

Minutes - Goshen Board of Zoning Appeals
Tuesday, September 24, 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: Hesston Lauver, Tom Holtzinger, Matthew Fisher, and alternate member Craig Yoder. Also present were Assistant City Planner Rossa Deegan, Assistant City Attorney James Kolbus, and Youth Advisor, Kimberly Cazabal Gonzalez. Absent: James Loewen, Lee Rohn
- II. Approval of Minutes from 8/27/24: Fisher/Lauver 4-0
- III. Filing of Zoning/Subdivision Ordinances and Official Staff Reports into Record: Lauver/Fisher 4-0
- IV. Postponements/Withdrawals – none
- V. **Use & Developmental Variances** – public hearing items
24-09UV & 24-30DV – Artisan Investment Group, LLC requests a use variance to allow a two-family dwelling unit where duplexes are a conditional use in the Residential R-1S and Commercial B-2 Districts and a permitted use in the Residential R-2 and R-3 Districts, and developmental variances to allow three on-site parking spaces where four are required, and open parking in the front yard along Middlebury Street where open parking is prohibited. The subject property is generally located at 205 Middlebury Street and is zoned Residential R-1 District.

Staff Report

Mr. Deegan explained this property has frontage on Middlebury Street and North 5th Street and includes a vacant house and a large detached garage. Zoning for this property is Residential R-1, which allows single family residences. Records indicate this property was a duplex approximately 25 years ago, but the property has been vacant since that time and cannot return to a duplex use without a use variance. The petitioner recently took possession of the property and would like to rehab it; they are aware that the buildings are currently under a demolition order.

In addition to the use variance, a developmental variance is necessary to add two parking spaces in the front yard setback along Middlebury Street. Their request also includes having three parking spaces where a total of four spaces are required.

Staff recommends approval of these requests, with conditions and commitments, explaining that when reviewing the findings of fact, it was found that the property could be renovated as a single family home and meet the use requirements of the R-1 District with no need for a variance. It was also determined that when reviewing the remaining criteria, the variances are warranted. He pointed out this property is adjacent to R-2 zoning and there are a variety of uses adjacent, including a church, school, and medical office. The large property also makes it suitable for a higher density use. He pointed out the house is already configured as a two unit, with two separate entrances. He went on to say the proposed parking in the front setback along Middlebury Street matches the adjacent medical office parking setback, and although the parcel only has three official parking spaces, an additional space will be located inside the garage. There is also a considerable amount of parking in the driveway off of 5th Street, as well as street parking along 5th Street.

He discussed the following recommended conditions and commitments from the Staff Report:

Conditions:

6. The drive approach from Middlebury Street located southwest of the porch shall be removed, with the sidewalk replaced and bare soil areas leveled and re-seeded with grass.
7. Within thirty (30) days of this approval, debris, materials, and equipment unrelated to the approved remodel of the buildings shall be removed from the property and adjacent right of way along 5th Street. Items to be removed shall include lawn mowers, riding mowers, and parts thereof; vehicle parts; tires; wheels; tarps; trash; building materials; doors; siding; scrap metal; wheelbarrows; auto repair equipment; bricks; appliances; televisions; wood boards and sheathing; and buckets.
8. The property shall not be transferred until a final Building Department inspection is completed.

Commitments:

2. The subject property shall be used for two residential units only; use of any portions of the real estate for storage not related to the subject residences shall be prohibited.
3. If both residential units are vacant for a period exceeding twelve (12) months at any time following the final building inspection, the variance shall be null and void.

He noted for the record that the Planning Office was not contacted by the public regarding this request.

Petitioner Presentation:

Marlin Schwartz, 420 N Main Street, Middlebury, spoke on behalf of the petitioner. He stated he agrees with Staff's proposed conditions and commitments and has nothing to add.

Mr. Holtzinger asked how long he anticipates it will take to remodel this home.

Mr. Schwartz stated that he anticipates 90 days.

Mr. Fisher asked what the plans are for the detached garage.

