Street
- Parking spaces 18' in depth where a minimum of 20' is required
- Garbage truck maneuvering up to 20' into the 5th Street right of way where maneuvering shall be accomplished without entering a public right-of-way
- One existing non-illuminated four-sided freestanding sign 51" in height with 15 SF sign faces and three existing non-illuminated wall signs approximately 16 SF in area where only ground signs are permitted
- For the variance to be valid for up to one year before the zoning clearance is issued

The subject property is generally located at 601 S 5th Street and is zoned Residential R-1 and Residential R-3 Districts.

Staff Report

Mr. Deegan explained zoning for this property is largely R-1 with some R-3 zoning. Surrounding properties are largely residential. Today's request is for changes to the south side of the property which stem from issues with the building's cooling system. Lines running under the existing south parking lot from the chiller building are compromised because of their location under the driving aisle. The proposed changes will locate the chiller outside the parking area. A new circle drive from 5th Street will be included, the dumpster will be relocated, and a new pavilion will be added on the southeast corner of the building. The proposed changes listed in the staff report include the need for approval of setback encroachments, parking spaces two feet shorter than required, wall height of the dumpster, dumpster truck maneuvering in the right-of-way, and retroactive approval of existing signs. He explained this is a reconfiguration of an existing parking lot, and with the exception of the proposed pavilion, the existing structures and equipment are being moved around to accommodate the cooling issues in the building. He pointed out the chiller building and pavilion will match the setbacks of the main building and will not be out of character with the site. The parking setbacks were approved by a previous variance and do not require approval.

The three existing wall signs needing approval are non-illuminated and they fit in well with the brick architecture. The free standing sign is a drop box along 5th Street and because it's non-illuminated and is the only free-standing sign on the property, Staff feels the sign is reasonable because it serves the entire community. He referred to the following conditions of approval noted in the Staff Report:

6. Approval by the Board of Public Works for the proposed public swing shall be required.
7. The colors and materials used for the chiller and pavilion shall be the same or similar to those used for the existing main library building.
8. Existing mature trees within the north and south parking lots and surrounding the primary building shall be professionally pruned no later than April 1, 2025, with pruning preceded by a consultation with the City Forester.

He noted for the record that the Planning Office received no public comments regarding this request.

Petitioner Presentation:

Antone Sgro, 101 S Pennsylvania Street, Indianapolis spoke on behalf of the petitioner. He stated he and Goshen Public Library are familiar with the Staff Report and in agreement with the conditions of approval. He explained the primary focus of this is improving the energy efficiency of the existing building and addressing issues with the cooling system. Plans include replacing the existing mechanical system to improve the energy efficiency of the building and to address the chiller issue. He went on to say the current placement of the dumpster requires the trash truck to drive over the underground chiller lines. Several leaks have developed in the chiller lines over the past several years, causing expensive repairs, and issues with cooling the building. The plan is to locate the chiller closer to the building and avoiding vehicles from driving over those lines.

Another goal of this project is to provide more useable outdoor space for staff and the public, with the construction of a small covered, outdoor pavilion.

Lastly, the plan is to improve vehicular flow from the south parking lot. This lot is primarily used for staff parking, trash, and deliveries. Reconfiguring this should simplify the layout, address some standing water issues, and generally improve the look of the south end of the property. The improvements will complement the architecture of the existing building and these improvements will not negatively impact the area.

Mr. Yoder asked if the dumpsters can be moved to another location on the property so the garbage truck does not back out onto the street.

Mr. Sgro stated if the dumpster was located on the north end of the building, it would force trash to be drug across the entire area for disposal. He went on to say the trash truck currently backs out onto 5th Street and he doesn't feel this will change anything or have a negative impact.

Mr. Lauver questioned if the reduced depth of 18' for parking spaces is a result of this change.

Mr. Sgro responded yes.

Mr. Lauver pointed out that large vehicles could still park there and block the driving aisle and questioned if signage could be added prohibiting pickup trucks and large vehicles from parking in this area.

Mr. Sgro stated the two spaces at the south end will be 20' in depth with remaining spaces 18' in depth.

According to library officials, parking in this area is generally used by library staff and most of them do not drive trucks. They felt this was low risk, but if signage is recommended, he would speak with library officials about that. He also noted there are currently signs in place indicating this area is for staff parking.

Audience Comments:

None

The public hearing was closed.

Staff Discussion

Mr. Lauver asked if signage is appropriate and if this is something the board can require.

Attorney Kolbus acknowledged that it is, and recommended that vehicles over a certain length could not park in the location. Signs could be placed in front of the parking stalls.

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 24-21DV with the 8 conditions listed in the staff report and include an additional condition that as part of this project, small signs shall be added to the south parking area prohibiting pickup truck parking. The motion passed by a vote of 4-1.

Mr. Yoder stated he voted against this request because he feels the design architect has liability when something happens and feels we also have liability. He feels they need to consider moving this to the south end. He understands that someone has to walk further, but that's not the problem that will come up. Someone will want to pursue this issue.

VI. Audience Items - None

VII. Staff/Board Items

- 214 S 5th Street – Request to allow a variance application to be heard by the BZA within a period of six months from the dated of a previous decision.

Mr. Deegan explained the BZA denied a request in March of this year for changes to a second free-standing sign at this property. The changes included an increase to the height of the sign and the addition of an electronic message center.

The church is requesting that the BZA allow them to submit a new variance application, possibly next month, which would be within a 6-month time period from the Board's decision. They have stated that they recently met with the neighborhood to get feedback on some ideas. They have an upcoming event in September and would like to have the new sign prior to that event.

Staff Discussion:

Mr. Holtzinger asked if it will come back to the Board as a full discussion if today's request is granted.

Mr. Deegan confirmed that it will.

Attorney Kolbus pointed out the Board is not approving the request today, but waiving the 6-month time period to refile.

Mr. Fisher asked what the precedent is for approving such a request.

Attorney Kolbus explained that generally the Board feels there is a significant enough change that they feel this is a new application.

Mr. Deegan pointed out that in recent years, there has been at least one denial, but when it was denied, the applicant was told they could return within the six month period to make a new application.

Attorney Kolbus stated the petitioner should not take this as the Board will approve their request, but simply that the BZA is waiving the time limit.

Mr. Rohn asked if we have enough information to confirm that this is a big enough change to permit this new request.

Mr. Deegan stated he does not have this information, but knows they have met with the neighbors and feels that is one point to take under consideration.

Mr. Rohn stated if they have spoken with the neighbors, he's willing to allow them to bring that back before the Board for consideration.

Mr. Yoder responded that there doesn't appear to be a downside to allowing this request to come back before the Board.

Action:

A motion was made and seconded, Rohn/Fisher, to waive the 6-month waiting period to reapply to the Board of Zoning Appeals for a new sign for 214 S 5th Street. The motion passed unanimously by a vote of 5-0.

- Youth Advisor

Mr. Deegan explained that the City Council expanded the Youth Advisor program and the Mayor has recently appointed a student of the senior class at Goshen High School as a youth advisor to the Board of Zoning Appeals. The youth advisor for the upcoming school year is Kimberly Cazabal Gonzalez. He went on to say she will be an advisor to the Board, but will not be a member of the Board and will not vote. He went on to say if the Board would like a youth perspective, they can grant the youth advisor the ability to speak.

VIII. Adjournment: 5:02 pm Fisher/Lauver

Respectfully Submitted:

/s/ Lori Lipscomb

Lori Lipscomb, Recording Secretary

Approved By:

/s/ Tom Holtzinger

Tom Holtzinger, Chair

/s/ Hesston Lauver

Hesston Lauver, Secretary