Mr. Schwartz stated the only plans at this time are to replace the roof. The garage will be used for one parking space and storage.

Mr. Lauver questioned why the driveway along 5th Street is not counted towards the required parking spaces.

Mr. Deegan pointed out it cannot be considered because the right-of-way line runs through the parking pad and there is not enough space in front of the garage for a 20' long parking space.

Audience Comments:

None

The public hearing was closed.

Staff Discussion:

Mr. Yoder asked for clarification regarding a demolition order for this property.

Mr. Deegan stated that it is scheduled for demolition, but it's his understanding the BOW has postponed that order, based upon the condition that it's being renovated by a new owner.

Mr. Lauver asked how converting the garage into living space can be prohibited.

Mr. Deegan stated it can be clarified in the commitments.

Mr. Lauver asked if the request would require BZA approval in order to do so legally.

Attorney Kolbus acknowledged that yes, the request would have to be reheard by the BZA.

Mr. Yoder asked what is meant by staff's condition of approval regarding transfer of the property. Mr. Deegan stated that means the property cannot be sold to someone else until all work and inspections have been completed.

Action:

A motion was made and seconded, Lauer/Fisher, to adopt the Staff recommendations as the findings of the Board and based on these findings, approve 24-09UV & 24-30DV with the 8 conditions and 3 commitments listed in the Staff Report. The motion passed unanimously by a vote of 4-0.

24-10UV – Goshen Rental Properties LLC-S Series Elkhart Properties requests a use variance to allow a single family dwelling unit where single family homes are a conditional use in the Commercial B-2 District and a permitted use in the Residential R-1, R-1S, R-2, R-3, and R-4 Districts. The subject property is generally located at 209 Denver Street and is zoned Commercial B-1 District.

Staff Report

Mr. Deegan explained this is a modular home, originally approved in the early 1980's as a single family home. In 2018 it received a variance from the BZA to convert it into a group home. The home is currently under new ownership and the new owner would like to convert it back to a single family home. Because the B-1 zoning district does not permit single family homes, a use variance is required. Staff supports the request, pointing out there are several single family homes in the B-1 zoning district on this street and stated a single family home is likely a better fit for this area than a commercial use might be. He explained one of the conditions of approval is to keep an existing street tree if possible. He went on to explain that after today's staff report was prepared, it was determined that the tree might be removed by Utilities. If removed, the tree needs to be replaced and recommended that the petitioner contact the City forester for possible help in getting the tree replaced.

Petitioner Presentation:

Matt Vukovich, 4000 E Bristol St, Elkhart, spoke on behalf of the petitioner. He stated this side of the street contains all single family homes. He also stated he was not aware of the required tree, but will take care of it.

Audience Comments:

None

The public hearing was closed.

Staff Discussion:

None

Action:

A motion was made and seconded, Lauer/Fisher, to adopt the Staff recommendations as the findings of the Board and based on these findings, approve 24-10UV with the 5 conditions listed in the Staff Report. The motion passed unanimously by a vote of 4-0.

VI. Audience Items

None

VII. Staff/Board Items

- 6-month extension for 24-15DV, 306 Hawthorne Drive, from 11/28/24 to 5/28/25.

Mr. Deegan reminded Board members that in May of this year, they approved an open parking space in the front yard for a fishing boat. The applicant states the work has not been completed due to some unforeseen setbacks. He requests a 6-month extension.

Action:

A motion was made and seconded, Holtzinger/Fisher, to approve a 6-month extension for 24-15DV, 306 Hawthorne Drive, from 11/28/24 to 5/28/25. The motion passed unanimously by a vote of 4-0.

VIII. Adjournment: 4:20 pm Lauver/Yoder

Respectfully Submitted:

/s/ Lori Lipscomb
Lori Lipscomb, Recording Secretary

Approved By:

/s/ Tom Holtzinger
Tom Holtzinger, Chair

/s/ Hesston Lauver
Hesston Lauver, Secretary